EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

Joint Factsheet

Climate change
ECtHR and CJEU Case-Law

(Last updated: 31/08/2026)

This factsheet has been prepared by the Registry of the European Court of Human Rights ("ECtHR")[1] and the European Union Agency for Fundamental Rights as part of a collaborative effort to highlight jurisprudence in selected areas where European Union ("EU") law and that of the European Convention on Human Rights ("ECHR" or "the Convention") interact.

I. Climate change and human rights

'Climate change' is a change in climate attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is, in addition to natural climate variability, observed over comparable time periods[2]. The preamble of the Paris Agreement[3] acknowledges "that climate change is a common concern of humankind" and that "Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights".

In its *Advisory Opinion on Obligations of States in respect of Climate Change* of 23 July 2025 the International Court of Justice ("ICJ") found that States have obligations under international human rights law to respect and ensure the effective enjoyment of human rights by taking whatever measures were necessary to protect the climate system and other aspects of the environment.

The European Union, its 27 Member States and most of the Members of the Council of Europe[4] are also Parties to the Aarhus Convention[5] which recognises that "adequate protection of the environment is essential to human well-being and the enjoyment of basic human rights, including the right to life itself, [and] that every person has the right to live in an environment adequate to his or her health and well-being, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations".

In recent years both the ECtHR and the Court of Justice of the EU ("CJEU") have been called on to address the risks to human rights stemming from climate change. Until now, relatively few cases directly related to climate change have been decided by both courts and most of them were considered inadmissible. The ECtHR has for the first time dealt with climate change in three Grand Chamber rulings delivered on 9 April 2024[6]. The CJEU has mostly rejected human rights related claims

[1] The content of this factsheet is not binding on the Court.
[2] As defined by Article 1(2) of the United Nations Framework Convention on Climate Change (UNFCCC) (1992).
[3] The Paris Agreement, adopted at the UN Climate Change Conference (COP21) in Paris on 12 December 2015, is an international treaty setting out the overarching goal of greenhouse gas emissions reduction.
[4] With exception of Andorra, Liechtenstein (signatory), Monaco (signatory), San Marino and Türkiye. See, for further details, UNTC; last accessed 28 February 2026.
[5] United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) signed on 25 June 1998.
[6] ECtHR, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024; *Carême v. France* (dec.) [GC], no. 7189/21, 9 April 2024; and *Duarte Agostinho and Others v. Portugal and 32 Others* (dec.) [GC], no. 39371/20, 9 April 2024.

in climate change cases for lack of standing[7], but has more extensive case-law concerning secondary legislation on emission allowances and renewable energy related to access to information[8] and access to justice[9].

II. Climate change in EU law

Article 3(3) of the Treaty on European Union (TEU) includes, among the objectives of the EU, sustainable development and a high level of protection and improvement of the quality of the environment. Article 11 of the Treaty on the Functioning of the EU (TFEU) further specifies that environmental protection must be integrated in the definition and implementation of EU policies and activities, and Article 191 TFEU sets out the EU policy and objectives on the environment, including the precautionary principle and combating climate change. Article 37 of the Charter of Fundamental Rights of the European Union ("the Charter") provides that a high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

Based on the foregoing, in 2019 the European Commission presented the European Green Deal and in 2021 the European Climate Law[10], that writes into law the goal set out in the European Green Deal for Europe's economy and society to become climate-neutral by 2050, was adopted. The EU also issued a vast body of secondary legislation concerning specific topics related to climate action and

[7] See for example CJEU, judgment of 25 March 2021, *Carvalho and Others v Parliament and Council*, C-565/19 P, EU:C:2021:252.

[8] See for example CJEU, judgment of 13 July 2017, *Saint-Gobain Glass Deutschland v Commission*, C-60/15 P, EU:C:2017:540; see also CJEU Factsheet on Public access to environmental information (2017). See below section C.1.

[9] See for example CJEU (Grand Chamber), judgment of 19 December 2019, *Deutsche Umwelthilfe*, C-752/18, EU:C:2019:1114; and judgment of 06 July 2023, *EIB v ClientEarth*, Joined Cases C-212/21 P and C-223/21 P, EU:C:2023:546. See below section C.2.

[10] Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999, OJ 2021 L 243, pp. 1–17 ("European Climate Law").

goals[11], emission allowance trading[12], clean energy transition[13], access to information[14], corporate sustainability due diligence[15] and reporting[16], sustainable finance[17]. Several laws enacted under the European Green Deal have only recently or not yet entered application.

To date, the CJEU has examined climate change in actions for annulment[18] and preliminary references[19].

The CJEU has also provided guidance on the interpretation of EU legal instruments, in the light of the fundamental rights guaranteed by Articles 16 (freedom to conduct a business), 17 (right to property)

[11] Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement, OJ 2018 L 156, pp. 26–42 ("Effort Sharing Regulation"); and Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, OJ 2018 L 328, pp. 1–77 ("Governance Regulation"); and the European Climate Law.

[12] Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community, OJ 2003 L 275, pp. 32–46 ("ETS Directive"); see also Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community, OJ 2009 L 8, pp. 3–21; and Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system, OJ 2023 L 130, pp. 134–202.

[13] See in particular Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, OJ 2018 L 328, pp. 82–209 ("Renewable Energy Directive"); Directive (EU) 2023/1791 of the European Parliament and of the Council of 13 September 2023 on energy efficiency and amending Regulation (EU) 2023/955, OJ 2023 L 231, pp. 1–111 (revised "Energy Efficiency Directive"); Directive (EU) 2024/1711 of the European Parliament and of the Council of 13 June 2024 amending Directives (EU) 2018/2001 and (EU) 2019/944 as regards improving the Union's electricity market design, OJ 2024 L 2024/1711, and Regulation (EU) 2024/1747 of the European Parliament and of the Council of 13 June 2024 amending Regulations (EU) 2019/942 and (EU) 2019/943 as regards improving the Union's electricity market design, OJ 2024 L 2024/1747. See also the policies pursued under the Renovation Wave Strategy.

[14] Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies, OJ 2006 L 264, pp. 13–19 ("Aarhus Regulation"); and Regulation (EU) 2021/1767 of the European Parliament and of the Council of 6 October 2021 amending Regulation (EC) No 1367/2006, OJ 2021 L 356, pp. 1–7.

[15] Directive (EU) 2024/1760 of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, OJ 2024 L, 2024/1760 ("Corporate Sustainability Due Diligence Directive").

[16] Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting, OJ 2022 L 322, 16.12.2022.

[17] Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector, OJ 2019 L 317, p. 1; Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088, OJ 2020 L 198, pp. 13–43 ("Taxonomy Regulation").

[18] See for example CJEU, *Carvalho and Others v Parliament and Council*, cited above; order of 14 January 2021, *Sabo and Others v Parliament and Council,* C-297/20 P, EU:C:2021:24.

[19] See for example CJEU (Grand Chamber), judgment of 21 December 2011, *Air Transport Association of America and Others*, C-366/10, EU:C:2011:864; CJEU (Grand Chamber), judgment of 16 December 2008, *Arcelor Atlantique and Lorraine and Others*, C-127/07, EU:C:2008:728.

and 47 (right to an effective remedy and a fair trial) of the Charter, principles of international law and the Aarhus Convention, including in the contexts of emission allowances[20] and promotion of renewable energy[21].

III. Climate change in the ECHR

Even though the ECHR does not explicitly provide for a right to a healthy environment or a right to be protected from the adverse effects of climate change[22], in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC][23] the ECtHR assessed the merits of several complaints related to climate change and found a violation of Article 8 (right to private and family life) and Article 6 § 1 (right to a fair trial)[24]. The ECtHR considered that there were sufficiently reliable indications that human-generated climate change existed and that it posed a serious current and future threat to the enjoyment of human rights guaranteed under the ECHR. The ECtHR also held that States were aware of it and capable of taking measures to effectively address it. The ECtHR further considered that the relevant risks were projected to be lower if the rise in temperature was limited to 1.5°C above pre-industrial levels and if action was taken urgently, and that current global mitigation efforts were not sufficient to meet the latter target.

In that judgment, and in the decisions *Duarte Agostinho and Others v. Portugal* (dec.) [GC][25] and *Carême v. France* (dec.) [GC][26] the ECtHR clarified admissibility questions related to climate change claims[27], including territorial jurisdiction[28] and victim status[29]. The ECtHR notably dismissed the complaints raised before it without previously exhausting domestic remedies. It considered that ruling on climate change issues before the opportunity to do so was given to the courts of the respondent States would stand in sharp contrast to the principle of subsidiarity underpinning the Convention system. It also held that failure to comply with the obligation to exhaust domestic remedies made it difficult for the ECtHR to examine the applicants' individual situations and therefore to assess their victim status, according to the criteria set out in *Verein KlimaSeniorinnen* [GC][30].

[20] CJEU (Grand Chamber), *Arcelor Atlantique and Lorraine and Others*, cited above.
[21] CJEU, *Sabo and Others v Parliament and Council*, cited above.
[22] The Council of Europe has instituted a formal procedure that could lead to the adoption of an additional protocol guaranteeing the right to a healthy environment; see CoE Committee of Ministers, Recommendation CM/Rec(2022)20, 27 September 2022; CoE Parliamentary Assembly ('PACE'): Resolution 2396(2021), 29 September 2021; Recommendation 2211(2021), 29 September 2021; and Resolution 2545(2024), 24 April 2024; Reykjavík Declaration 'United around our values', 16–17 May 2023, Appendix V; and 2024 'Report on the need for and feasibility of a further instrument or instruments on human rights and the environment' prepared by a Drafting Group on Human Rights and the Environment (CDDH-ENV).
[23] ECtHR, *Verein KlimaSeniorinnen* [GC], cited above.
[24] See below sections B.2. and C.2.
[25] ECtHR, *Duarte Agostinho* (dec.) [GC], cited above.
[26] ECtHR, *Carême* (dec.) [GC], cited above.
[27] For general information concerning admissibility criteria, see the Practical Guide on admissibility criteria.
[28] See below section A.
[29] See below section B.1.
[30] ECtHR, *Verein KlimaSeniorinnen* [GC], cited above.

IV. Case-law of the CJEU and of the ECtHR concerning climate change

A. Territorial jurisdiction

CJEU (Grand Chamber), judgment of 21 December 2011, *Air Transport Association of America and Others*, C-366/10, EU:C:2011:864

Facts – The preliminary reference was made in proceedings brought by several airlines against the Secretary of State for Energy and Climate Change concerning the validity of the measures implementing the Directive 2008/101/EC that had been adopted by the United Kingdom. Under that directive airlines from third countries are obliged to acquire and deliver GHG allowances for flights departing from or arriving at airports in the EU.

Law – The CJEU found that aircrafts which depart from or arrive at an aerodrome situated in the territory of one of the Member States, irrespective of where the airlines are situated, are physically in the territory of one of the Member States of the EU and are thus subject on that basis to the unlimited jurisdiction of the EU. The fact that Directive 2008/101/EC is applicable to all flights does therefore not infringe the principle of territoriality or the sovereignty which the third States from or to which such flights are performed have over the airspace above their territory.

Furthermore, the fact that, in the context of applying EU environmental legislation, certain matters contributing to the pollution of the air, sea or land territory of the Member States originate in an event which occurs partly outside that territory is not such as to call into question, in the light of the principles of customary international law capable of being relied upon in the main proceedings, the full applicability of EU law in that territory.

As for the fact that the operator of an aircraft in such a situation is required to surrender allowances calculated in the light of the whole of the international flight that its aircraft has performed or is going to perform from or to such an aerodrome, the CJEU pointed out that, as EU policy on the environment seeks to ensure a high level of protection in accordance with Article 191(2) TFEU, the EU legislature may in principle choose to permit a commercial activity, in this instance air transport, to be carried out in the territory of the EU only on condition that operators comply with the criteria that have been established by the EU and are designed to fulfil the environmental protection objectives which it has set for itself, in particular where those objectives follow on from an international agreement to which the EU is a signatory, such as the UNFCCC and the Kyoto Protocol.

ECtHR, *Duarte Agostinho and Others v. Portugal and 32 Others* (dec.) [GC], no. 39371/20, 9 April 2024

Facts – Six young individuals living in Portugal lodged an application against Portugal and thirty-two other States Parties alleging violations of their rights under Articles 2, 3, 8 and 14 of the Convention owing to the existing and future impacts of climate change. The applicants argued that the extraterritorial jurisdiction of these States was established, in that, in the exceptional circumstances of the application, their emissions and/or failures to regulate/limit their emissions produced effects outside their territories.

Law – The ECtHR recalled that exceptional circumstances may lead it to accept that the acts of Contracting States performed outside their territory, or which produce effects there, may amount to exercise by them of their jurisdiction. It found that all the applicants were residents of Portugal,

and thus under its territorial jurisdiction[31], whereas it excluded jurisdiction of the other respondent States on several grounds:

- Expanding jurisdiction would mean that jurisdiction would end up having to be established exclusively on the argument that a State is capable of adopting a decision or action impacting the applicant's situation abroad;
- The Convention not being a legal instrument designed to provide general protection of the environment, accepting extraterritorial jurisdiction would have been a radical departure from the *rationale* of the Convention protection system, which is primarily and fundamentally based on the principles of territorial jurisdiction and subsidiarity;
- Each State has its own share of responsibilities to take measures to tackle climate change and the taking of those measures is not determined by any specific action (or omission) of any other State. There is therefore no risk of a vacuum in the protection of Convention rights, nor can there be impunity by any of the respondent States in this context;
- The harmful consequences produced by Greenhouse gas (GHG) emissions are the result of a complex change of effects and are diffuse. Accepting a criterion of reliance on control over the person's interest would lead to "a critical lack of foreseeability of the Conventions' reach".

While the ECtHR excluded extraterritorial jurisdiction it acknowledged that:

- States have ultimate control over public and private activities based on their territories that produce GHG emissions;
- Albeit complex and multi-layered, there is a certain causal relationship between public and private activities based on a State's territories that produce GHG emissions and the adverse impact on the rights and well-being of people residing outside its borders and thus outside the remit of that State's democratic process;
- Climate change is a global phenomenon, and each State bears its share of responsibility for the global challenges generated by climate change;
- The problem of climate change is of a truly existential nature for humankind, in a way that sets it apart from other cause-and-effect situations.

Conclusion – Territorial jurisdiction established in respect of Portugal; inadmissible in respect of the remaining thirty-one States (lack of jurisdiction).

ECtHR, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024

Facts – An association of older women, established to promote and implement effective climate protection on behalf of its members, and four of its members complained, under Articles 2 and 8 of the Convention, about the inadequacy of the measures taken by the Swiss authorities to mitigate the effects of climate change. Relying on Article 6 § 1 of the Convention, they also alleged that they had not had access to a court to raise their complaints.

Law – The ECtHR noted that all the applicants were residents of Switzerland, and thus under its territorial jurisdiction. With particular regard to GHG emissions generated abroad and which, according to the applicants, had to be attributed to Switzerland through the import of goods for

[31] The applicants' complaint against Portugal was declared inadmissible for non-exhaustion of domestic remedies.

household consumption (the so-called "embedded emissions"), the Government contested that they could be considered to attract the responsibility of Switzerland.

The ECtHR was of the view that no genuine issue of jurisdiction, within the meaning of Article 1 of the Convention, arose in the context of the complaint about "embedded emissions". Although the complaint containing an extraterritorial aspect, it did not raise an issue of Switzerland's jurisdiction in respect of the applicants, but rather one of Switzerland's responsibilities for the alleged effects of the "embedded emissions" on the applicants' Convention rights, to be examined in relation to the merits of the complaint.

Conclusion – The ECtHR dismissed the Government's objection concerning lack of jurisdiction[32].

B. Protection from the adverse effects of climate change

1. Standing and victim status

CJEU, order of 14 January 2021, *Sabo and Others v Parliament and Council*, C-297/20 P, EU:C:2021:24

Facts – Appeal to set aside the General Court's order T-141/19 declaring an action for annulment inadmissible. The action was brought in 2019 by a group of individuals and civil society organisations. Some of the applicants came from regions particularly affected by forest logging. They alleged that wood-burning power plants release more carbon dioxide into the atmosphere per energy unit than coal plants and therefore sought the annulment of provisions in the Renewable Energy Directive considering the burning of 'forest biomass' to be a source of renewable energy.

Law – As regards the alleged breach of the appellants' fundamental rights, the CJEU confirmed the finding of the General Court that merely claiming that an act infringes fundamental rights is not sufficient to establish the admissibility of an individual's action. Such a claim must show that the alleged infringement distinguishes the appellants individually, just as in the case of the addressee of the act, to avoid rendering the requirements of the fourth paragraph of Article 263 TFEU meaningless.

The CJEU further held that while it was true that that condition had to be interpreted in the light of the principle of effective judicial protection by taking account of the various circumstances that may distinguish an applicant individually, such an interpretation could not have the effect of setting aside that condition, expressly laid down in the TFEU, without going beyond the jurisdiction conferred by the Treaty on the EU Courts.

The CJEU found that the appellants (natural and legal persons and environmental associations) lacked legal standing to challenge the Renewable Energy Directive because they were not "individually concerned" within the meaning of Article 263(4) TFEU.

Conclusion – Appeal dismissed as manifestly unfounded.

CJEU, judgment of 25 March 2021, *Carvalho and Others v Parliament and Council*, C-565/19 P, EU:C:2021:252

Facts – Appeal to set aside the General Court's order T-330/18 declaring an action for annulment inadmissible. The action was brought by ten families, all working in the agricultural or tourism sectors, from Portugal, Germany, France, Italy, Romania, Kenya, Fiji, and a Swedish Sami Youth Association, on grounds of incompatibility of EU climate laws with international obligations. The

[32] For the merits of the case, please refer below to the dedicated box in section B and C.

appellants challenged three pieces of EU legislation adopted to enable the EU to meet its GHG emissions reduction target of 40 per cent, compared with 1990 levels. The appellants argued that this target was insufficient and infringed several fundamental rights enshrined in the Charter. The appellants argued *inter alia* that the individual concern requirement[33] should be interpreted in view of the reality of the global climate crisis and that, in cases alleging human rights violations, direct access to CJEU should be ensured, as long as there were no alternative fora.

Law – (A) Individual applicants

The CJEU held that the claim that the acts at issue infringed fundamental rights was not sufficient in itself to establish that the action brought by an individual was admissible, without running the risk of rendering the requirements of the fourth paragraph of Article 263 TFEU meaningless.

Since the appellants merely invoked an infringement of their fundamental rights, inferring individual concern from that infringement, on the ground that the effects of climate change and, accordingly, the infringement of fundamental rights are unique to and different for each individual, the CJEU considered that it could not be held that the acts at issue affected the appellants by reason of certain attributes which were peculiar to them or by reason of circumstances in which they were differentiated from all other persons, and by virtue of these factors distinguished them individually just as in the case of the person addressed.

The CJEU held that the protection conferred by Article 47 of the Charter did not require that an individual should have an unconditional entitlement to bring an action for annulment of a legislative act of the Union directly before the EU Courts. Although the conditions of admissibility laid down in the fourth paragraph of Article 263 TFEU had to be interpreted in the light of the fundamental right to effective judicial protection, such an interpretation could not have the effect of setting aside the conditions expressly laid down in that Treaty.

(B) Legal entities

Concerning the Swedish Sami Youth Association, the CJEU considered that its members did not possess attributes which distinguished them individually from the other potential addressees of the acts at issue. Moreover, the association had not shown that it met one of the three conditions under which case-law allowed associations to bring an action for annulment:

a) it had not claimed that a legal provision specifically recognised to it procedural rights;

b) it had inadmissibly raised the argument that it would be entitled to bring proceedings to defend "a collective good" for the first time in appeal proceedings;

c) it had not claimed that it was distinguished individually because its own interests as an association were affected.

The CJEU held that the appellants lacked legal standing to challenge the contested acts because they were not individually concerned.

Conclusion – Appeal dismissed for lack of legal standing.

[33] The CJEU reaffirmed that under Article 263(4) TFEU, legal standing requires that the applicant be individually concerned by the contested act, as interpreted through the Plaumann doctrine (judgment of 15 July 1963, *Plaumann v. Commission of the EEC*, C-25/62, EU:C:1963:17). Merely alleging a breach of fundamental rights is insufficient to establish standing unless the applicant is personally and distinctly affected, like the addressee of the act. Otherwise, the admissibility conditions of Article 263(4) would lose their meaning.

ECtHR, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024

Facts – Please refer to the dedicated box in section A above.

Law – The ECtHR established criteria for assessing the victim status of individual applicants and legal entities in the context of climate change related complaints concerning the right to life (Article 2 ECHR) and the right to private and family life (Article 8 ECHR).

(A) Individual applicants

An applicant needs to show that he or she was personally and directly affected by the alleged failures by the State to combat climate change. In particular:

a) the applicant must be subject to a high intensity of exposure to the adverse effects of climate change, that is, the level and severity of (the risk of) adverse consequences of governmental action or inaction affecting the applicant must be significant; and

b) there must be a pressing need to ensure the applicant's individual protection, owing to the absence or inadequacy of any reasonable measures to reduce harm.

The threshold for fulfilling these criteria is especially high and will depend on a careful assessment of the concrete circumstances of the case. The ECtHR's assessment will include, but will not necessarily be limited to, considerations relating to: the nature and scope of the applicant's Convention complaint, the actuality/remoteness and/or probability of the adverse effects of climate change in time, the specific impact on the applicant's life, health or well-being, the magnitude and duration of the harmful effects, the scope of the risk (localised or general), and the nature of the applicant's vulnerability.

In the present case, the ECtHR held that the individual applicants could not claim to be victims of the alleged violations of Articles 2 and 8. While it could be accepted that heatwaves affected the applicants' quality of life, it was not apparent from the available materials that they were exposed to the adverse effects of climate change, or were at risk of being exposed at any relevant point in the future, with a degree of intensity giving rise to a pressing need to ensure their individual protection.

(B) Legal entities

An association cannot rely on health considerations or nuisances associated with climate change which can only be encountered by natural persons in claiming victim status. However, having regard to the special feature of climate change as a common concern of humankind and the necessity of promoting intergenerational burden-sharing in this context, the ECtHR recognised the standing of associations in climate-change cases, provided that they are:

a) lawfully established in the jurisdiction concerned or have standing to act there;

b) able to demonstrate that they pursue a dedicated purpose in accordance with their statutory objectives in the defence of the human rights of their members or other affected individuals within the jurisdiction concerned, whether limited to or including collective action for the protection of those rights against the threats arising from climate change; and

c) able to demonstrate that they can be regarded as genuinely qualified and representative to act on behalf of members or other affected individuals within the jurisdiction who are subject to specific threats or adverse effects of climate change on their lives, health or well-being as protected under the Convention.

The standing of an association is not subject to a separate requirement of showing that those on whose behalf the case has been brought before the ECtHR would themselves have met the victim-status requirements for individuals in the climate-change context.

The ECtHR assessed the applicant association's victim status in the context of the right to private and family life. It found that the applicant association had been lawfully established and that it pursued a dedicated purpose in accordance with its statutory objectives defending the human rights of its members and others affected by climate change in the respondent State. It was deemed genuinely qualified and representative to act on behalf of individuals subject to specific threats or adverse effects of climate change on their life, health, well-being and quality of life as protected under the ECHR.

Conclusion – Violation of Articles 8 and 6 § 1 of the Convention in respect of the applicant association, inadmissible in respect of the individual applicants (incompatible *ratione personae*).

ECtHR, *Carême v. France* (dec.) [GC], no. 7189/21, 9 April 2024

Facts – Mr. Carême, former mayor of the town of Grande-Synthe (France), challenged under Articles 2 and 8 ECHR the inadequacy of France's climate change actions. Grande-Synthe, a coastal municipality highly vulnerable to flooding, was found by the *Conseil d'État* to be at significant risk arising from climate change. However, the *Conseil d'État* had also found that the applicant did not have an interest in bringing proceedings solely because his current residence was located in an area likely to projected to be flooded by 2040.

Law – Having regard to the key factors for victim status set out in *Verein KlimaSeniorinnen* [GC] (see above) as well as the domestic proceedings at hand, the ECtHR found no reason to question the hypothetical nature of the risk relating to climate change affecting the applicant.

Moreover, the applicant did not currently live in France and had no relevant links with Grande-Synthe: after becoming a member of the European Parliament, he had moved to Brussels; he did not own, and no longer rented, any property in Grande-Synthe and his only concrete link with the municipality was the fact that his brother lived there.

As regards the applicant's argument that he complained to the ECtHR as the former mayor of Grande-Synthe, the ECtHR referred to its well-established case-law according to which decentralised authorities that exercise public functions, regardless of their autonomy *vis-à-vis* the central organs are considered to be "governmental organisations" that have no standing to make an application to the ECtHR under Article 34 of the Convention.

Conclusion – Inadmissible (incompatible *ratione personae*).

ECtHR, *Greenpeace Nordic and Others v. Norway*, no. 34068/21, 28 October 2025

Facts – The two applicant non-governmental organisations (Greenpeace Nordic and Young Friends of the Earth (Nature and Youth)) sought judicial review of the validity of the 2016 decision of the Ministry of Petroleum and Energy to grant ten petroleum exploration licences to thirteen private companies concerning areas in the Barents Sea (23rd licensing round). They appealed unsuccessfully up to the Supreme Court.

The applicants (the two applicant organisations and six individuals affiliated with one of them) complained before the ECtHR that the 2016 decision rendered possible the actual and potential substantive harm stemming from the extraction of the petroleum resources from the south and south-east Barents Sea and that the State had failed to regulate the licensing in a way that safeguarded the applicants' rights to be protected from climate harm. Furthermore, they

complained that during the licensing round the authorities had failed to make an adequate environmental impact assessment (EIA) of the potential climate-related harm to life, health well-being and quality of life and of the Supreme Court's finding that the assessment of significant environmental effects could be deferred to a later Plan for Development and Operation (PDO) stage of the decision-making process. They relied on Articles 2 and 8 of the Convention.

Law – The ECtHR considered at the outset that there was a sufficiently close link between the disputed procedure and serious adverse effects of climate change on the lives, health well-being and quality of life of individuals. While exploration would not always be followed by extraction, in Norway it was a legal and practical precondition for it. The fact that other events and permits were necessary before extraction could take place did not break the causal nexus with the adverse effects of climate change from fossil fuel emissions. In the circumstances, it was clear that the petroleum project in question had been of such a nature as to entail potential risks of extraction. The ECtHR also noted that oil and gas extraction was the most important source of GHG emissions of Norway and that the burning of fossil fuels, including oil and gas, was among the main causes of climate change.

Having regard to the key factors for victim status set out in *Verein KlimaSeniorinnen* [GC] (see above) the ECtHR examined the issue of victim status of the individual applicants and the *locus standi* of the applicant organisations to its assessment of the applicability of Article 8.

(A) Individual applicants

The ECtHR found that the victim-status criteria had not been fulfilled. In particular, the individual applicants' allegations of an impact of climate change on their mental health and/or life choices was not supported by any medical certificates. Nor did they indicate any particular morbidity or other serious adverse effect on their health or well-being that had been created by climate change and that would go beyond that experienced by any young person living in Norway with a degree of awareness about climate change. As regards the individual applicants who identified as members of the Sámi people, while the ECtHR fully appreciated that climate change posed a threat to the traditional Sámi way of life and culture, it could not conclude that the hardships that the situation complained of might be causing them personally were of "high intensity".

The case file contained no other materials showing that the individual applicants had been subjected to a high intensity of exposure to the adverse effects of climate change which had affected them personally, or that there was a pressing need to ensure their individual protection from the harm which the effects of climate change might have on their enjoyment of their human rights.

(B) Legal entities

The ECtHR found that the applicant organisations had the necessary *locus standi* and that Article 8 was applicable to their complaint. The applicant organisations were lawfully established, pursued a dedicated purpose in accordance with their statutory objectives in the defence of the human rights of their members and/or other affected individuals from the threats arising from climate change in the respondent State and were genuinely qualified to act on behalf of and to represent individuals who might arguably claim to be subject to specific threats or adverse effects of climate change.

Conclusion – Applicant associations standing upheld; inadmissible in respect of the individual applicants (incompatible *ratione personae*).

ECtHR, *Fliegenschnee and Others v. Austria* (dec.), no. 40054/23, 18 November 2025

Facts – The applicants, three individuals living in Austria and an association recognised in Austria as an "environmental organisation", had sought an order from the Federal Minister for Digital and Economic Affairs banning the sale of fossil fuels to mitigate the effects of climate change or to take other appropriate and equally effective measures. Having been refused, they challenged the refusal and the Austrian courts' subsequent confirmation of that refusal under Articles 2 and 8 ECHR.

Law – Relying on the principles set out in *Verein KlimaSeniorinnen* [GC] (see above), the ECtHR considered it appropriate to examine the applicants' complaints under Article 8 of the Convention alone, since it was questionable whether the alleged shortcomings had such life-threatening consequences for the applicants such as to trigger the applicability of Article 2 of the Convention.

The ECtHR found that the three individual applicants lacked victim status, as they had not provided any details as to whether and how they have been affected personally nor any evidence to substantiate the alleged vulnerabilities that would render them particularly at risk.

The ECtHR also found that it was not necessary to decide whether the applicant association enjoyed *locus standi* since its complaints were in any case manifestly ill-founded. It held that Article 8 cannot be read to guarantee a right to a particular mitigation measure by a specific State body under a certain sectoral law of an applicant's choice. It also noted that the applicant association did not substantiate how the respondent State had failed to devise a regulatory framework setting the requisite objectives and goals in the context of climate change or why the existing regulatory activity was to be considered insufficient. A mere reference to a finding by the Austrian Environment Agency was insufficient for the overall assessment that it had to carry out in this context. In this regard, the ECtHR attached a particular weight to the fact that the applicant association did not claim to have attempted to initiate any other remedies or that there were no appropriate remedies.

The third individual applicant also complained under Article 1 of Protocol No. 1 to the Convention that her economic existence as a farmer had been endangered because of droughts caused by climate change. The ECtHR held that, even if Article 1 of Protocol No. 1 were applicable in the context of climate change, this complaint was inadmissible for lack of victim status as the third individual applicant had not shown that she was directly or indirectly affected by the alleged violation, or that she runs the risk of being directly affected by producing reasonable and convincing evidence of the likelihood that a violation affecting her personally will occur.

Conclusion – Inadmissible in respect of the individual applicants (incompatible *ratione personae*); inadmissible in respect of the applicant association (manifestly ill-founded).

2. Standards of protection

CJEU (Grand Chamber), judgment of 16 December 2008, *Arcelor Atlantique and Lorraine and Others*, C-127/07, EU:C:2008:728

Facts – The applicants, undertakings in the steel sector, requested the competent French authorities to repeal a national provision, adopted on the basis of the ETS Directive, in so far as it was applicable to installations in the steel sector. As their requests remained unanswered, they brought an action before the *Conseil d'État* for judicial review of the implied decisions rejecting those requests. The *Conseil d'État* asked the CJEU whether that Directive is valid in the light of the principle of equal treatment, in so far as it makes the allowance trading scheme applicable to installations in the steel sector without including in its scope the aluminium and plastics industries.

Law – The CJEU recalled that a difference in treatment is justified if it is based on an objective and reasonable criterion: the difference relates to a legally permitted aim pursued by the legislation in question, and it is proportionate to the aim pursued by the treatment.

The CJEU recalled that, in the context of protecting the environment, the Community legislature has broad discretion when designing complex policy instruments such as the allowance trading scheme. It emphasised that the legislature must base its choices on objective criteria appropriate to the legislative aim, in this case, the reduction of greenhouse gas emissions to prevent dangerous interference with the climate system.

When exercising its discretion in the field of the environment, the Community legislature must, in addition to the principal objective of protecting the environment, fully take into account all the interests involved. In examining the burdens associated with various possible measures, it must be considered that, even if the importance of the objectives pursued is such as to justify even substantial negative economic consequences for certain operators, the EU legislature's exercise of its discretion must not produce results that are manifestly less appropriate than those that would be produced by other measures that were also suitable for those objectives.

The CJEU found, first, that the allowance trading scheme introduced by the ETS Directive is a novel and complex scheme the implementation and functioning of which could have been disturbed by the involvement of too great a number of participants. Second, it found that the original definition of the scope of that Directive was dictated by the objective of attaining the critical mass of participants necessary for the scheme to be set up. Third, in view of the novelty and complexity of the scheme, the original definition of the scope of that Directive and the step-by-step approach taken, based in particular on the experience gained during the first stage of its implementation, in order not to disturb the establishment of the system were within the discretion enjoyed by the EU legislature.

Therefore, the CJEU found that consideration of the ETS Directive from the point of view of the principle of equal treatment had disclosed nothing to affect its validity in so far as it made the GHG emission allowance trading scheme applicable to the steel sector without including the chemical and non-ferrous metal sectors in its scope.

ECtHR, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024

Facts – Please refer to the dedicated box in section A above.

Law – (A) Article 8 (right to private and family life)[34]

According to the ECtHR, Article 8 encompasses a right for individuals to effective protection by the State authorities from serious adverse effects of climate change on their life, health, well-being and quality of life.

States have only a reduced margin of appreciation as regards their commitment to the necessity of combating climate change and its adverse effects, and the setting of the requisite aims and objectives. In contrast, they have a wide margin of appreciation as regards their choice of means to achieve these objectives.

When assessing whether the State had remained within its margin of appreciation, the ECtHR examined whether, overall, the competent domestic authorities had due regard to the need to:

[34] Complaints under Article 6 § 1 (access to justice) and Article 8 (access to information) of the ECHR are analysed below in section C.

a. adopt general measures specifying a target timeline for achieving carbon neutrality and the overall remaining carbon budget for the same time frame, or another equivalent method of quantification of future GHG emissions, in line with the overarching goal for national and/or global climate-change mitigation commitments;

b. set out intermediate GHG emissions reduction targets and pathways (by sector or other relevant methodologies) that are deemed capable, in principle, of meeting the overall national GHG reduction goals within the relevant time frames undertaken in national policies;

c. provide evidence showing whether they have duly complied, or are in the process of complying, with the relevant GHG reduction targets (see sub-paragraphs (a)-(b) above);

d. keep the relevant GHG reduction targets updated with due diligence, and based on the best available evidence; and

e. act in good time and in an appropriate and consistent manner when devising and implementing the relevant legislation and measures.

In addition to these mitigation measures, the ECtHR held that States should adopt adaptation measures aimed at alleviating the most severe or imminent consequences of climate change, taking into account any relevant particular needs for protection. Such adaptation measures should be put in place and effectively applied in accordance with the best available evidence and consistent with the general structure of the State's positive obligations in this context.

In the present case, the ECtHR found that there had been some critical lacunae in the Swiss authorities' process of putting in place the relevant domestic regulatory framework, including failure to quantify, through a carbon budget or otherwise, national GHG emissions limitations.

Having regard to the complexity and the nature of the issues involved in the instant case, the ECtHR found that it could not be detailed or prescriptive as regards any measures to be implemented in order to effectively comply with the present judgment. Given the margin of appreciation accorded to the State in this area, the ECtHR considered that the respondent State, with the assistance of the Committee of Ministers, was better placed to assess the specific measures to be taken.

(B) Article 2 (right to life)

While the ECtHR found it appropriate to examine the applicant association's complaint from the angle of Article 8 alone, it recalled that in order for Article 2 to apply in the context of an activity which is capable of putting an individual's life at risk, there has to be a "real and imminent" risk to life.

In the context of climate change, such risk to life must be understood in the light of the fact that there is a grave risk of inevitability and irreversibility of the adverse effects of climate change, the occurrences of which are most likely to increase in frequency and gravity. Thus, the "real and imminent" test may be understood as referring to a serious, genuine and sufficiently ascertainable threat to life, containing an element of material and temporal proximity of the threat to the harm complained of by the applicant. This also implies that where the victim status of an individual applicant has been established, it will be possible to assume that the serious risk of a significant decline in a person's life expectancy owing to climate change should also trigger the applicability of Article 2.

Conclusion – Violation of Article 8 of the ECHR in respect of the association. Not necessary to examine the applicability of Article 2 of the ECHR.

C. Procedural rights in climate change-related matters

1. Access to information

CJEU, judgment of 13 July 2017, *Saint-Gobain Glass Deutschland v Commission*, C-60/15 P, EU:C:2017:540

Facts – Appeal to set aside the General Court's judgment T-476/12 which dismissed an action brought by Saint-Gobain, a company that operated installations covered by the ETS Directive. The company submitted a request to the European Commission for access to information regarding some installations in Germany. The European Commission denied the request arguing that Article 4(3) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, pp. 43-48) provides an exception to the access to information when it can undermine the institutions' decision-making process.

Law – The CJEU recalled that the right of access to documents of the institutions conferred on the public by Regulation 1049/2001 is subject to certain limitations based on grounds of public or private interest. Article 4 of Regulation 1049/2001 sets out a series of exceptions allowing the institutions to refuse access to a document where its disclosure would undermine the protection of one of the interests protected by that provision. Nevertheless, as such exceptions depart from the principle of the widest possible public access to documents, they must be interpreted strictly.

As regards environmental information held by the institutions and bodies of the EU, the CJEU recalled that the Aarhus Regulation aims to ensure the widest possible systematic availability and dissemination, and provides that, as regards the other exceptions set out in the first sentence of Article 4(3) of Regulation 1049/2001, the grounds for refusal are to be interpreted in a restrictive way, taking into account the public interest served by disclosure and whether the information requested relates to emissions into the environment.

In the light of those provisions and principles, the CJEU ruled that restrictions on access to environmental information must be narrowly construed, and the Commission's refusal to disclose data relating to greenhouse gas emission allowances was unlawful. The public's right to access such environmental information was upheld to ensure transparency and accountability during ongoing decision-making processes.

Conclusion – Annulment of the Commission's decision to refuse full access to certain information on emission allowances.

ECtHR, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024

Facts – Please refer to the dedicated box in section A above.

Law – The ECtHR observed that the availability of procedural safeguards was especially material in determining whether the respondent State had remained within its margin of appreciation under its obligations under Article 8 of the Convention in the context of climate change. In particular:

a. the information held by public authorities of importance for setting out and implementing the relevant regulations and measures to tackle climate change must be made available to the public, and in particular to those persons who might be affected by the regulations and measures in question or the absence thereof. Procedural safeguards must be available to

ensure that the public could have access to the conclusions of the relevant studies, allowing them to assess the risk to which they are exposed;

b. procedures must be available through which the views of the public, and in particular the interests of those affected or at risk of being affected by the relevant regulations and measures or the absence thereof, could be taken into account in the decision-making process.

Conclusion – Violation of Article 8 of the Convention in respect of the association.

2. Procedural obligations in decision-making process

ECtHR, *Greenpeace Nordic and Others v. Norway*, no. 34068/21, 28 October 2025

Facts – Please refer to the dedicated box in section B above.

Law – Recalling that the procedural safeguards available were especially material in determining whether Member States had remained within their wide margin of appreciation, the ECtHR found that, as regards the State's decision-making process in the context of environment and climate change, States were under a procedural obligation to conduct an adequate, timely and comprehensive environment impact assessment (EIA) in good faith and based on the best available science before authorising a potentially dangerous activity that might be harmful to the right for individuals to effective protection by the State authorities from serious adverse effects of climate change on their lives, health, well-being and quality of life. In the context of petroleum production projects, the EIA had at least to include a quantification of the GHG emissions anticipated to be produced. Moreover, the public authorities had to assess whether the activity was compatible with their obligations under national and international law to take effective measures against the adverse effects of climate change. Lastly, informed public consultation had to take place at a time when all options were still open and when pollution could realistically be prevented.

The ECtHR's view on the existence of such a procedural obligation was paralleled by recent rulings of other international courts relating to other international legal instruments and, more broadly, to international law.

Norway had adhered to the international legal framework on climate change and had devised national laws setting the requisite objectives and goals. Furthermore, petroleum activities were highly regulated under the domestic framework. However, processes leading to the 2016 decision had not been fully comprehensive, in view of the deferral of the assessment of factors such as climate effects, ecological relationships and ocean acidification to the stage of management plans and of the subject of exported combustion emissions either to general climate policy or to any future PDO stage. The ECtHR also noted that the requirement to conduct an EIA in the PDO stage could be waived in certain cases and that a widespread use of such waivers could undermine the purpose of the EIA.

However, recalling the respondent State's wide margin of appreciation in this field, the ECtHR attached greater importance to the following developments which structurally reinforced the guarantee to effectively implement the relevant procedural obligations with regards to PDOs and which were meant to ensure that before a PDO was approved there was a comprehensive EIA of the petroleum production effects on the climate, including the effects of combustion emissions in Norway and abroad. Firstly, the Supreme Court had clearly stated that the authorities had a constitutional obligation not to approve a PDO if the general consideration for the climate and environment at the time so indicated. Secondly, the European Free Trade Association (EFTA) Court had recently held in its advisory opinion of 21 May 2025 in case E-18/24 *The Norwegian State v. Greenpeace Nordic, Nature and Youth Norway* that Directive 2011/92/EU of the European

Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment ("EIA Directive") required a national court to eliminate the unlawful consequences of a failure to carry out a full EIA which accounted for petroleum combustion emissions. Regularisation was permitted by conducting an EIA while the project was underway or even after it had been completed, but only if it did not serve to circumvent the rules of the European Economic Area law and if it took a retrospective view of the environmental impact of the project. Thirdly, the Government had given official assurance that the climate impacts of petroleum production and combustion emissions would be assessed when any new PDO was considered, and that they would be set out in approval decisions.

The ECtHR was thus satisfied that the PDO stage of the decision-making process would involve a comprehensive EIA of the effects of the anticipated petroleum production on climate change, comprising, among other things, the assessment of combustion emissions, and that informed public consultation would take place before the decision is taken. Moreover, it did not identify any structural problem that would undermine the conclusion that the legal framework was being implemented effectively, or find any indication that a deferred EIA was inherently insufficient to support the State's guarantees of private and family life under Article 8, particularly in terms of its timeliness or contents. The persons affected by the risks of climate change linked to petroleum production – and relevant associations, such as the applicant organisations in the present case – would be able to act on information obtained through an EIA in time to effectively challenge the authorisation of a project. Moreover, any assessment of GHG emissions, project by project, that would disregard the cumulative GHG emissions of all those projects combined, was prohibited under the EIA Directive. Lastly, according to domestic law, any EIA must be based on relevant, up-to-date, and sufficient information which constituted an important safeguard against any bad faith assessments by licensee developers.

Conclusion – No violation of Article 8 of the ECHR.

3. Right of access to a court

CJEU (Grand Chamber), judgment of 8 November 2022, *Deutsche Umwelthilfe (Approval of motor vehicles)*, C-873/19, EU:C:2022:857

Facts – Volkswagen updated their car software by setting the exhaust gas recirculation valve so that exhaust gas purification was fully effective only when the outside temperature was greater than 15°C ('the temperature window'). By decision of 20 June 2016 ('the contested decision'), the Federal Motor Transport Authority granted authorisation for the software at issue. Deutsche Umwelthilfe, an environmental association authorised to bring legal proceeding under German law, brought an action against the contested decision before the competent Administrative Court. That court noted that, under German law, Deutsche Umwelthilfe did not have standing to bring legal proceedings against the contested decision. It was, however, uncertain whether that association could derive such standing directly from EU law.

Law – The CJEU recalled that under Article 9(3) of the Aarhus Convention, each party must ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.

Member States may not reduce the material scope of Article 9(3) by excluding from the subject matter of the action certain categories of provisions of national environmental law. Furthermore, Member States must comply with Article 47 of the Charter (right to an effective remedy), when establishing the applicable procedural rules and cannot impose criteria so strict that it would be

impossible for environmental associations to challenge the acts or omissions that are the subject of the Aarhus Convention.

The CJEU concluded that Article 9(3) of the Aarhus Convention, read in conjunction with Article 47 of the Charter, precludes a situation where an environmental association is unable to challenge a decision granting or amending approval of a type of vehicle, system, component or separate technical unit which may be contrary to Regulation (EC) 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ 2007 L 171, pp. 1-16). That situation would indeed constitute an unjustified limitation of the right to an effective remedy.

CJEU, judgment of 06 July 2023, *EIB v ClientEarth*, Joined Cases C-212/21 P and C-223/21 P, EU:C:2023:546

Facts – By their respective appeals, the European Investment Bank (EIB) and the European Commission sought to have set aside the General Court's judgment T-9/19. By that judgment, the General Court annulled the decision of the EIB which had rejected the request by ClientEarth for an internal review of a resolution of the EIB's Board of Directors approving the financing of a biomass power generation plant in Spain.

Law – The CJEU confirmed that EIB's Board of Directors approving the financing of a biomass power generation plant is considered an "administrative act" under the Aarhus Regulation. Consistently with the Aarhus Convention, this act is subject to internal review requests by NGOs like ClientEarth because it is adopted under environmental law, has legally binding and external effects, and concerns environmental criteria tied to EU policy objectives. This interpretation aligns with the objectives of the Aarhus Convention, which aims to ensure effective access to justice in environmental matters. The CJEU therefore upheld the annulment by the General Court of the decision by EIB to reject as inadmissible the request for an internal review of that resolution.

Conclusion – Appeal dismissed.

ECtHR, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024

Facts – Please refer to the dedicated box in section A above.

Law – (A) Applicability of Article 6 § 1 ECHR

The ECtHR held that the notion of imminent harm or danger (as part of the assessment whether the outcome of the dispute is "directly decisive" for the applicant's civil right) should be applied taking into account the specific nature of climate change-related risks, including their potential for irreversible consequences and corollary severity of harm. Where future harms are not merely speculative but real and highly probable in the absence of adequate corrective action, the fact that the harm was not strictly imminent should not, on its own, lead to the conclusion that the outcome of the proceedings would not be decisive for its alleviation or reduction.

The ECtHR reiterated the important role of associations in defending specific causes in the sphere of environmental protection, as well as the particular relevance of collective action in the context of climate change. It held that Article 6 § 1 ECHR applied to the complaint brought by the applicant association, that had sought to defend the specific civil rights of its members in relation to the adverse effects of climate change and to obtain an adequate corrective action for the State's failure to effectively implement mitigation measures under the existing law.

In contrast, the ECtHR found that Article 6 § 1 ECHR was not applicable to the complaint raised by the four members of the association, in that they had not made out a case demonstrating that the requested action by the authorities alone would have created sufficiently imminent and certain effects on their individual rights in the context of climate change.

(B) Standards of protection

The ECtHR considered that the rejection of the applicant association's legal action without the merits of its complaints being assessed had amounted to a limitation of the right of access to a court. The ECtHR was not persuaded by the domestic courts' findings that there was still some time to prevent global warming from reaching the critical limit. It emphasised that this conclusion had not been based on sufficient examination of the scientific evidence concerning climate change. The existing evidence and the scientific findings on the urgency of addressing the adverse effects of climate change, including the grave risk of their inevitability and their irreversibility, suggested that there was a pressing need to ensure the legal protection of human rights in respect of the authorities' allegedly inadequate action to tackle climate change. Noting that the domestic courts had not addressed the issue of the standing of the applicant association and had not engaged seriously or at all with the action brought by it, the ECtHR held that the very essence of its right of access to a court had been impaired.

The ECtHR emphasised the key role which domestic courts play in climate-change litigation and that, given the principles of shared responsibility and subsidiarity, it falls primarily to national authorities, including the courts, to ensure that ECHR obligations are observed.

Conclusion – Violation of Article 6 § 1 of the ECHR in respect of the association.