

Session A

“Preservation of natural resources and the environment”

Chair of Session A - Olga Sovgyria

Dear participants of the Sixth Congress of the World Conference on Constitutional Justice, dear colleagues, everyone present and our listeners from different parts of the world. I would like to thank the organisers of the Congress and all those whose tremendous efforts have enabled us to gather here in the heart of Spain. My name is Olga Sovgyria. I am a judge of the Constitutional Court of Ukraine. And today I am also the Chair of Session A.

Today, our goal is not only to exchange interesting and relevant ideas about the human rights of future generations. The Earth itself, without state borders, Nature itself has brought us together in this room to strengthen international cooperation and find together the legal instruments for a happy common future.

Therefore, I am delighted to welcome you to the first session dedicated to the preservation of natural resources and the environment.

I will focus on the main issues of international legal regulation in the field of environmental protection. For more than a decade, the international community has been joining forces around the right to live in an environment conducive to health and well-being. Thus, in 1968, during the twenty-third session of the United Nations General Assembly, humanity

drew attention to the rapid change in the world and rapid human activity, which is causing significant changes in the environment. In turn, these changes affect people's lives, in particular their exercise of fundamental human rights.

The first attempt to involve humanity and the governments of the world in the practical solution of global environmental problems, as well as the first mention of the right to a healthy environment, is associated with the Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration) of 1972.

One of the greatest events in history dedicated to international cooperation on environmental protection was the so-called 'Earth Summit' and the United Nations Declaration on Environment and Development (Rio Declaration), adopted there in 1992. At this Conference, States agreed that issues related to environmental protection should be combined with social and economic development, as they are closely interrelated.

In 1998, the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) was signed. In 2015, global efforts focused on combating global warming, culminating in the signing of the Paris Climate Agreement.

It is important to note that many international documents related to environmental issues belong to soft law. In contrast, the environmental obligations of States under national constitutions, as well as constitutional control over their implementation, are important prerequisites for the effective implementation of the right to a healthy environment.

I would now like to say a few words about **the constitutional dimension of environmental rights**. Today, more than 100 States have enshrined the human right to a safe or healthy environment in their constitutions.

Thus, the Constitution of Ukraine enshrines two environmental rights that reflect the international legal approach to regulating the field of environmental protection: the right to an environment safe for life and health and the right to access information on the state of the environment. In addition, the Constitution of Ukraine stipulates that the State's obligations are to ensure environmental safety and maintain ecological balance in the territory of Ukraine, as well as to overcome the consequences of the Chernobyl disaster, a global catastrophe.

The topic of today's session is particularly relevant to the negative environmental consequences caused by armed conflicts. In December 2022, the United Nations General Assembly adopted the Resolution "Protection of the Environment in relation to Armed Conflicts". The Preamble to this Resolution recognises that environmental consequences of armed conflicts may be severe and have the potential to exacerbate global environmental challenges, such as climate change and biodiversity loss. It also highlights the importance of the environment for livelihoods, food and water security, maintenance of traditions and cultures, and the enjoyment of human rights. One of the most terrible armed conflicts in terms of negative consequences for human rights in general and environmental rights in particular is the War for the Independence of Ukraine, which began in February 2014 and reached its peak in the eyes of the world in February 2022.

This war has not only destroyed and continues to destroy cities and has claimed and continues to claim a large number of human lives, but it is also catastrophic for the environment: forests and fields have been burned, some animal and plant species are on the verge of extinction, and the soil and water are contaminated. A huge radiation threat looms over the world, associated with the Russian Federation's takeover of the Zaporizhzhia nuclear power plant.

During the years of intense fighting in Ukraine, nearly 150,000 square kilometres of land and water have been mined, representing approximately 25 per cent of the country's total area. UN experts say Ukraine is one of the most heavily mined countries in the world, with more than a million mines already scattered throughout its territory.

Russia's destruction of the Kakhovka hydroelectric power plant was a veritable ecocide, which UN Secretary-General Antonio Guterres described as "monumental humanitarian, economic and environmental catastrophe" in the Kherson region of Ukraine. The Kakhovka dam supplied drinking water to more than 700,000 people in southern Ukraine, and nearly 80 settlements were flooded as a result of the terrorist attack. Serious long-term environmental damage includes the loss of irrigation water for farms and the drying up of the landscape; the loss of water supply and sanitation services in settlements; health problems due to cholera and other diseases related to environmental pollution; massive habitat loss; long-term degradation of ecosystems and reduction of aquatic species and biodiversity.

The Russian bombing of the Kakhovka hydroelectric power plant is not only a crime against the environment, but a crime against the security of all humanity and international law. Each of us must be aware that the ecocide

in Ukraine, as well as the consequences of other environmental disasters, far transcend national borders. In this context, I thank the representatives of each State for their unwavering support for Ukraine, as they contribute to a common future: ensuring the human rights of future generations.

I would also like to say a few words about the right to a healthy environment in constitutional proceedings. In short, I would like to summarise the approaches to guaranteeing and protecting the right to a healthy environment in constitutional proceedings.

Therefore, while state policy may be guided by considerations of current economic benefits, for constitutional courts, human rights carry more weight than the voice of the electorate. Furthermore, environmental rights are a strategy for all of humanity, not the tactics of each State.

An analysis of international legal instruments on environmental protection allows us to identify **three key characteristics** of environmental rights, which guide constitutional courts when considering relevant cases.

First, there is a focus on protecting environmental rights, not only for current generations, but also for future ones. In particular, the Rio Declaration states that “The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.”

Second, the right to a healthy environment is closely interrelated with other human rights, as clean air, water, and land are necessary for a person’s very existence. The case-law of international and constitutional courts confirms that environmental protection is a necessary condition for multiple human rights, in particular the right to life and health.

Third, in order to achieve sustainable development, environmental protection must be an integral part of the State's development process. In other words, it is necessary to take care of environmental preservation in the process of planning economic growth.

For example, in 2021, the Federal Constitutional Court of Germany examined a case on climate change. The Court highlighted two important points, among others: first, a disproportionate burden cannot be placed on future generations, which constitutes an intertemporal guarantee of freedom; second, the State is obliged to participate in the global fight against climate change and cannot shirk its responsibility by pointing to greenhouse gas emissions in other States. Similarly, in 2024, the Constitutional Court of Korea ruled that climate legislation that does not establish mandatory quantitative criteria for reducing greenhouse gas emissions by 2050 violates the rights of future generations.

In 2019, the Supreme Court of Mexico ruled that the paradigm of sustainable development, the precautionary principle and citizen participation must guide the interpretation of issues related to the environment and climate change, especially where scientific uncertainty exists. Therefore, when there is a risk of serious or irreversible damage to the environment, the lack of absolute scientific certainty should not be used as a reason to postpone the adoption of effective measures to prevent its degradation. Economic arguments must be weighed and compared against the potential risks to the environment and the State's obligations to reduce greenhouse gas emissions.

In August 2025, the French Constitutional Council ruled that plant protection products containing certain pesticides affect biodiversity,

particularly pollinators and birds, and have negative consequences for water and soil quality and pose risks to human health.

In other words, the practice of guaranteeing and protecting environmental rights in constitutional proceedings has a positive dynamic around the world. Comparative analysis confirms that intergenerational responsibility, the dependence of human rights on the state of the environment, and the need to consider negative environmental consequences when planning economic growth are arguments that should be taken into account in constitutional proceedings when examining environmental cases. Considering foreign experience promotes the achievement of environmental justice not only between different States, but also between present and future generations.

Thus, half a century ago, in 1971, thousands of scientists and cultural figures from 23 countries around the world sent a letter to the UN Secretary-General warning of the dangers associated with environmental pollution, urging: “Either we stop pollution, or it will stop us.” Already in the summer of 2025, scientists expressed concern that the world is approaching a climate tipping point, and that the rate of warming caused by human activity is only increasing. Therefore, the preservation of natural resources and the environment is equally important for each of us. The topic of today’s session knows no State borders; it is impossible to maintain “neutrality” and blindly hope that other countries will bear the consequences of a negligent attitude towards nature. In the 21st century, every State must recognise the importance of guaranteeing and protecting environmental rights, as the right

to a healthy environment is the basis for the full realisation of other human rights.

As individuals, we strive to live in a safe and healthy environment. However, as representatives of constitutional courts, we are bound not only by a moral duty, but also by a judicial duty, to leave behind a world in which future generations can live with dignity and freedom. Therefore, today, the role of constitutional courts is to guarantee the right of future generations to be heard. The preservation of the environment and the ecologically sustainable future of all humanity depend on the effectiveness and efficiency of today's constitutional courts.

I sincerely hope that the serious and massive violations of environmental rights committed by the Russian Federation, caused by the War of Independence in Ukraine, will be reflected in the final communiqué of the Sixth Congress. The negative environmental consequences of the war transcend Ukraine's State borders and will have a significant impact on the global environmental situation in the future. Therefore, the solidarity of States that share democratic values in condemning the aggression of the Russian Federation is not only a matter of environmental justice, but also of concern for the human rights of future generations.

SPEAKER 1

The Congresses of the World Conference on Constitutional Justice are distinguished by the participation of judges from different regional and linguistic groups. This allows for maximum representation of different regional and national approaches to guaranteeing and protecting the right to

a healthy environment in constitutional proceedings. The particularities of these approaches may be conditioned by various factors, in particular environmental threats. Ultimately, however, the consequences of a negligent attitude towards the environment, in particular climate change, will affect everyone, and it is precisely this that has brought us together in this room.

In this session, the European region is represented by two distinguished participants in the Congress: **Mr Marco D'Alberti**, Judge of the Constitutional Court of Italy, and **Mr César Tolosa Tribiño**, Judge of the Constitutional Court of Spain. The representatives of the African region are the President of the Constitutional Court of the Republic of South Africa, **Ms Mandisa Maya**, and the President of the Constitutional Court of Angola, **Ms Laurinda Jacinto Prazeres**.

I would now like to highlight **the SCHEDULE** for our session:

The speakers summarise and analyse the responses to the questionnaire (15 minutes maximum each).

The respondent answers to the speaker (maximum 10 minutes).

The rapporteur reports on the session and presents their conclusions in the final session (maximum 10 minutes).

Before giving the floor to our **first speaker**, I would like to highlight the Italian experience. Italy has a rich constitutional tradition of protecting

environmental rights, and since the last century, the Italian Constitutional Court has interpreted the environment as a “fundamental right of the individual and a fundamental interest of society as a whole”, as well as a “primordial and absolute value”. With the adoption of the latest constitutional amendments, environmental protection is explicitly mentioned as one of the fundamental principles of the Constitution, and the Republic protects the environment, biodiversity and ecosystems for the benefit of future generations.

One of the most serious environmental disasters in Italian history was the accident at the Seveso plant. This accident has been called the “Italian Chernobyl” and had a significant impact not only on Italy but on the whole of Europe. This disaster has become a reminder of the importance of a common policy to prevent and limit the consequences of serious accidents related to industrial activities.

In its decisions, the Italian Constitutional Court has repeatedly referred to the concept of intergenerational justice in environmental cases. Intergenerational justice is also interpreted in relation to sound budgetary management, as well as the possible infringement of private property rights.

The Italian Constitutional Court has developed doctrines according to which: firstly, damage to health and the environment imposes additional restrictions on private enterprise; secondly, the objectives to be pursued by public and private economic activities now include environmental objectives.

The decisions of the Italian Constitutional Court reflect European Union law on numerous issues. In particular, the Italian Constitutional Court

has repeatedly handed down judgments to ensure compliance with the European principle of maximum deployment of renewable energy.

I would continue to admire the progressive approaches of the Italian Constitutional Court regarding the protection and exercise of environmental rights. However, today we have the opportunity to hear about the national experience of our first speaker. It is with great pleasure that I give the floor to the judge of the Italian Constitutional Court, **Mr Marco D'Alberti**.

SPEAKER 2

I thank Mr Marco D'Alberti for sharing the valuable experience of the Italian constitutional judicial system. I am sure that these progressive approaches will become guidelines for the constitutional courts of those States that are just beginning to develop the practice of guaranteeing and protecting environmental rights.

Our next speaker is Ms Mandisa Maija, President of the Constitutional Court of the Republic of South Africa.

According to some scholars, the African human rights system provides the clearest recognition of the right to a healthy environment. The African Charter on Human and Peoples' Rights refers to this right as a collective right: "All peoples shall have the right to a general satisfactory environment favourable to their development."

Article 24 of the Constitution of the Republic of South Africa guarantees that every person has the right to an environment that is not harmful to their health or well-being. Every person has the right to have the environment protected for the benefit of present and future generations

through reasonable legislative and other measures that (i) prevent pollution and ecological degradation; (ii) promote the conservation of nature; and (iii) secure ecologically sustainable development and use of natural resources, while promoting justifiable economic and social development.

The constitutional case-law of the Republic of South Africa is also based on generally accepted principles of environmental law: first, the principle of equitable access to natural resources: all citizens have equal rights to the use of land, water and other resources; second, the principle of sustainable development: authorities must take into account the need to protect the environment during economic growth; third, the precautionary principle: even in the absence of absolute scientific certainty, the State must avoid harming the environment; fourth, the South African legal system is based on the “polluter pays” principle: a person or company that has caused environmental damage is held financially and legally responsible; fifth, the principle of intergenerational justice: natural resources and a healthy environment must be available for future generations.

South Africa’s experience in guaranteeing and protecting environmental rights in constitutional proceedings is interesting and fascinating. And now we have the opportunity to hear about it from our next speaker. So, Ms Mandisa Maia, I am pleased to give you the floor!

Thank you, Ms Mandisa Maia, for your excellent presentation. The Republic of South Africa’s path to guaranteeing and protecting environmental rights and the environment is not easy, but it is interesting and relevant. The experience of constitutional justice in the Republic of

South Africa may be useful to many constitutional courts in States that are just beginning to consider cases related to environmental rights.

Having concluded my remarks, I believe that the keynote speakers have only served to increase interest in the preservation of natural resources and the environment. Therefore, the debate on the topic of our session promises to be interesting.

And now I have the great honour of introducing one of those judges, thanks to whose Constitutional Court we have all gathered here. The hospitality of this country is impressive. We are talking about Spain, host of the sixth Congress of the World Conference on Constitutional Justice.

Constitutional case-law in Spain is closely linked to the European system of human rights protection: European Union law and the case-law of the European Court of Human Rights. For example, the Spanish Constitutional Court links positive obligations in the field of environmental protection to the supranational dimension of constitutional rights and to the case-law developed by the European Court of Human Rights, as follows: the link between concern for the environment and the guarantee of quality of life is an important element of any subsequent constitutional assessment. That the well-being of individuals depends on the well-being of the ecosystems which sustain life is clear from recent case-law of the European Court of Human Rights.

The European Court of Human Rights links the failure of States to fulfil their positive obligations to protect the environment with a possible violation of the right to life and the right to respect for private and family life. Furthermore, contemporary Spanish ecological constitutionalism links

the protection of the environment with its preservation for the enjoyment and guarantee of the quality of life of future generations.

Article 11 of the Treaty on the Functioning of the European Union is also important for the Spanish constitutional judicial system, according to which “environmental protection requirements must be integrated into the definition and implementation of the Union’s policies and activities, in particular with a view to promoting sustainable development.” Environmental protection is therefore a cross-cutting function for all players, including local authorities, the State and the European Union as a whole.

The Spanish Constitutional Court can share not only its hospitality, but also its valuable experience in the field of environmental protection. We would like to introduce our participant in the debate: the judge of the Spanish Constitutional Court, **Mr César Tolosa Tribiño**.

The respondent answers to the speaker (10 minutes maximum).

The debate with Mr César Tolosa Tribiño has been incredible! I would like to thank the participants in the session for their interesting questions and active participation. I am sure that there are still many questions to be answered, as the issue of preserving natural resources and the environment is not only still relevant, but is becoming more important every year.

Dear colleagues, let us move on to the discussion and I will give those present the opportunity to ask questions to the participants in our session.

Please state your question and to whom you are addressing it.

CONCLUSIONS

Dear participants of the Sixth Congress: Our world is changing rapidly: new challenges require quick and, at the same time, significant decisions. The very issue of the human rights of future generations is a sign that these rights are already under threat.

Climate change and environmental pollution are, at first glance, phenomena over which constitutional courts have no influence. However, the opposite is true: while national political interests may differ, the constitutional values of the world's democratic States are very similar. Yes, we all want fair treatment, to live in peace, a bright future for our descendants, and sustainable development. And in the example of environmental rights, we can see that it is constitutional courts that often share "recipes" on how we should act together to neutralise the negative impact of human activity on the environment.

Today, as we discuss the human rights of future generations, I want to remind the world of the courage of the Ukrainian people. Ukrainians continue their struggle on the battlefield not only for Ukraine's independence, but also for the values of the entire civilised world. Ukraine and its delegation appreciate the support of all States that also stand firm in defending the rule of law, human dignity and human rights. We therefore request that the final communiqué reflect the theses on the role of constitutional courts in protecting the internationally recognised values of peace, democracy and human rights, particularly during armed aggression.

Before closing this meeting, I would like to express my gratitude for the opportunity to chair the session. I thank our dear speakers, who enriched the

debate on the preservation of natural resources and the environment. On behalf of all participants in the World Conference on Constitutional Justice, allow me to thank Spain for its hospitality and the excellent organisation of the VI (*Sixth*) Congress. Incidentally, this year the Constitutional Court of Spain celebrates its forty-fifth anniversary: 45 years since its creation (according to the 1978 Constitution). Our sincere congratulations! Likewise, many thanks to the Secretariat of the World Conference on Constitutional Justice for the brilliant organisation of the Congress in collaboration with the Constitutional Court of Spain. I thank all the participants in this event: I am confident that our efforts will not be in vain and that constitutional courts will implement progressive approaches to guarantee and protect environmental rights in their practices.

At this solemn moment, we close our session. Thank you all for your attention and remember: we do not inherit the Earth from our ancestors, we only borrow it from future generations. May your States prosper in peace and harmony!