

Justice, Future Generations and the Environment

FEBRUARY 7, 2024,
8h30 - 17h00
Constitutional Council, Paris, France

The concept of Future Generations is increasingly being mobilized in litigation before national, regional and international courts. Encompassing broader transgenerational challenges – bioethics, genetic and cultural heritage, sovereign debt – the notion is primarily focused on climate and environmental actions (“The Law and Rights of Future Generations”, Institut des études et de la recherche sur le droit et la justice, April 2023).

The International Event on “Justice, Future Generations and the Environment”, will be held in Paris on February 7, 2024 at the premises of the Constitutional Council upon the initiative of the Constitutional Council and the IERDJ. It brings together high-profile judges from all legal systems, from all levels – national, regional and international – and from all orders – judicial, administrative and constitutional courts – to discuss, under Chatham House Rules, the legal aspects of the notion of Future Generations : access to courts, legal basis, and enforceability. Judges will be invited to compare the practices of national and international jurisdictions, discuss common principles, and provide insights into the implications of Future Generations as a legal concept. The conclusions reached could contribute to the discussions leading up to the adoption of the “Declaration on Future Generations” which will be discussed at the Summit of the Future organised by United Nations Secretary-General Antonio Guterres in New York in September 2024.



• 8.30am **Welcome coffee**

• 9h00-9h30 **INTRODUCTION**

Laurent FABIUS, President of the Constitutional Council, France

Miguel de SERPA SOARES, Under-Secretary-General for Legal Affairs and UN Legal Counsel

• 9h30 - 10h30 **EXPERT WITNESSES**

“Expert Witnesses” will share their perspective on the challenges of environmental justice for present and future generation from the point of view of philosophy, scientific data and civil society.

Speakers :

Souleymane Bachir DIAGNE, Philosopher, Professor at Columbia University (Unites States)

Fatih BIROL, Executive director of the International Energy Agency

Vanessa NAKATE, Founder of Youth for Future Africa and Rise Up Movement

Jim SKEA, Chair of the Intergovernmental Panel on Climate Change (IPCC)

Moderator :

Sonya DJEMNI-WAGNER, Advocate General, Cour de Cassation

• 10h30-10h45 **Coffee break**

• 10h45-12h15 **PANEL 1:**

ACCESS TO JUSTICE FOR FUTURE GENERATIONS

The first panel will examine the topic of access to justice of matters relating to Future Generations and the environment, in a comparative perspective. The objective is to evaluate existing legal tools on the following topics:

- The **competence of courts** to hear claims concerning the interests of Future Generations in environmental cases. This raises the question of the **legitimacy of the courts** to interpret the interests of Future Generations as justiciable. The panel seeks to identify the **competent judge(s)**, the **jurisdiction *ratione materiae*** (constitutional, administrative, civil or criminal jurisdiction), and the **jurisdiction *ratione loci*** of national, regional (CJEU, ECHR, IACHR, etc.) and international (ICJ, ICC) courts, depending on the nature of the contentious claims ;
- The question of **standing** to bring forth an environmental claim depending on national and supra-national legal traditions. Indeed, the **admissibility** of legal actions initiated by individuals, public entities, associations, NGOs and other organized collectives is disparate across legal systems ;
- The **articulation of procedures at different levels by national, regional and international judges.**

Speakers :

Luis Roberto BARROSO, President of the Supreme Federal Tribunal of Brazil

Siofra O'LEARY, President of the European Court of Human Rights

Richard WAGNER, Chief Justice of the Supreme Court of Canada

Linping YANG, Vice President environment of the Supreme People's Court of China

Moderator :

Daniela SALAZAR MARIN, Justice at the Constitutional Court of Ecuador

Open discussion with all participants

• 12h15-13h15 **Lunch break**

at the Constitutional council

• 13h15-14h00 **KARIM A. A. KHAN KC, PROSECUTOR, INTERNATIONAL CRIMINAL COURT (ICC)**

Presentation on “**Environmental crimes under international law: how can the ICC contribute to the prevention of unlawful environmental damage**” by **Karim A. A. KHAN KC**.

Open discussion with all participants

• 14h00-15h15 **PANEL 2 :**

THE LEGAL BASIS FOR INTERGENERATIONAL JUSTICE

This panel seeks to **identify relevant legal avenues and instruments available to judges** to address the interests of Future Generations in various domains of law, by reflecting on the variety of legal bases and the diversity of litigation strategies.

It will provide an opportunity to **determine the specific features of each legal basis** – human rights enshrined in constitutions or supranational conventions; environmental standards; ordinary law - civil (property, contracts, liability), criminal, etc. – **and to consider their respective interests**.

Speakers :

Antonio H. BENJAMIN, Justice at the National High Court of Brazil

Eduardo FERRER MAC-GREGOR POISOT, Judge and Former President of the Interamerican Court of Human Rights

Dineke de GROOT, President of the Supreme Court of the Netherlands

Stephan HARBARTH, President of the German Federal Constitutional Court

Maria Filomena SINGH, Associate Justice at the Supreme Court of the Philippines

Moderator :

Mattias GUYOMAR, Justice at the European Court of Human Rights

Open discussion with all participants

• 15h15– 15h30 **Coffee break**

• 15h30-16h45 **PANEL 3:**

THE ENFORCEABILITY OF THE LEGAL CONCEPT OF FUTURE GENERATIONS

This panel seeks to identify and assess the legal instruments available to enforce legal decisions in environmental matter that engage with the concept of Future generations.

The panel will focus on:

- **emergency procedures**, such as **summary proceedings under ordinary law or specific to environmental litigation**, is required as the urgent need for action in environmental and climate litigation must be met by prompt judicial responses ;
- **specific legal tools to address the interests of Future Generations**, such as injunctions, preventive reparation, financial penalties, negotiated criminal justice, the provision of funds, or compliance obligations. ;
- **mechanisms for monitoring the enforcement of rulings and the coordination of rulings at different levels.**

Speakers :

Martha K. KOOME, President of the Supreme Court of Kenya

Luc LAVRYSEN, President of the Belgian Constitutional Tribunal

Koen LENAERTS, President of the Court of Justice of the European Union

Ricardo LORENZETTI, Justice at the Supreme Court of Argentina

Moderator :

Fabien RAYNAUD, Member of the French Council of State

Open discussion with all participants

• 16h45-17h00 **CONCLUSION**

Laurent FABIUS, President of the Constitutional Council, France

List of participants is attached