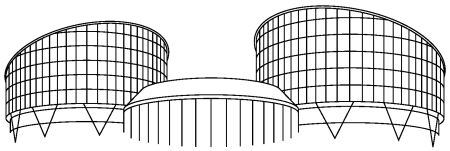

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Guide to the case-law of the European Court of Human Rights

Environment

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Note to readers

This Guide is part of the series of Case-Law Guides published by the European Court of Human Rights (hereafter "the Court", "the European Court" or "the Strasbourg Court") to inform legal practitioners about the fundamental judgments and decisions delivered by the Strasbourg Court. This particular Guide analyses and sums up the case-law under different Articles of the European Convention on Human Rights (hereafter "the Convention" or "the European Convention") relating to the environment. It should be read in conjunction with the case-law guides by Article, to which it refers systematically.

The case-law cited has been selected among the leading, major, and/or recent judgments and decisions.*

The Court's judgments and decisions serve not only to decide those cases brought before it but, more generally, to elucidate, safeguard and develop the rules instituted by the Convention, thereby contributing to the observance by the States of the engagements undertaken by them as Contracting Parties (*Ireland v. the United Kingdom*, 18 January 1978, § 154, Series A no. 25, and, more recently, *Jeronovičs v. Latvia* [GC], no. 44898/10, § 109, 5 July 2016).

The mission of the system set up by the Convention is thus to determine issues of public policy in the general interest, thereby raising the standards of protection of human rights and extending human rights jurisprudence throughout the community of the Convention States (*Konstantin Markin v. Russia* [GC], no. 30078/06, § 89, ECHR 2012).

Indeed, the Court has emphasised the Convention's role as a "constitutional instrument of European public order" in the field of human rights (*Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland* [GC], no. 45036/98, § 156, ECHR 2005-VI, and more recently, *N.D. and N.T. v. Spain* [GC], nos. 8675/15 and 8697/15, § 110, 13 February 2020).

Protocol No. 15 to the Convention recently inserted the principle of subsidiarity into the Preamble to the Convention. This principle "imposes a shared responsibility between the States Parties and the Court" as regards human rights protection and requires the national authorities and courts to interpret and apply domestic law in a manner that gives full effect to the rights and freedoms defined in the Convention and the Protocols thereto (*Grzęda v. Poland* [GC], no. 43572/18, § 324, 15 March 2022).

* The hyperlinks to the cases cited in the electronic version of the Guide are directed to the texts in English or in French (the two official languages of the Court) of judgments and decisions given by the Court and, where appropriate, of the decisions and reports of the European Commission of Human Rights (hereafter "the Commission"). Unless otherwise indicated, all references are to a judgment on the merits delivered by a Chamber of the Court. The abbreviation "(dec.)" indicates that the citation is of a decision of the Court and "[GC]" that the case was heard by the Grand Chamber. Chamber judgments that were not final when this update was published are marked with an asterisk (*).

"[E]nvironmental protection, in the wide sense, and, in this context, the more specific protection of the countryside and forests, endangered species, biological resources, heritage or public health, are ... included among the aims considered to date as relating to the 'general interest' for the purposes of the Convention. [W]hile none of the Articles of the Convention is specifically designed to provide general protection of the environment as such ..., the responsibility of the public authorities in this area should in practice result in their intervention at the appropriate time in order to ensure that the statutory provisions enacted with the purpose of protecting the environment are not entirely ineffective ..." (*Advisory opinion on the difference in treatment between landowners' associations "having a recognised existence on the date of the creation of an approved municipal hunters' association" and landowners' associations set up after that date* [GC], request no. P16-2021-002, § 80).

"... the Court will proceed with its assessment of the issues arising in the present case by taking it as a matter of fact that there are sufficiently reliable indications that anthropogenic climate change exists, that it poses a serious current and future threat to the enjoyment of human rights guaranteed under the Convention, that States are aware of it and capable of taking measures to effectively address it, that the relevant risks are projected to be lower if the rise in temperature is limited to 1.5°C above pre-industrial levels and if action is taken urgently, and that current global mitigation efforts are not sufficient to meet the latter target." (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 436).

Article 1 (obligation to respect human rights)

Article 1 of the Convention

> "The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention:"

1. The jurisdiction of a State within the meaning of Article 1 of the Convention is primarily territorial. In principle, the facts complained of by the applicant in the context of his or her complaints to the Court must have occurred on the territory of the respondent State. Exceptional circumstances may, however, lead the Court 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: 1. where a State exercises effective control of an area outside its national territory; 2. where, outside the national territory, a State agent has exercised authority or control over the victim; 3. where, in the presence of an allegation of failure to comply with the procedural obligations under Article 2 in respect of a death occurring outside the State's territory, there exists a jurisdictional link with that State in relation to these procedural obligations; 4. in the event of "special features" in a case, giving rise to the exercise of jurisdiction by a Contracting State outside its own territorial boundaries. This question is developed further in the Case-law Guide on Article 1 of the Convention.

2. Thus, where an individual's Convention rights or freedoms are affected by environmental degradation or an environmental risk and the alleged cause is not located in the territory of the State in which he or she is resident, but in that of another State, the question arises whether, as an exception to the principle of territoriality, the jurisdiction of this second State is triggered.

3. The Court examined this question in the context of an application lodged by six young Portuguese nationals living in Portugal, against that State and thirty-two other States Parties, who complained of violations of their rights as guaranteed by Articles 2, 3, 8 and 14 of the Convention owing to the existing, and serious future, impacts of climate change (*Duarte Aghostinho and Others v. Portugal and 32 Others* (dec.) [GC], 2024). Leaving open the question of extraterritorial jurisdiction in the context

of more localised transboundary environmental harm (§ 167), the Court held that although the applicants fell within Portugal's (territorial) jurisdiction – which it deduced from the fact that they lived in that country (§ 178; see also *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, §§ 287 and 443) –, they did not come within the jurisdiction of the thirty-two other respondent States. In this respect, having pointed out the lack of territorial jurisdiction and noted that the applicants' situation did not correspond to any of the first three exceptions set out in paragraph 1 above, it held that there were also no "special features" to the case capable of establishing these States' jurisdiction. 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. The Court acknowledged certain aspects of climate change that had been emphasised in this context by the applicants: 1. States have ultimate control over public and private activities based on their territories that produce greenhouse gas emissions; 2. albeit complex and multi-layered, there is a certain causal relationship between public and private activities based on a State's territories that produce greenhouse gas 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 and has a role to play in finding appropriate solutions; 3. 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. Nonetheless, the Court held that these considerations could not in themselves serve as a basis for creating by way of judicial interpretation a novel ground for extraterritorial jurisdiction or as justification for expanding on the existing ones. Addressing all of the arguments put forward by the applicants, it concluded more generally that there were no grounds in the Convention for the extension, by way of judicial interpretation, of the respondent States' extraterritorial jurisdiction in the manner requested by the applicants (*Duarte Aghostinho and Others v. Portugal and 32 Others* (dec.) [GC], 2024, §§ 179-214).

Article 2 (right to life)

Article 2 of the Convention

"1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

(a) in defence of any person from unlawful violence;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(c) in action lawfully taken for the purpose of quelling a riot or insurrection."

4. The positive obligation on States to take appropriate steps to safeguard the lives of those within their jurisdiction resulting from the first sentence of the first paragraph of Article 2, applies in the context of any activity, whether public or not, in which the right to life may be at stake. The Court added that clarification in the framework of an environmental case, namely *Öneryıldız v. Turkey* [GC], 2004, § 71, in which a methane explosion in April 1993 in a rubbish tip in a suburb of Istanbul had caused a landslide which had buried slum housing on lower-lying land; thirty-nine persons had lost their lives, including nine members of the applicant's family (see also *Budayeva and Others v. Russia*,

2008, § 130; *Kolyadenko and Others v. Russia*, 2012, § 158; *Brincat and Others v. Malta*, 2014, § 101; *M. Özel and Others v. Turkey*, 2015, § 170; *Istanbullu and Ayden v. Turkey* (dec.), 2015, § 31; *Erdal Muhammet Arslan and Others v. Türkiye*, 2023, § 114; *Cannavacciuolo and Others v. Italy*, 2025, § 376; *L.F. and Others v. Italy*, § 107, 2025.

I. Industrial activities, foreseeable natural disasters and climate change

A. Applicability

5. The positive obligation to protect life applies *a fortiori* in the context of industrial activities, which are dangerous by their very nature (*Öneryıldız v. Turkey* [GC], 2004, § 71; *Budayeva and Others v. Russia*, 2008, § 130); *Kolyadenko and Others v. Russia*, 2012, § 158; *Brincat and Others v. Malta*, 2014, § 101; *L.F. and Others v. Italy*, § 107, 2025).

Beyond the operation of a household refuse tip at issue in *Öneryıldız v. Turkey* [GC], 2004, the following have been deemed to be hazardous industrial activities:

- the mode of management of a reservoir located in a monsoon-influenced region, including releasing water in a period of heavy rainfall, had caused flooding in part of a conurbation in August 2001 (*Kolyadenko and Others v. Russia*, 2012, § 164);
- a series of atmospheric tests of nuclear weapons carried out by the British authorities on Christmas Island at the end of the 1950s, during which military personnel had been exposed to radiation (*L.C.B. v. United Kingdom,* 1998, as mentioned in *Brincat and Others v. Malta*, 2012, § 80);
- toxic emissions from a fertiliser factory (*Guerra and Others v. Italy*, 1998, as mentioned in *Brincat and Others v. Malta*, 2014, § 80);
- exposure to toxic substances such as asbestos at a workplace which was run by a public corporation owned and controlled by the Government (*Brincat and Others v. Malta,* 2014, § 81); or by a private metallurgical company (*Laterza and D'Errico v. Italy*, 2025, § 38).
- secret production of composite solid rocket fuel under the auspices of the State Intelligence Service (*Mučibabić v. Serbia*, 2016, §§ 126-127);
- the management of a weapon decommissioning facility (*Durdaj and Others v. Albania*, 2023, § 260).

The positive obligation to protect life also applies in the context of polluting activities that take place outside any legal framework. This is clear from the case of *Cannavacciuolo and Others v. Italy*, 2025, §§ 384-392, concerning the illegal dumping and burying of hazardous waste on private land in the Campania region ("*Terra del Fuochi"*); the Court emphasised, in particular, that these were inherently dangerous activities which could pose a risk to human life.

The Court has also held that the complaints concerning the alleged failures of a State to combat climate change fell into the category of cases concerning an activity which, by its very nature, was capable of putting an individual's life at risk. It pointed, in particular, to the findings of the intergovernmental panel of experts on climate change, which stated that anthropogenic climate change, particularly through increased frequency and severity of extreme events, increased heat-related human mortality (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC] (2024, §§ 508-510).

6. The obligation to protect life also applies where the right to life is under threat from a natural disaster and the danger is imminent and clearly identifiable. For example:

- mudslides which had killed persons in Russia in July 2000 (*Budayeva and Others v. Russia*, 2008, §§ 137 and 142);
- earthquakes in the regions of Izmit (in 1999) and Van (in 2011) which had caused numerous deaths (*M. Özel and Others v. Turkey*, 2015, §§ 170-171); *Istanbullu and Ayden v. Turkey* (dec.), 2015, § 31; *Erdal Muhammet Arslan and Others v. Türkiye*, 2023, § 114-115).

7. In the field of the environment, as in other spheres, Article 2 applies not only where actions or omissions on the part of the State have led to a person's death, but also where there has been no death but a person has obviously been exposed to a risk to his or her life (*Kolyadenko and Others v. Russia*, 2012, §§ 151-155 and 191; *Budayeva and Others v. Russia*, 2008, § 146).

8. However, that risk to life must be "serious" (*Brincat and Others v. Malta*, 2014, § 82), and "real and immediate" (*Fadeyeva v. Russia* (dec.), 2003; *Ledyayeva and Others v. Russia* (dec.), 2004, or – with particular regard to complaints of State action and/or inaction in the context of climate change – "real and imminent" (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC] (2024, §§ 511 and 513; *Fliegenschnee and Others v. Austria* (dec.), 2025, § 26).

The term "real" risk corresponds to the requirement of the existence of a serious, genuine and sufficiently ascertainable threat to life. The "imminence" of such a risk entails an element of physical proximity and temporal proximity of the threat (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC] 2024, § 512; *Cannavacciuolo and Others v. Italy*, 2025, §§ 377 and 390; *Fliegenschnee and Others v. Austria* (dec.), 2025, § 26).

In order to conclude that there existed a sufficiently serious, genuine and ascertainable risk in the case of *Cannavacciuolo and Others v. Italy*, 2025, § 390, concerning the large-scale illegal dumping, burying and incineration of waste on private land in the Campania region over many years ("*Terra del Fuochi"*), the Court had regard to the fact that the authorities had been aware of the particular nature of the pollution phenomenon at issue and the conduct giving rise to it. It found the risk to be "imminent", given the applicants' residence, over a considerable period of time, in municipalities identified by the State authorities as being affected by this pollution phenomenon, which had been ongoing, omnipresent and unavoidable. It held that, since the applicants had been exposed to this type of risk, it was not necessary or appropriate to require that they demonstrate a proven link between the exposure to an identifiable type of pollution or even harmful substance and the onset of a specific life-threatening illness or death.

9. The Court must also consider whether the authorities knew or ought to have known, at the material time, that the applicant had been exposed to a mortal danger (*Öneryıldız v. Turkey* [GC], 2004, § 101*; Brincat and Others v. Malta*, 2014, §§ 105-106; and *Cannavacciuolo and Others v. Italy*, 2025, § 378).

10. In the context of dangerous activities, where it has not been established that the risk to which a person was exposed was lethal, such that Article 2 was not applicable, his or her situation may be assessed under Article 8, where his or her private or family life was affected. The Court reached that conclusion in the case of individuals who had been exposed to asbestos but had not developed any disease or life-threatening condition (*Brincat and Others v. Malta,* 2014, §§ 84-85).

11. In the case of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 536, in which the applicants alleged that Switzerland had failed to take sufficient steps to prevent climate change, the Court, having concluded that Article 8 was applicable, held that it was more questionable whether the alleged shortcomings had such life–threatening consequences that they could trigger the applicability of Article 2 of the Convention. That being said, it found it unnecessary to analyse further the issues pertinent to the threshold of applicability of Article 2 and examined the case only under Article 8. It took the same approach in the case of *Fliegenschnee and Others v. Austria* (dec.), 2025, § 30, concerning the Austrian Federal Minister for Economic and Digital Affairs' refusal to ban the sale of fossil fuels to mitigate the impact of climate change. It noted in the same case (§ 26) that, having regard to the principles set out in paragraph 8 above, Article 2 was applicable in the context of climate

change only if a serious risk of a significant decline in an individual applicant's life expectancy, owing to climate change, had been established.

B. Content of the positive obligation to protect life

12. The scope of the obligations incumbent upon the State authorities in a given context depends on the origin of the threat, the kind of risks concerned and the extent to which one or the other risk is susceptible to mitigation (*Cannavacciuolo and Others v. Italy*, 2025, § 394).

13. The positive obligation arising from Article 2 entails above all a primary duty to put in place a legislative and administrative framework designed to provide effective deterrence against threats to the right to life, in particular by means of the criminal law (*Öneryıldız and Others v. Turkey* [GC], 2004, §§ 89-90; *Istanbullu and Ayden v. Turkey* (dec.), 2015, § 32; *Cannavacciuolo and Others v. Italy*, 2025, § 380); see, however, the judgment in *Brincat and Others v. Malta*, 2014, § 112, in which the Court stated that this primary duty did not rule out the possibility, *a priori*, that in certain specific circumstances, in the absence of the relevant legal provisions, the positive obligations may be fulfilled in practice.

14. It also requires, where an individual has sustained life-threatening injuries or in the event of death, that the State set up an effective judicial system capable of establishing the facts, holding accountable those at fault and providing appropriate redress to the victim (*Istanbullu and Ayden v. Turkey* (dec.), 2015, § 32; *Erdal Muhammet Arslan and Others v. Türkiye*, 2023, § 126). Article 2 of the Convention will not be satisfied if the protection machinery provided for by domestic law exists only in theory: above all, it must also operate effectively in practice, which requires a prompt examination of the case without unnecessary delays of the cases submitted to the competent authorities (*Istanbullu and Ayden v. Turkey* (dec.), 2015, § 34; *Erdal Muhammet Arslan and Others v. Türkiye*, 2023, § 151).

1. Substantive limb

15. The Court must consider whether, given the circumstances of the case, the State did all that could have been required of it to prevent the applicant's life from being "avoidably put at risk" (*L.C.B. v. United Kingdom*, 1998, § 36; *Cannavacciuolo and Others v. Italy*, 2025, § 379).

a. Principles

i. Preventive regulations

16. In the particular context of dangerous activities, special emphasis must be placed on regulations geared to the special features of the activity in question, particularly with regard to the level of the potential risk to human lives (*Öneryıldız v. Turkey* [GC], 2004, § 90; *Budayeva and Others v. Russia*, 2008, § 132; *Kolyadenko and Others v. Russia*, 2012, § 158; *Brincat and Others v. Malta*, 2014, § 101).

Such preventive regulations should govern the licensing, setting up, operation, security and supervision of the activity and must make it compulsory for all those concerned to take practical measures to ensure the effective protection of citizens whose lives might be endangered by the inherent risks (*Öneryıldız v. Turkey* [GC], 2004, § 90; *Budayeva and Others v. Russia*, 2008, § 132; *Kolyadenko and Others v. Russia*, 2012, § 158; *Brincat and Others v. Malta*, 2014, § 101).

Preventive regulations must, in particular, guarantee the public's right to information (*Öneryıldız v. Turkey* [GC], 2004, §§ 90 and 108; *Budayeva and Others v. Russia*, 2008, §§ 132 and §§ 152-155; *Kolyadenko and Others v. Russia*, 2012, §§ 159, 177, 181-182 and 185; *Brincat and Others v. Malta*, 2014, §§ 101 and 113-114; *Cannavacciuolo and Others v. Italy*, 2025, § 382), thus enabling them to assess the risks to which they are exposed.

It transpires from the judgments cited that in the sphere of hazardous activities and foreseeable natural disasters such right to information is reinforced by the obligation on States spontaneously to

provide the relevant information to persons exposed to a mortal risk (see *Cannavacciuolo and Others v. Italy*, 2025, §§ 454-48 ; see also *L.C.B. v. United Kingdom,* 1998, §§ 38-41).

17. Preventive regulations should also provide for appropriate procedures, taking into account the technical aspects of the activity in question, for identifying shortcomings in the processes concerned and any errors committed by those responsible at different levels (*Öneryıldız v. Turkey* [GC], 2004, § 90; *Budayeva and Others v. Russia*, 2008, § 132; *Kolyadenko and Others v. Russia*, 2012, § 159; *Brincat and Others v. Malta*, 2014, § 101).

18. Regulations geared to protecting people's lives must not only exist and be appropriate, but the authorities must also actually comply with them (*Öneryıldız v. Turkey* [GC], 2004, § 97).

ii. Specific measures and margin of appreciation

19. The choice of the specific measures is, in principle, a matter that falls within the State's margin of appreciation. In particular, since there are different avenues to ensure Convention rights, and even if the State has failed to apply one particular measure provided by domestic law, it may still fulfil its positive duty by other means. In this respect, an impossible or disproportionate burden must not be imposed on the authorities without consideration being given, in particular, to the operational choices which they must make in terms of priorities and resources; this results from the wide margin of appreciation States enjoy in difficult social and technical spheres (*Öneryıldız v. Turkey* [GC], 2004, § 107; *Budayeva and Others v. Russia*, 2008, § 134-135; *Kolyadenko and Others v. Russia*, 2012, § 160; *Brincat and Others v. Malta*, 2014, § 101; *Cannavacciuolo and Others v. Italy*, 2025, §§ 381 and 396).

20. In assessing whether the respondent State had complied with the positive obligation under Article 2, the Court must consider the particular circumstances of the case, such as the domestic legality of the authorities' acts or omissions, the domestic decision-making process, including the appropriate investigations and studies, and the complexity of the issue, especially where conflicting Convention interests are involved (*Budayeva and Others v. Russia*, 2008, § 136; *Kolyadenko and Others v. Russia*, 2012, § 161; *Brincat and Others v. Malta*, 2014, § 101).

iii. Foreseeable natural disasters

21. In *Budayeva and Others v. Russia,* 2008, § 137, where mudslides had caused the deaths of several persons, the Court pointed out that the aforementioned principles were applicable in the sphere of emergency relief, where the State is directly involved in the protection of human lives through the mitigation of natural hazards, in so far as the circumstances of a particular case pointed to the imminence of a natural hazard that had been clearly identifiable, and especially where it concerned a recurring calamity affecting a distinct area developed for human habitation or use. The scope of the positive obligations imputable to the State in the particular circumstances would depend on the origin of the threat and the extent to which one or the other risk is susceptible to mitigation.

The Court particularly emphasised the scope of the State's margin of appreciation in the sphere of emergency relief in relation to a meteorological event. Since such events are beyond human control, the argument that an impossible or disproportionate burden must not be imposed on the authorities regardless of the operational choices which they must make in terms of priorities and resources takes on even greater weight than in the sphere of dangerous activities of a man-made nature (*Budayeva and Others v. Russia,* 2008, § 135).

22. With specific regard to earthquakes, the Court stated in the case of *Erdal Muhammet Arslan and Others v. Türkiye*, 2023, § 128 (see also *M. Özel and Others v. Turkey*, 2015, §§ 173-174) that, although earthquakes are events over which States have no control, States nonetheless have a duty to provide for foreseeable natural risks and to adopt measures aimed at reducing their effects in order to keep their catastrophic impact to a minimum. It added that the scope of the prevention obligation, which

remains an obligation of means, consists in strengthening the State's capacity to deal with the unexpected and violent nature of such natural phenomena as earthquakes. The Court further clarified (*Erdal Muhammet Arslan and Others v. Türkiye*, 2023, §§ 129-133) that prevention includes appropriate spatial planning and controlled urban development; the local authorities responsible for regulating land use by issuing building permits therefore have a frontline role in risk prevention and bear the primary responsibility for such prevention and for compliance with the rules of seismic-resistant construction. The national authorities then have an obligation to supervise and inspect existing buildings to prevent, as far as possible, any danger to the population at large. In the event of a complaint, the judicial authorities are required to ensure that the obligations in question have been complied with by the relevant authorities. Moreover, an "earthquake plan", among other steps, ought to be drawn up in order to raise awareness among citizens, local authorities and professionals and to inform them about the seismic risk. Lastly, crisis-management plans must be put in place. These should seek to identify everything that must be done if a devastating earthquake were to occur. These planning and crisis-management measures must be based on previously developed disaster response and rescue plans at various territorial levels, depending on needs.

iv. Article 2 and Article 8

23. Since the scope of the positive obligations under Article 2 of the Convention largely overlap with those under Article 8, the principles developed in the Court's case-law relating to planning and environmental matters affecting private life and home may also be relied on for the protection of the right to life (*Budayeva and Others v. Russia*, 2008, § 133).

b. Examples

24. In the case of *L.C.B. v. United Kingdom,* 1998, the Court assessed, from the angle of the positive obligation to protect life, the case of a woman who submitted that the leukaemia which she had developed in childhood had stemmed from the fact that before her conception her father had been irradiated by nuclear testing carried out by the United Kingdom. The Court held that if, during the period between the United Kingdom's recognition of the competence of the Commission to receive applications on 14 January 1966 and the applicant's diagnosis with leukaemia in October 1970, the authorities had had information causing them to fear that the applicant's father had been exposed to radiation, and if it had appeared likely that such irradiation might have presented real risks for the applicant's health, they could reasonably have been expected to act of their own motion to provide advice to her parents and to monitor her health. However, in the light of the case file and having regard to the information available to the authorities on this matter at the material time, the Court did not find it established that they could have been expected to act of their own motion to notify the applicant's parents of these matters or to take any other special action in relation to her. The Court therefore found no violation of Article 2.

25. In the case of *Öneryıldız v. Turkey* [GC], 2004, §§ 97-110, the Court first of all noted that in both of the fields of activity central to the present case – the operation of household-refuse tips and the rehabilitation and clearance of slum areas – there were safety regulations in force in Turkey. Secondly, relying on the case file, it considered that the Turkish authorities had known or ought to have known that there was a real and immediate risk to a number of persons living near the rubbish tip. They had consequently had a positive obligation under Article 2 of the Convention to take such preventive operational measures as were necessary and sufficient to protect those individuals, especially as they themselves had set up the site and authorised its operation, which had given rise to the risk in question. On the contrary, Istanbul City Council had failed to adopt the necessary urgent measures on taking cognisance of the risk, had opposed a recommendation from the Prime Minister's Environment Office on bringing the site into line with normal standards, which required, *inter alia,* the installation of a system allowing the controlled release into the atmosphere of the accumulated gas, and had rejected a request for the temporary closure of the waste-collection site. The authorities had also

allowed the applicant and his family to live close to the refuse tip for several years. While referring to the margin of appreciation enjoyed by the Contracting States, the Court emphasised that the timely installation of a gas-extraction system could have been an effective measure without diverting the State's resources to an excessive degree or giving rise to any major policy problems. Such a measure would also have complied with Turkish regulations and general practice in the area. Finally, the Court noted that the Government had not shown that any action had been taken to provide the inhabitants of the slums with information enabling them to assess the risks they might run as a result of the choices they had made, and observed that in the absence of more practical measures to avoid the risks to their lives, even the fact of having respected the right to information would not have been sufficient to absolve the State of its responsibilities. The Court concluded that the State's responsibility had been engaged under Article 2 on account primarily of the defective regulatory framework concerning the opening, operation and supervision of the waste-collection, and of the fact that the State authorities had not done everything within their power to protect the inhabitants of the slums from the immediate and known risks to which they had been exposed.

26. In the case of *Budayeva and Others v. Russia*, 2008, §§ 147-160, the Court noted that the stricken town was located in an area prone to mudslides, and that the regular occurrence of this calamity in the summer season and the prior existence of defence schemes designed to protect the area indicated that the authorities and the population had reasonably assumed that a mudslide would probably occur in the summer of 2000. The Court then deduced the authorities' prior knowledge that the mudslide in 2000 was likely to cause devastation on a larger scale than usual from the fact that they had received several warnings: the previous summer they had been informed by the competent surveillance agency of the need to repair the mud-protection dam, which had been damaged by a strong mudslide; the agency had also called for the setting up of an early warning system that would allow the timely evacuation of civilians in the event of a mudslide. However, the authorities had neither installed any safety or defence infrastructure nor alerted the population; they had further failed to introduce an emergency evacuation system or to take any other measures to prevent the materialisation of the risk. The Court concluded that there had been no justification for the authorities' omissions in implementing the land-planning and emergency relief policies in the hazardous areas regarding the foreseeable exposure of residents to mortal risk. Furthermore, the Court held that there had been a causal link between the serious administrative flaws that impeded their implementation and the death of the first applicant's husband, as well as the injuries sustained by the first and the second applicants and their family members. It concluded that the authorities had failed to discharge the positive obligation to establish a legislative and administrative framework designed to provide effective deterrence against threats to the right to life.

27. In the case of *Kolyadenko and Others v. Russia*, 2012, § 161, the Court noted that the authorities had failed to implement applicable national regulations banning the allocation of plots of land for individual house building in water protection zones without preventive measures, and prohibiting, in particular, the zoning of flood-prone urban areas and water protection zones, to adopt preventive and emergency measures, to maintain and adapt the river channel and to inform the public about the risk. The Court found that the authorities had failed in their positive obligation to protect the applicants' lives, relying on the following facts: 1. the authorities had not established a clear legislative and administrative framework enabling them effectively to assess the risks inherent in the operation of a reservoir and to implement urban development policies in the proximity of the reservoir in compliance with the relevant technical standards; 2. there had been no coherent supervisory system to encourage those responsible to take steps to ensure adequate protection of the population living in the area, and in particular to keep the river channel clear enough to cope with urgent releases of water from the reservoir, to put in place an emergency warning system there, and to inform the local population of the potential risks linked to the operation of the reservoir; 3. it had not been established that there had been sufficient coordination and cooperation between the various administrative authorities to ensure that the risks brought to their attention would not become so serious as to endanger human lives. The Court also noted that the authorities had remained inactive even after the flood complained

of by the applicants, with the result that the risk to the lives of those living near the reservoir appeared to persist to the day of the judgment.

28. In *Brincat and Others v. Malta*, 2014, §§ 103-117, the Court gathered from the case file that at the material time the authorities had known or ought to have known of the dangers arising from exposure to asbestos. It further noted that it had transpired from the information provided that the legislation had been deficient in so far as it had neither adequately regulated the operation of the asbestos-related activities nor provided any practical measures to ensure the effective protection of the employees whose lives might have been endangered by the inherent risk of exposure to asbestos. Moreover, even the limited protection afforded by that legislation had had no impact on the applicants since it appears to have remained unenforced. The Court went on to note that the only practical measure taken by the State, as the employer, had been to distribute masks, which had proved inadequate, and that no information enabling the applicants to assess risks to their health and lives had in fact been provided or made accessible to them during the relevant period of their careers. The Court concluded that, despite the State's margin of appreciation as to the choice of means, the Government had failed to satisfy their positive obligations to legislate or take other practical measures. It therefore found that there had been a violation of Article 2 in respect of the applicant who had died of mesothelioma.

29. In the case of *Cannavacciuolo and Others v. Italy*, 2025, §§ 394-468, concerning the large-scale illegal dumping, burying and incineration of waste on private land in the Campania region ("*Terra del Fuochi*"), the Court held that, in this context, the authorities had been, first and foremost, under a duty to undertake a comprehensive assessment of the pollution phenomenon at issue, namely by identifying the affected areas and the nature and extent of the contamination in question, and then to take action in order to manage any risk revealed. They were further expected to investigate the impact of this pollution phenomenon on the health of individuals living in areas affected by it. At the same time, the authorities could have reasonably been expected to take action to combat the conduct giving rise to the pollution phenomenon, namely the illegal dumping, burying and incineration of waste. They were also under an obligation to provide individuals living in areas affected by the pollution phenomenon with timely information enabling them to assess risks to their health and lives. Reiterating that national authorities enjoyed a wide latitude in their choice of specific practical measures, the Court specified that it was within its sphere of competence to assess whether the authorities had approached the problem with the required diligence, given the nature and seriousness of the threat at issue. In this respect, the Court stressed that the timeliness of the authorities' response was of primordial importance, adding that the nature and seriousness of the threat required a systematic, coordinated, and comprehensive response on the part of the authorities. Noting shortcomings by the State on each of the above points, the Court held that there had been a violation of Article 2 of the Convention.

2. Procedural limb

30. Where lives have been lost in circumstances potentially engaging the responsibility of the State, Article 2 entails a duty for the State to ensure, by all means at its disposal, an adequate response – judicial or otherwise – so that the legislative and administrative framework set up to protect the right to life is properly implemented and any breaches of that right are repressed and punished (*Öneryıldız v. Turkey* [GC], 2004, § 91; *Budayeva and Others v. Russia*, 2008, § 138; *Smaltini v. Italy* (dec.), 2015, § 52; *Durdaj and Others v. Albania*, 2023, § 183).

31. In the specific context of **dangerous activities** and **foreseeable natural disasters**, a judicial investigation must be carried out, as the State authorities are often the only entities to have sufficient relevant knowledge to identify and establish the complex phenomena that might have caused such incidents (see, however, the *Brincat and Others v. Malta* judgment, 2014, §§ 121-126, where the Court ruled, in connection with the exhaustion of domestic remedies regarding a complaint under the procedural limb of Article 2, that the requirement to conduct an *ex officio* investigation does not apply

where it is not apparent that the circumstances of the death are known solely to the public authorities). Moreover, where those authorities, fully realising the likely consequences and disregarding the powers vested in them, had failed to take measures that were necessary and sufficient to avert the risks inherent in a dangerous activity, the fact that those responsible for endangering life had not been charged with a criminal offence or prosecuted could amount to a violation of Article 2, irrespective of any other types of remedy which individuals might exercise on their own initiative (*Öneryıldız v. Turkey* [GC], 2004, § 93; *Budayeva and Others v. Russia*, 2008, §§ 140 and 142; *Kolyadenko and Others v. Russia*, 2012, § 190).

a. Implementation of an effective *ex officio* investigation

32. The judicial system must make provision for an independent and impartial official investigation procedure that satisfies certain minimum standards as to effectiveness and is capable of ensuring that criminal penalties are applied where lives are lost as a result of a dangerous activity, if and to the extent that this is justified by the findings of the investigation. In such cases, the competent authorities must act with exemplary diligence and promptness and must of their own motion initiate investigations capable of, firstly, ascertaining the circumstances in which the incident took place and any shortcomings in the operation of the regulatory system and, secondly, identifying the State officials or authorities involved in whatever capacity in the chain of events in issue (*Öneryıldız v. Turkey* [GC], 2004, § 94; *Budayeva and Others v. Russia*, 2008, § 142; *Kolyadenko and Others v. Russia,* 2012, § 191; *Brincat and Others v. Malta*, 2014, § 121; *Smaltini v. Italy* (dec.), 2015, § 53; *Mučibabić v. Serbia*, 2016, § 125; *Durdaj and Others v. Albania*, 2023, § 187).

33. The essential purpose of such investigation is to secure the effective implementation of the domestic laws which protect the right to life and, in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility (*M. Özel and Others v. Turkey*, 2015, § 188).

b. Judicial procedure

34. Where the *ex officio* investigation has led to the institution of proceedings in the national courts, the proceedings as a whole, including the trial stage, must satisfy the requirements of the positive obligation to protect lives through the law (*Öneryıldız v. Turkey* [GC], 2004, § 95; *Budayeva and Others v. Russia*, 2008, § 143; *M. Özel and Others v. Turkey*, 2015, § 190). That does not mean that Article 2 may entail the right for an applicant to have third parties prosecuted or sentenced for a criminal offence or an absolute obligation for all prosecutions to result in conviction, or indeed in a particular sentence (*Öneryıldız v. Turkey* [GC], 2004, § 96; *Budayeva and Others v. Russia*, 2008, § 144; *M. Özel and Others v. Turkey*, 2015, §§ 187 and 190; *Istanbullu and Ayden v. Turkey* (dec.), 2015, § 41; *Erdal Muhammet Arslan and Others v. Türkiye*, 2023, § 138). On the other hand, the national courts should not under any circumstances be prepared to allow life-endangering offences to go unpunished. This is essential for maintaining public confidence and ensuring adherence to the rule of law and for preventing any appearance of tolerance of or collusion in unlawful acts (*Öneryıldız v. Turkey* [GC], 2004, § 96; *Budayeva and Others v. Russia*, 2008, § 145; *M. Özel and Others v. Turkey*, 2015, § 187). The Court's task therefore consists in reviewing whether and to what extent the courts, in reaching their conclusion, may be deemed to have submitted the case to the careful scrutiny required by Article 2 of the Convention, so that the deterrent effect of the judicial system in place and the significance of the role it is required to play in preventing violations of the right to life are not undermined (*Öneryıldız v. Turkey* [GC], 2004, § 96; *Budayeva and Others v. Russia*, 2008, § 145; *Smaltini v. Italy* (dec.), 2015, § 54; *Durdaj and Others v. Albania*, 2023, § 212; and *Laterza and D'Errico v. Italy*, 2025, § 36).

35. Where the infringement of the right to life is not caused intentionally, the positive obligation to set up an effective judicial system does not necessarily require criminal proceedings to be brought.

This obligation may also be satisfied if the legal system affords victims a remedy in the civil courts, either alone or in conjunction with a remedy in the criminal courts, enabling any liability of the individuals concerned to be established and any appropriate civil redress, such as an order for damages, to be obtained (*Istanbullu and Ayden v. Turkey* (dec.), 2015, § 33; *Erdal Muhammet Arslan and Others v. Türkiye*, 2023, §§ 137 and 141; and *Laterza and D'Errico v. Italy*, 2025, § 39). The Court followed this approach in cases concerning deaths resulting from earthquakes (*Istanbullu and Ayden v. Turkey* (dec.), 2015, § 33; *Erdal Muhammet Arslan and Others v. Türkiye*, 2023, § 137). Where agents of the State or members of certain professions are involved, disciplinary measures may also be envisaged (*Erdal Muhammet Arslan and Others v. Türkiye*, 2023, § 137).

c. Examples

36. In the case of *Öneryıldız v. Turkey* [GC], 2004, §§ 111-118, the Court noted that the investigating authorities had acted with exemplary promptness and had shown diligence in seeking to establish the circumstances that had led to the accident and the deaths, that those responsible for the events in issue had been identified, and that criminal proceedings had been instituted before the criminal court against the mayor of Istanbul and the mayor of the district in which the rubbish tip was located. They had not, however, been prosecuted for infringement of the right to life but for negligence in the discharge of their duties, and had only been sentenced to suspended fines of the equivalent of 9.70 euros, which the Court described as "derisory". The Court concluded that the manner in which the Turkish criminal justice system operated in response to the tragedy had failed to secure the full accountability of State officials or authorities for their role in it and the effective implementation of provisions of domestic law guaranteeing respect for the right to life, in particular the deterrent function of the criminal law. It found a violation of Article 2 of the Convention in its procedural aspect, on account of the lack, in connection with a fatal accident caused by the operation of a dangerous activity, of adequate protection "by law" safeguarding the right to life and deterring similar life-endangering conduct in future.

37. In *Budayeva and Others v. Russia*, 2008, §§ 161-165, the Court found a violation under the procedural limb of Article 2 on account of the fact that the accident in question had never as such been investigated or examined by any judicial or administrative authority.

38. In the case of *Kolyadenko and Others v. Russia*, 2012, §§ 194-203, the Court observed that there had been a preliminary investigation but that the competent authorities had not shown any particular determination to establish the circumstances of the case or to identify and bring those responsible to justice. They had not duly endeavoured to identify those responsible for the poor maintenance of the river channel, even though it had been established that that had been the main reason for the flooding, and they had decided to close the investigation into the local authorities' failings in terms of town planning.

39. In *M. Özel and Others v. Turkey*, 2015, §§ 192-200, concerning an earthquake which had caused multiple deaths in the Izmit region in 1999, criminal proceedings had been brought for the deaths in issue against the property developers responsible for the buildings which had collapsed and against certain individuals directly involved in their construction, and the applicants had been able to take part in the proceedings. Five persons had been prosecuted. The Court nevertheless noted that the length of proceedings – twelve years – had not satisfied the requirement of prompt examination of the case without unnecessary delays. It also noted that the proceedings had been conducted in such a way that only two of the accused had finally been declared responsible for the events, the other three having benefited from the statute of limitation. The Court also noted that in the absence of the prior administrative authorisation required under domestic law, despite all the applicants' requests, no criminal investigation had been instigated against the public officials whose shortcomings and failures in supervising and inspecting the buildings which had collapsed might otherwise have been established.

In the case of *Istanbullu and Ayden v. Turkey* (dec.), 2015, § 36-43, concerning the same earthquake, the applicants complained about the conduct of the criminal proceedings opened following their relatives' deaths under the rubbles of the building in which they lived, and the lack of effectiveness of the Turkish judicial system. The criminal proceedings that had been brought against the technical officer with responsibility for construction of the building and the property developer had ended with the former's acquittal on the grounds that he was not liable for defects in the construction, and by the finding that the proceedings had become time-barred in respect of the latter, on account of the judicial authorities' lack of due promptness. The Court noted that the long period of inactivity on the part of the domestic courts had made it impossible for criminal proceedings to establish whether the property developer had committed an offence. Nonetheless, it considered that there was nothing that undermined the capacity of the existing civil remedies to establish liability in the deaths of the applicants'' relatives. It concluded that, whatever the shortcomings in the criminal proceedings opened in the case, the domestic law provided the applicants with civil remedies that were capable of fulfilling the State's obligation under Article 2 of the Convention to set up an effective judicial system capable of providing an appropriate response to their relatives' deaths, and that the application was therefore manifestly ill-founded.

In the case of *Erdal Muhammet Arslan and Others v. Türkiye*, 2023, §§ 142-137, concerning an earthquake in the Van region in 2011, the Court, examining an application brought by family members of an individual who had been buried when a hotel collapsed, concluded that the domestic law had provided the applicants with a remedy capable of satisfying the respondent State's obligation to put in place an effective judicial system by which an appropriate legal response could be given to their relative's death in the circumstances of the case. In this connection, the Court emphasised that the State was required to afford the applicants a remedy by which to have established the potential liability of the authorities in question and to obtain compensation where appropriate. Under Turkish law this remedy took the form of an action before the administrative courts ruling with full jurisdiction. The applicants had pursued that avenue. The administrative court had ruled that the Ministry for the Environment and Urban Planning and the Van municipal authorities had not properly inspected the hotel construction project and building work, and that the Turkish public body for disaster management had neither conducted the necessary investigation into the disaster, nor carried out a timely inspection following a previous earthquake. It had therefore awarded them EUR 71,694 in compensation, which the Court found to be appropriate and sufficient redress in the circumstances of the case. The Court also took account of the fact that a criminal investigation had been opened a few days after the building's collapse, in the course of which an independent expert report had been commissioned, and at the close of which the main person responsible had been identified – the operator of the hotel –, before being prosecuted and convicted for wilful negligence occasioning deaths. It noted that the criminal courts had found, in particular, that the hotel building had not complied with anti-seismic regulations; that extensions had been added to the hotel without authorisation, thereby compromising the building's structure; that the defendant had continued to operate the hotel in spite of the first earthquake, which had weakened the structure; and that he had thus acted in a wilfully negligent fashion. It concluded that the matter of compliance with safety standards had therefore been duly examined by the judicial authorities and had given rise to criminal investigations. Although the criminal proceedings had been considerably delayed and were still pending, in spite of the authorities' duty of diligence and expedition in conducting the investigation and the judicial proceedings, the Cour held that this had not prevented the facts and liability from being established, and that there was nothing to indicate that the criminal courts had been prepared to allow life-endangering offences to go unpunished. It also found that, given the administrative court's decision, the failure to prosecute the officials whom the applicants considered to be liable had not precluded the establishment of the administrative authorities' respective liabilities for the death of the applicants' family member, or the compensation awarded to them in that respect.

40. In the case of *Smaltini v. Italy* (dec.), 2015, §§ 56-61, the applicant, who died during the proceedings before the Court, had lived in Taranto, which houses the largest steelworks in Europe,

whose impact on health and the environment has given rise to heated debate (see also *Cordella and Others v. Italy*, 2019). The applicant, who considered that the acute myeloid leukaemia which she had developed had been caused by the polluting emissions from the factory, had lodged a criminal complaint against one of the directors of the works for actual bodily harm stemming from the violation of standards relating to air quality surveillance and the protection of public health and the environment. The case had been dropped on the grounds that no causal link had been established between the pollution and the applicant's illness. The Court had satisfied itself that the domestic courts had conducted the careful scrutiny required under Article 2. In so doing it had assessed whether the courts had given proper reasons for discontinuing the case or whether, on the contrary, they had had sufficient evidence at their disposal to establish a causal link between the toxic emissions from the factory and the applicant's illness. It noted that the courts had relied on three reports on the state of health of and causes of death in the population of the Puglia region, as well as on an epidemiological survey, which had failed to show that there had been a higher incidence of leukaemia in Taranto than elsewhere in the country. The Court also noted that the applicant had benefited from adversarial proceedings, during which additional investigations had been carried out at her request. Having regard to those circumstances and *without prejudging any future scientific studies*, the Court concluded that the applicant had not proved that in the light of the scientific knowledge available at the material time, the Government had failed in its obligation to protect her life within the meaning of Article 2 of the Convention under its procedural limb.

41. In the case of *Durdaj and Others v. Albania*, 2023, §§ 183-238, a 2008 explosion in a facility for dismantling military weapons had caused twenty-six deaths and injured more than three hundred people. The Court held that the investigation, which had been launched immediately after the explosion, had been adequate in that it had generally succeeded in establishing the circumstances and relevant facts, and had identified those responsible for it, and the applicants had been granted access to the investigation to the extent necessary to safeguard their legitimate interests. With regard to the subsequent judicial proceedings the Court noted that although none of individuals identified as responsible at the close of the investigation had been ultimately convicted of homicide, all the offences for which the main accused were convicted had been related to the incident and their convictions had specifically referred to causing death and injuries to multiple persons, so that they related to life-endangering acts and to the protection of the right to life within the meaning of Article 2. The Court then noted that the prison sentences imposed on the main accused and the time they had actually spent in prison (ranging from six years and seven months to ten years and twenty-seven days) could not be regarded as disproportionately lenient. It nevertheless found a procedural violation of Article 2, first because the applicants had had no procedural rights in the criminal proceedings and had therefore had no possibility to participate in them effectively; and secondly, because the criminal proceedings for abuse of office against the Minister of Defence at the relevant time were still pending more than fourteen years after the incident had taken place, and certain aspects raised serious questions as to the authorities' willingness to pursue the matter in line with the requirements of Article 2, thus creating a potential for impunity.

II. Passive smoking

42. In the case of *Botti v. Italy* (dec.), 2004, the Court addressed under Articles 2 and 8 the issue of exposure of non-smokers to second-hand smoke in places to which the public have access. The Court, considering that the applicant's interests as a non-smoker had clashed with those of other individuals in continuing to smoke, and having regard to the margin of appreciation available to the national authorities, held that the absence of a broad prohibition on smoking in public places could not be regarded as a failure on the part of the Italian State to protect the applicant's rights under Articles 2 and 8 of the Convention.

In *Aparicio Benito v. Spain* (dec.), 2006, a prisoner complained under Article 2 about his exposure to the smoke exhaled by his fellow-prisoners in the common areas of the detention centre where he had been held. He argued that he had suffered from respiratory issues which were incompatible with the inhalation of smoke. The Court noted that the applicant had been held in an individual cell, that seven months after the application had been lodged the regulations had been amended to make the television room the only common area in which prisoners could smoke, and that he had not substantiated his alleged health issues. The Court consequently found no evidence that the applicant had suffered adverse effects such as to amount to a violation of Article 2, and dismissed the complaint as being manifestly ill-founded.

Article 3 (prohibition of torture)

Article 3 de la Convention

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

43. The Court has examined cases in which individuals submitted that the pollution or environmental nuisance to which they had been exposed had amounted to treatment contrary to Article 3. In many such cases it ruled that it had not been established that the severity threshold had been reached for the applicability of that provision (*López Ostra v. Spain*, 1994, § 60; *Fadeyeva v. Russia* (dec.), 2003; *Ward v. United Kingdom* (dec.), 2004; *Ruano Morcuende v. Spain* (dec.), 2005; *Brincat and Others v. Malta*, 2014, § 130).

44. It would, however, be useful to consider the case-law on conditions of detention in this context. It transpires from that case-law that the exposure of a prisoner to pollutants, environmental nuisance or a polluted prison environment is at minimum a factor to be taken into consideration in assessing cases in the light of Article 3.

45. The Court thus found a violation of Article 3 in respect of prisoners who had been exposed to smoke exhaled by other prisoners. In virtually all the cases in question, the passive smoking had been combined with other physical factors such as overcrowded and unhygienic conditions (*Florea v. Romania*, 2010, § 50-65; *Pavalache v. Romania*, 2011, §§ 87-101; *Vasilescu v. Belgium*, 2014, §§ 88-107; *Sylla and Nollomont v. Belgium*, 2017, §§ 35-42).

In the case of *Elefteriadis v. Romania*, 2011, §§ 46-55, however, the finding of a violation of Article 3 was based solely on the fact that the applicant, who suffered from pulmonary fibrosis, had been exposed to cigarette smoke from his fellow prisoners. The Court emphasised, in particular, the obligation on States to organise their prison systems in such a way as to guarantee respect for prisoners' human dignity, possibly including a requirement to take action to protect a given prisoner from the harmful effects of passive smoking where his state of health so required, as substantiated by medical examinations and recommendations.

46. Furthermore, in the case of *Plathey v. France*, 2011, §§ 47-57, the Court found a violation of Article 3 on the sole grounds that the applicant had been held for twenty-eight days, twenty-three hours per day, in a disciplinary cell which had been set on fire a week previously and which had still smelt strongly of burning. The Court considered that that fact had infringed the applicant's human dignity and amounted to degrading treatment.

Article 5 (right to liberty and security)

47. In the case of *Bryan and Others v. Russia*, 2023, the Court held that the arrest, in the Russian Arctic, and detention of activists from the NGO Greenpeace following their attempt to board an oil platform was contrary to Article 5 § 1 (unacknowledged detention, followed by unlawful detention). It also found a violation of Article 5 § 1 in the case of *Friedrich and Others v. Poland*, 2024, concerning the arrest and detention of Greenpeace activists for taking part in an operation to block a cargo vessel carrying coal, as well as a violation of Article 5 § 2 (right for everyone who is arrested to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest and of any charge against him or her; see also *Bogay and Others v. Ukraine*, 2025, in which the Court found a violation of Article 5 § 1 on account of the detention of activists in a police station for two to three hours, following their arrest at a demonstration protesting the use of animals in circus acts).

Article 6 (civil limb) (right to a fair hearing)

I. Proceedings brought by persons affected by environmental damage

A. Applicability of Article 6 § 1 (civil limb)

Article 6 of the Convention

> "1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice. ...".

48. In the environmental sphere, as in any other, for Article 6 § 1 in its "civil" limb to be applicable, there must be a dispute ("contestation" in the French text) over "civil rights" (or "civil obligations") which can be said, at least on arguable grounds, to be recognised under domestic law. Such dispute must be "genuine and serious"; it may relate not only to the actual existence of a right but also to its scope and the manner of its exercise. The outcome of the proceedings must be directly decisive for the right in question, mere tenuous connections or remote consequences not being sufficient to bring Article 6 § 1 into play (Cases relating to the environment in which those principles are set out: *Zander v. Sweden*, 1993, § 22; *Balmer-Schafroth and Others v. Switzerland*, 1997, § 30; *Athanassoglou and Others v. Switzerland* [GC], 2000, § 43; *Ünver v. Turkey* (dec.), 2000; *Lam and Others v. United Kingdom* (dec.), 2001; *Kyrtatou and Kyrtatos v. Greece* (dec.), 2001; *Gorraiz Lizarraga and Others v. Spain*, 2004, § 43; *Taşkın and Others v. Turkey*, 2004, § 130; *Okyay and Others v. Turkey*, 2005, § 64; *Collectif national d'information et d'opposition à l'usine Melox – Collectif Stop Melox and Mox v. France* (dec.), 2006; *Folkman and Others v. Czech Republic* (dec.), 2006; *Sdružení Jihočeské Matky v. Czech Republic* (dec.), 2006; *Lorentzatou v. Greece* (dec.), 2010; *Zapletal v. Czech Republic* (dec.), 2010; *Ivan Atanasov v. Bulgaria*, 2010, § 90; *Bursa Barosu Başkanlığı and Others v. Turkey*, 2018, § 125; *Vecbaštika and Others v. Latvia* (dec.), 2019, § 65; *Association Burestop 55 and Others v. France*, 2021, § 52; *Çöçelli and Others v. Türkiye*, 2022, § 42; *Cangı and Others v. Türkiye*,

2023, § 34; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 595; *Cangı and Others v. Türkiye (no. 2)*, 2025, § 28). The character of the legislation which governs how the matter is to be determined and that of the authority which is invested with jurisdiction in the matter are of little consequence (*Ivan Atanasov v. Bulgaria*, 2010, § 90).

49. The main consequence is that Article 6 § 1 is inapplicable under its civil limb to proceedings aimed at environmental protection as a public-interest value. However, the Court clarified, in the case of *Collectif national d'information et d'opposition à l'usine Melox – Collectif Stop Melox and Mox v. France* (dec.), 2006, concerning an action to set aside a decree authorising the expansion of a nuclear fuel factory lodged with an administrative court by an environmental association protection, that those criteria should be applied flexibly where an association complained of a breach of that provision. In that regard, it emphasised that although a strict reading of Article 6 § 1 might suggest that it was inapplicable in the absence of a dispute over a civil right which the applicant association could itself claim to hold, "such an approach would be at variance with the realities of today's civil society, where associations play an important role, *inter alia* by defending specific causes before the domestic authorities or courts, particularly in the environmental protection sphere" (see also *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 602).

1. General principles on the applicability of Article 6 § 1

a. A civil right which is recognised under domestic law and to which the applicant can lay claim

50. The applicability of Article 6 § 1 to environmental litigation primarily depends on the state of domestic law.

51. Domestic law may afford an individual right to the environment (*Taşkın and Others v. Turkey*, 2004, §§ 131-133; *Okyay and Others v. Turkey*, 2005, § 65; *Ivan Atanasov v. Bulgaria*, 2010, § 91; *Association Greenpeace France v. France* (dec.), 2011; *Cangı and Others v. Türkiye*, 2023, § 35; *Cangı and Others v. Türkiye (no. 2)*, 2025, § 29; *Tatlı v. Türkiye**, 2026, § 28), or the law may guarantee one of the aspects of such a right, such as the public's right to information and participation in the decision-making process where an activity posing a risk to health or the environment is to be authorised (*Collectif national d'information et d'opposition à l'usine Melox – Collectif Stop Melox and Mox v. France* (dec.), 2006; *Association Burestop 55 and Others v. France*, 2021, § 57).

Where such a right does exist in domestic law, it is likely to be "civil" for the purposes of Article 6 § 1 (*Taşkın and Others v. Turkey*, 2004, §§ 133; *Okyay and Others v. Turkey*, 2005, §§ 66-67; *Collectif national d'information et d'opposition à l'usine Melox – Collectif Stop Melox and Mox v. France* (dec.), 2006; *Folkman and Others v. Czech Republic* (dec.), 2006; *Sdružení Jihočeské Matky v. Czech Republic* (dec.), 2006; *Ivan Atanasov v. Bulgaria*, 2010, § 91; *Association Greenpeace France v. France* (dec.), 2011; *Association Burestop 55 and Others v. France*, 2021, § 57; *Efgan Çetin and Others v. Türkiye*, 2023, § 33; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 600).

In so ruling in the case of *Taşkın and Others v. Turkey*, 2004, § 133, in which persons living close to a gold mine using a cyanidation process had complained of the failure to enforce judicial decisions annulling the mine's operating permit, the Court noted that the right in question entitled individuals to appropriate protection of their physical integrity against hazards emanating from mining. It deduced that that right was recognised in Turkish law since the Constitution guaranteed the right to live in a healthy and balanced environment, and held that the applicants could therefore have arguably claimed to have a right under Turkish law to protection against environmental damage caused by the mine. In conclusion as regards the civil nature of that right, the Court noted that the extent of the risk posed by the cyanidation method of operating the mine had been established by the domestic court, which had relied on impact studies, and concluded that the protection of the applicants' physical integrity had been directly affected.

Similarly, in *Okyay and Others v. Turkey*, 2005, §§ 66-67, individuals exposed to pollution from thermal power plants had complained of the failure to enforce judicial decisions ordering their closure. The applicants relied on their right to "live in a healthy and balanced environment" as enshrined in Turkish constitutional law. In finding that the right in question was of a civil nature, the Court had regard to the facts that the protection of the applicants' physical integrity had been infringed of account of their exposure to the impugned pollution and that they had *locus standi* in Turkish courts to complain of activities threatening the environment and seek compensation in the event of failure to enforce favourable decisions.

In the case of *Collectif national d'information et d'opposition à l'usine Melox – Collectif Stop Melox and Mox v. France* (dec.), 2006, concerning an action to set aside a decree authorising the expansion of a nuclear fuel factory lodged with an administrative court by an environmental association protection, the right in question entitled the public to information and to participation in the decision-making process. The Court deduced that that right was a civil right from the fact that any interested party could, on an individual basis, demand compliance with it before the domestic courts.

52. Alternatively, the relevant right may concern the protection of life, of physical integrity or of property.

In the case of *Balmer-Schafroth and Others v. Switzerland*, 1997, §§ 33-34, in which persons living in the vicinity of a nuclear power station had complained of a violation of their right of access to a tribunal to challenge a Federal Council decision to extend its operating licence, the Court considered that that condition had been met. It observed that the right relied upon by the applicants had been the right to have their physical integrity adequately protected from the risks entailed by the use of nuclear energy, which was based on section 5 (1) of the Nuclear Energy Act (stating that authorisation to build or operate a nuclear installation should be rejected or made conditional where necessary for the protection of people, the property of others and important rights) and on the constitutional right to life. The Court reached a similar conclusion in the case of *Athanassoglou and Others v. Switzerland* [GC], 2000, § 44, which concerned a comparable situation in which the applicants had sought, at the domestic level, to uphold not only their right to physical integrity but also their rights to life and to respect for their property. The Court observed that the Swiss legal system, including the Constitution and the provisions of the Civil Code governing neighbours' rights, granted those rights to everyone (see also *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 617).

In *Zander v. Sweden*, 1993, § 27, persons living near an installation storing and processing household and industrial waste, with a cyanide-contaminated well located on their property, had complained that under domestic law they had been unable to refer to a court an administrative decision renewing the operating permit and authorising the expansion of activities at the installation, while rejecting the precautionary measure ordered. The Court noted that the applicants' request had directly concerned their ability to use the water in their well for drinking purposes, as one facet of their right as owners of the land on which it was situated, and that the right to property was clearly a "civil right" within the meaning of Article 6 § 1.

In the case of *Gorraiz Lizarraga and Others v. Spain*, 2004, §§ 45-46, concerning proceedings to set aside a Ministerial Decree approving a dam-building project, the Court noted that in addition to defence of the public interest, the proceedings had been intended to defend certain specific interests of a number of persons who lived in the valley that was due to be flooded and whose lifestyle and properties would be affected. It deduced that the proceedings had comprised an "economic" and civil dimension, and had been based on an alleged violation of rights which were also economic.

53. The case must concern a right or obligation pertaining to the applicant (*Kyrtatou and Kyrtatos v. Greece* (dec.), 2001). In particular, in the case of a civil right, applicants must be able to claim it on their own behalf (*Gorraiz Lizarraga and Others v. Spain*, 2004, § 46; *Collectif national d'information et d'opposition à l'usine Melox – Collectif Stop Melox and Mox v. France* (dec.), 2006; *Association*

Burestop 55 and Others v. France, 2021, § 57); *TMMOB and Karakuş Candan v. Türkiye* (dec.), 2024, § 42).

In *Collectif national d'information et d'opposition à l'usine Melox – Collectif Stop Melox and Mox v. France* (dec.), 2006 (see also *Association Burestop 55 and Others v. France*, 2021), the Court ruled that an environmental protection association could claim on its own behalf the relevant public right to information and to participation in the decision-making process in the environmental sphere, as recognised under domestic law. It concluded that as civil society actors, non-governmental organisations with legal personality formed part of the general public, and noted that the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, to which France is a party, included associations in the definition of that concept.

54. The Court adopted a "flexible" approach (*Collectif national d'information et d'opposition à l'usine Melox – Collectif Stop Melox and Mox v. France* (dec.), 2006) to the issue of who held the civil right in question in a case where proceedings had been brought by environmental protection associations with a view to protecting the rights of their members and local residents affected by a project or activity raising environmental issues. Indeed, the applicability of Article 6 § 1 to such associations could be deduced from the fact that the proceedings in question were decisive in terms of the civil rights of its members or the local residents.

In *Gorraiz Lizarraga and Others v. Spain*, 2004, §§ 45-48, for instance, the domestic proceedings examined by the Court had not related to any rights which the applicant association could claim on its own behalf. The Court deduced the applicability of Article 6 § 1, in respect, specifically, of the applicant association, from the fact that the domestic proceedings had been geared to protecting civil rights held by the association's members (who were also applicants before the Court but had not been parties to the domestic proceedings).

In the case of *L'Erablière A.S.B.L. v. Belgium*, 2009, §§ 28-30, the applicant association had lodged an action in the domestic courts to set aside the planning permission to expand a technical landfill site. In concluding that the dispute raised by the applicant association had had a sufficient connection with a right which it could claim on its own behalf, the Court had relied on the facts that its statutes had stipulated that its aim was to protect the environment at the local level, that all its founding members and administrative officers had lived near the site in question, and that the latter's civil rights had been under threat, given that the increase in the site's capacity had risked disturbing their everyday quality of life and impacting on the market value of their properties.

In the case of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 59, an association of older women, established to promote and implement effective climate protection on behalf of its members, and four of its members, had unsuccessfully complained to the Federal Administrative Court, then to the Federal Supreme Court, about the inadequacy of the measures taken in this area by Switzerland. The Court noted that the association's action had been based on the threat arising from the adverse effects of climate change as they affected its members' health and well-being, and was satisfied that the interests defended by it were such that the "dispute" raised by it had a direct and sufficient link to its members' rights in question, bearing in mind the specific role of associations in the climate-change context.

55. A dispute relating exclusively to environmental protection as a component of the public interest does not concern a civil right within the meaning of Article 6 § 1 (*TMMOB and Karakuş Candan v. Türkiye* (dec.), 2024, § 47). However, the fact that the related proceedings are aimed at protecting the public interest in the environment does not rule out the possibility of their also being directly decisive for specific civil rights (*Gorraiz Lizarraga and Others v. Spain*, 2004, §§ 45-47; *Collectif national d'information et d'opposition à l'usine Melox – Collectif Stop Melox and Mox v. France* (dec.), 2006; *L'Erablière A.S.B.L. v. Belgium*, 2009, § 25; *Karin Andersson and Others v. Sweden*, 2014, § 46; *Bursa Barosu Başkanlığı and Others v. Turkey*, 2018, § 128; *Stichting Landgoed Steenbergen and Others*

v. Netherlands, 2021, § 30; *Association Burestop 55 and Others v. France*, 2021, § 57; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, §§ 615-616 and 633-634).

b. A "genuine and serious" dispute

56. People living near a nuclear power station who had lodged complaints with the domestic courts concerning the lawfulness, in terms of their rights, of a decision prolonging the power station's operational permit had raised a dispute (*contestation*) (*Balmer-Schafroth and Others v. Switzerland*, 1997, § 37; *Athanassoglou and Others v. Switzerland* [GC], 2000, §§ 45-46).

57. The genuineness and seriousness of the dispute may, for example, be deduced from the fact that the relevant appeal was declared admissible at domestic level (*Balmer-Schafroth and Others v. Switzerland*, 1997, § 38; *Athanassoglou and Others v. Switzerland* [GC], 2000, § 45; *Kyrtatou and Kyrtatos v. Greece* (dec.), 2001), from the substance of the pleas before the domestic courts (*Association Greenpeace France v. France* (dec.), 2011; *Association Burestop 55 and Others v. France*, 2021, § 59), or from the arguments used by the competent authority or judge to dismiss the appeal (*Balmer-Schafroth and Others v. Switzerland*, 1997, §§ 37-38; *Athanassoglou and Others v. Switzerland* [GC], 2000, § 45; *Collectif national d'information et d'opposition à l'usine Melox – Collectif Stop Melox and Mox v. France* (dec.), 2006; *Association Burestop 55 and Others v. France*, 2021, § 59).

c. A dispute which is "directly decisive" for the applicant's civil right

58. In the case of *Balmer-Schafroth and Others v. Switzerland*, 1997, §§ 39-40, the Court ruled that the connection between the Federal Council's decision to extend the operating licence of a nuclear power station and the right of the applicants, who lived near the power station, to protection of their physical integrity had been too tenuous and remote for Article 6 § 1 to apply. It observed in that context that the applicants had failed to demonstrate that the operation of the power station had exposed them personally to a danger that was not only serious but also specific and, above all, imminent. The Court made a similar finding in *Athanassoglou and Others v. Switzerland* [GC], 2000, §§ 49-55. In particular it observed that in neither case had the applicants at any stage of the proceedings claimed to have suffered any loss, economic or other, for which they intended to seek compensation. It further noted that the applicants were unduly seeking to derive from Article 6 § 1 of the Convention a remedy to contest the very principle of the use of nuclear energy, or at least a means for transferring from the Government to the courts the responsibility for taking, on the basis of the technical evidence, the ultimate decision on the operation of individual nuclear power stations. The Court stressed that best way to regulate the use of nuclear power was for each Contracting State to take a policy decision according to its own democratic processes (see also: *Folkman and Others v. Czech Republic* (dec.), 2006; *Sdružení Jihočeské Matky v. Czech Republic* (dec.), 2006).

59. The Court made a similar finding in the case of *Ünver v. Turkey* (dec.), 2000, to the effect that Article 6 § 1 had not applied to proceedings to set aside a building permit and to suspend works initiated by a local resident, for the purpose, in particular, of preserving the natural beauty of the site in the public interest. It noted that the outcome of the proceedings had not been directly decisive for the applicant's rights, pointing out that there had been no pecuniary interest at stake in the proceedings and that the applicant had never asserted before the domestic courts that the impugned development had had a negative effect on the value of his property.

60. In *Zapletal v. Czech Republic* (dec.), 2010, a person living near a factory producing car parts by metal plate compression, causing noise pollution, had lodged domestic proceedings seeking a review of the lawfulness of the decision to approve the factory. The Court accepted that in so doing the applicant had been seeking to uphold civil rights recognised in domestic law which he could claim on his own behalf, but concluded that Article 6 § 1 was inapplicable on the grounds that the approval procedure had not been directly decisive for those rights. It noted that the conditions governing the

construction and the operation of the factory, including the requirement to comply with noise standards, had been established in the framework of previous proceedings and that the approval procedure had merely confirmed the factory's compliance with those conditions. The Court also noted that the applicant had failed to show that the noise pollution post-approval had been sufficiently severe to amount to an infringement of his rights, and that neither the official approval procedure nor the proceedings brought by the applicant could lead to payment of compensation for damage stemming from the impugned noise pollution.

61. We might also mention the cases of *Ivan Atanasov v. Bulgaria*, 2010, §§ 89-96, and *Vecbaštika and Others v. Latvia* (dec.), 2019, in which the Court ruled that the condition of the "direct decisiveness" of the dispute had not been fulfilled with regard to the following aspects: an action to set aside a permit to transport sludge from a water treatment plant to a tailings pond belonging to a former copper mine located about one kilometre from the applicant's house, with a view to filing in the pond in the framework of a land reclamation operation; and an appeal lodged with the Constitutional Court by residents to cancel an urban planning project for the construction of wind farms.

62. In the case of *Association Burestop 55 and Others v. France*, 2021, § 59, a number of environmental protection associations had, in the context of the *Cigéo* project aimed at the storage in deep geological repositories of high-level and long-life radioactive waste, sued the National Agency for the management of radioactive waste in the civil courts, seeking compensation for the damage which they claimed to have sustained on account of the agency's culpable failure to provide the public with information relating to the management of radioactive waste as required under domestic law. The Court concluded that those proceedings had been directly decisive for the applicant associations' right to information and participation in the environmental decision-making process.

63. In the case of *Cangı and Others v. Türkiye*, 2023, §§ 36-37, the applicants had applied to the administrative courts seeking to have set aside a ministerial decision approving an environmental impact study into the extraction of gold using cyanide leaching at a mine. The Court held that the outcome of the proceedings had been "directly decisive" for the "civil" right to live in a healthy environment (guaranteed by the Turkish constitution) of those of the applicants who lived or owned property in close proximity to the gold mine. It therefore held that Article 6 § 1 was applicable in their case. In contrast, it rejected as inadmissible the complaints of the other applicants, on the grounds that they did not live in the mine's vicinity and that its operations did not affect them directly and personally. It emphasised that, for the applicability of Article 6 § 1, it was insufficient to argue that they had acted before the courts as "public watchdogs" for protection of the environment, in that they belonged to a movement set up to study and assess the legal, social and environmental implications of gold mines in the region concerned. The Court followed the same approach in the case of *Cangı and Others v. Türkiye (no. 2)*, 2025, §§ 32-34, , in the context of domestic proceedings challenging a permit to operate a nickel mine.

64. Thus, to cite the judgment in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 607, where the adverse environmental effects on an applicant's rights are immediate and certain, the Court considers that the dispute concerning the matter falls under Article 6 § 1 (see also *Cangı and Others v. Türkiye (no. 2)*, 2025, § 30).

2. Applicability of Article 6 § 1 in the context of climate change

65. The Court emphasised in the case of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 608, that the general principles set out above also prevailed in the climate-change context, but that the characteristics of the subject matter necessarily had implications for the application of its case-law.

66. Thus, it held (§ 614) that it was not possible to apply the elements of the third criterion (whether the outcome of the proceedings was "directly decisive" for the applicant's right), in particular the

notion of imminent harm or danger, without properly 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 were not merely speculative but real and highly probable (or virtually certain) 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. Such an approach would unduly limit access to a court for many of the most serious risks associated with climate change, especially for legal actions instituted by associations. The Court added that, in the climate-change context, their legal actions had to be seen in the light of their role as a means through which the Convention rights of those affected by climate change, including those at a distinct representational disadvantage, could be defended and through which they could seek to obtain an adequate corrective action for the alleged failures and omissions on the part of the authorities in this field.

In this case, an association of older women, established to promote and implement effective climate protection on behalf of its members, and four of its members, had unsuccessfully complained to the Federal Administrative Court, then to the Federal Supreme Court, about the inadequacy of the measures taken in this area by Switzerland. Before the Court, they alleged a breach of their right of access to a court.

The Court concluded that Article 6 § 1 applied to the complaint in so far as it was brought by the applicant association (§§ 621-623). It noted that the association, which had demonstrated that it had an actual and sufficiently close connection to the matter complained of and to the individuals seeking protection against the adverse effects of climate change on their lives, health and quality of life, had sought to defend the specific civil rights of its members in relation to the adverse effects of climate change. It had acted as a means through which the rights of those affected by climate change could be defended and through which they could seek to obtain an adequate corrective action for the State's failure to effectively implement mitigation measures under the existing law. The Court also reiterated the important role of associations in defending specific causes in the sphere of environmental protection, as already found in its case-law, as well as the particular relevance of collective action in the context of climate change, the consequences of which are not specifically limited to certain individuals. It added that, similarly, in so far as a dispute reflected this collective dimension, the requirement of a "directly decisive" outcome had to be taken in the broader sense of seeking to obtain a form of correction of the authorities' actions and omissions affecting the civil rights of its members under national law.

In contrast, the Court held that Article 6 § 1 was not applicable to the complaint in so far as it had been raised by the four members of the association who were also applicants in the case (§ 624), in that they had not made out a case demonstrating that the requested action by the authorities – namely, effectively implementing mitigation measures under the existing national law – alone would have created sufficiently imminent and certain effects on their individual rights in the context of climate change. It concluded that their dispute had a mere tenuous connection with, or remote consequences for, their rights relied upon under national law, and that the outcome of the dispute was thus not directly decisive for their civil rights.

B. Examples of the application of Article 6 § 1 in the framework of environmental litigation

67. The environmental cases in which the Court has examined the merits of complaints under Article 6 § 1 have concerned such issues as the following:

- length of proceedings concerning neighbourhood noise (*Ekholm v. Finland*, 2007, §§ 92-66);
- right of access to a tribunal to challenge a measure affecting the environment such as an operating permit or authorisation to expand a refuse dump (*Zander v. Sweden*, 1993, § 29;

L'Erablière A.S.B.L. v. Belgium, 2009, §§ 35-44); a building permit for a railway line (*Karin Andersson and Others v. Sweden*, 2014, §§ 68-70); or an administrative decision not to require a prior an environmental impact assessment in respect of a geothermal plant (*Efgan Çetin and Others v. Türkiye*, 2023) or hydroelectric power plant (*Tatlı v. Türkiye**, 2026);

- right of access to a tribunal to file an action for damages against a local authority which had negligently authorised the installation of a polluting business and failed to take the requisite action (*Lam and Others v. United Kingdom* (dec.), 2001), against a private employer and an insurance fund on account of the death of an employee who had been exposed to asbestos in the context of his occupational activities (*Howald Moor and Others v. Switzerland*, 2014, §§ 70-80), or against an oil refinery responsible for an explosion which had damaged the applicant's property (*Kurşun v. Turkey*, 2018, §§ 93-105);
- right of access to a tribunal in respect of an environmental protection association with a seeking compensation for damage caused by an alleged breach of a requirement under domestic law to provide information on the management of radioactive waste (*Association Burestop 55 and Others v. France*, 2021, §§ 64-72);
- right of access to a court to complain of the inadequacy of climate protection measures (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024);
- insufficient reasoning in the domestic courts' decisions in proceedings concerning authorisation to operate a nickel mine, in that they failed to address the applicants' objections regarding an expert opinion on exhaustion of water resources and pollution of ground water, and the general risks created by the mining operations (*Cangı and Others v. Türkiye (no. 2)*, 2025, §§ 42-53);
- access to documents which were held by the authorities but which were needed to prove the case of servicemen who had been exposed to radiation during atmospheric tests of nuclear weapons, in the framework of proceedings to obtain a disability pension (*McGinley and Egan v. United Kingdom*, 1998, §§ 85-90 and 99);
- obligation to enforce or ensure the enforcement of judicial decisions concerning neighbourhood noise (*Ekholm v. Finland*, 2007, §§ 72-75; *Apanasewicz v. Poland*, 2011, §§ 72-83), of decisions favourable to environmental protection, such as decisions ordering the closure of polluting thermal power plants (*Okyay and Others v. Turkey*, 2005, §§ 72-75), the voiding of administrative decisions authorising the construction and operation of a starch factory (*Bursa Barosu Başkanlığı and Others v. Turkey*, 2018, §§ 133-145) or of a gold mine operated by cyanidation and posing a threat to health and the environment (*Taşkın and Others v. Turkey*, 2004, §§ 135-138; *Lemke v. Turkey*, 2007, §§ 51-53; *Genç and Demirgan v. Turkey*, 2017, §§ 45-46), a decision ordering the demolition of unlawfully erected buildings to the detriment of the environment (*Kyrtatos v. Greece*, 2003, §§ 30-32) or ordering the removal of telecommunications aerials located near a monastery, on the grounds that the electromagnetic waves exceeded the safety limits on public exposure (*Iera Moni Profitou Iliou Thiras v. Greece*, 2005, §§ 34-38);
- compliance with the principle of legal certainty in the context of the reopening of the time allowed for appealing and the admission of appeals lodged out of time against final judgment granting allowances and additional compensation to persons who had taken part in the emergency rescue operations on the site of the Chernobyl disaster (*Magomedov and Others v. Russia*, 2017, §§ 86-101);
- the neutrality of experts appointed to assess the environmental risks from two cement factories, in the context of proceedings challenging the administrative decisions approving the environmental impact assessment reports on the factories (*Çöçelli and Others v. Türkiye*, 2022, §§ 57-64);

- participation by local residents in the adversarial examination of an expert report commission by a court in the context of proceedings concerning their request to have set aside a ministerial decision approving an environmental impact assessment on the extraction of gold using cyanide leaching at a mine (*Cangı and Others v. Türkiye*, 2023, §§ 43-56).

68. In the case of *Iera Moni Profitou Iliou Thiras v. Greece* 2005, § 38, which concerned a failure to enforce a judicial decision ordering the removal of telecommunications aerials located in the vicinity of a monastery on the grounds that the electromagnetic waves exceeded the safety limits on public exposure, the Court would appear to have attached particular importance to the environmental aspect of the case, finding a violation of Article 6 § 1 "having regard [in particular] to what was at stake for the preservation of the natural and cultural environment".

69. In the case of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, §§ 635-638, the Court took into account the urgency of addressing the adverse effects of climate change. In this case, the Swiss courts had declared inadmissible an appeal lodged with them by an association of older women, established to promote and implement effective climate protection on behalf of its members, and some of its members, in order to complain of the inadequacy of the measures taken in this field by Switzerland. They had held that the rights of the applicants were not affected by the alleged omissions with sufficient intensity in terms of section 25a of the Federal Administrative Procedure Act (determining standing for requesting a ruling on real acts, namely acts based on federal public law that affect rights and obligations, but do not arise from formal rulings), and that their complaint was of an *actio popularis* nature. The Court stated that it 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, as well as the general acceptance that there is urgency as regards the existing and inevitable future impacts of climate change on various aspects of human rights. It added that, indeed, 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. Further 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 Court held that its right of access to a court had been restricted in such a way and to such an extent that the very essence of the right had been impaired, in violation of Article 6 § 1.

II. Balance of forces in environmental litigation

70. In *Steel and Morris v. United Kingdom*, 2005, §§ 59-72, and *Collectif national d'information et d'opposition à l'usine Melox – Collectif Stop Melox and Mox v. France*, 2007, §§ 13-16, the Court took into consideration the possible imbalance in "civil" proceedings to the detriment of environmental protection agencies.

In the first of these two cases, ecological activists had been handing out tracts criticising a fast-food company, claiming in particular that it was contributing to abusive and immoral farming practices and deforestation, and selling unhealthy food. They had been sued by the company for defamation, and after lengthy proceedings had been ordered to pay large sums in compensation. The activists had been unable to afford a lawyer, and had therefore requested legal assistance. That request having been dismissed, they claimed a violation of their right to a fair trial. The Court found in their favour, ruling that the denial of legal aid to the applicants had deprived them of the opportunity to present their case effectively before the court and had contributed to an unacceptable inequality of arms with the plaintiff company.

In the second case, an environmental protection association and an ecological political party had filed an action with the domestic courts to set aside a decree authorising the expansion of a nuclear fuel factory. The association complained before the Court that the private company operating the factory had been allowed to join the proceedings as a party. It claimed that this had meant facing two adversaries, and therefore complained that the requisite fair balance between the parties had been upset, aggravated by the order to pay the company's expenses. The Court ruled that the fact that the applicants had thus been "facing two giants – the State and a multinational concern" had been sufficient to conclude that they had been at a clear disadvantage in presenting their common case. However, the Court went on to express surprise that the domestic court had considered it fair to order the association, which had limited resources, to pay the expenses incurred by a wealthy multinational company. It noted that the court had not only penalised the weaker party, but also adopted a measure liable to deter the applicant association from any future use of judicial channels to carry out its statutory task, whereas in fact defending such causes as environmental protection before the courts was part of the major role played by non-governmental organisations in a democratic society. It further refrained from ruling out the possibility, in cases where Article 6 § 1 was applicable, of circumstances of that kind coming into conflict with the right to a tribunal as enshrined in that provision, but found no violation of the latter, in particular because the applicant association had been able to plead against the order to pay expenses, that there was evidence to suggest that the domestic court had considered the association's limited financial capacities in setting the amount of the award, and that that amount had been modest.

III. Proceedings brought by individuals against environmental protection measures

71. Article 6 § 1 may apply where measures to protect the environment affect an individual's civil rights, such as the right to protection of property. Applicants consequently benefit from a practical and effective right of access to a tribunal (*De Geouffre de la Pradelle v. France*, 1992, §§ 27-35; *Posti and Rahko v. Finland*, 2002, §§ 52-66; *Geffre v. France* (dec.), 2003; *Alatulkkila and Others v. Finland*, 2005, §§ 49-54; *De Mortemart v. France* (dec.), 2017; *Sakskoburggotski and Chrobok v. Bulgaria*, 2021, §§ 271-275; see also the decision in the case of *CRASH 2000 OOD and Others v. Bulgaria* (dec.), 2013, where the Court pointed out, in the context of the foundation of a national park, that the Convention did not guarantee access to a tribunal to challenge general policy decisions).

IV. Other

72. In the case of *Dimopulos v. Turkey*, 2019, § 39, the applicant had filed with the domestic courts an action seeking recognition of her ownership rights by adverse possession over land listed as a "nature conservation site". The domestic court had dismissed the action on the grounds that pursuant to a law which had come into force after the action had been filed, nature conservation sites could no longer be acquired by adverse possession. In the framework of the examination of the applicant's complaint of a violation of her right to a fair trial, the Court pointed out that environmental protection was a general-interest ground that could justify the retroactive application of new legislation to live proceedings (it nonetheless found a violation of Article 6 § 1 in the light of the circumstances of the case).

Article 6 (criminal limb) (right to a fair trial)

73. In the case of *European Air Transport Leipzig GmbH v. Belgium*, 2023, the Court found that Article 6 § 1 was applicable under its criminal limb to proceedings relating to administrative fines imposed on the applicant company for having committed offences under the rules on combating air-traffic noise.

Article 8 (right to respect for private and family life)

Article 8 of the Convention

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

I. Exposure to pollution and nuisance or to an environmental hazard

74. Environmental case-law has to a large extent developed on the basis of the Court's finding in the case of *López Ostra v. Spain*, 1994, that severe environmental pollution may affect individuals' well-being and prevent them from enjoying their homes in such a way as to affect their private and family life adversely (*López Ostra v. Spain*, 1994, § 51; see also: *Guerra and Others v. Italy*, 1998, § 60; *Gronuś v. Poland* (dec.), 1999; *Băcilă v. Romania,* 2010, § 59; *Sciavilla v. Italy* (dec.), 2000; *Kyrtatos v. Greece*, 2003, § 52; *Taşkın and Others v. Turkey*, 2004, § 113; *Botti v. Italy* (dec.), 2004; *Fägerskiöld v. Sweden* (dec.), 2008; *Furlepa v. Poland* (dec.), 2008; *Greenpeace E.V. and Others v. Germany* (dec.), 2009; *Marchiş and Others v. Romania* (dec.), 2011; *Frankowski and Others v. Poland* (dec.), 2011; *Zammit Maempel v. Malta*, 2011, § 36; *Di Sarno and Others v. Italy,* 2012, § 104; *Dzemyuk v. Ukraine*, 2014, § 88; *Fieroiu and Others v. Romania* (dec.), 2017; *Cordella and Others v. Italy*, 2019, § 157; *Jugheli and Others v. Georgia*, 2017, § 62; *Yevgeniy Dmitriyev v. Russia*, 2020, § 32), even if it does not seriously endanger their health (*López Ostra v. Spain*, 1994, § 51; see also: *Sciavilla v. Italy* (dec.), 2000; *Botti v. Italy* (dec.), 2004; *Kyrtatos v. Greece*, 2003, § 52; *Taşkın and Others v. Turkey*, 2004, § 113; *Fägerskiöld v. Sweden* (dec.), 2008; *Furlepa v. Poland* (dec.), 2008; *Greenpeace E.V. and Others v. Germany* (dec.), 2009; *Băcilă v. Romania*, 2010, §§ 63-64; *Marchiş and Others v. Romania* (dec.), 2011; *Frankowski and Others v. Poland* (dec.), 2011; *Zammit Maempel v. Malta*, 2011, § 36; *Dzemyuk v. Ukraine*, 2014, § 88; *Jugheli and Others v. Georgia*, 2017, § 62; *Tolić and Others v. Croatia* (dec.), 2019, § 91; *Yevgeniy Dmitriyev v. Russia*, 2020, § 32); *Pavlov and Others v. Russia*, 2022, § 69; *Locascia and Others v. Italy*, 2023, § 120; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 517).

75. Thus, even though there is no explicit right in the Convention to a clean and quiet environment, an issue may arise under Article 8 where an individual is directly and seriously affected by noise or by another form of pollution or nuisance (*Hatton and Others v. United Kingdom* [GC], 2003, § 96; *Fägerskiöld v. Sweden* (dec.), 2008; *Furlepa v. Poland* (dec.), 2008; *Tătar v. Romania*, 2009, § 86; *Greenpeace E.V. and Others v. Germany* (dec.), 2009; *Oluić v. Croatia*, 2010, § 45; *Leon and Agnieszka Kania v. Poland*, 2009, § 98; *Apanasewicz v. Poland*, 2011, § 94; *Marchiş and Others v. Romania* (dec.), 2011; *Frankowski and Others v. Poland* (dec.), 2011; *Zammit Maempel v. Malta*, 2011, § 36;

Flamenbaum and Others v. France, 2012, § 133; *Udovičić v. Croatia*, 2014, § 137; *Fieroiu and Others v. Romania* (dec.), 2017, § 18; *Jugheli and Others v. Georgia*, 2017, § 62; *Kožul and Others v. Bosnia and Herzegovina*, 2019, § 31; *Tolić and Others v. Croatia* (dec.), 2019, § 91; *Çiçek and Others v. Turkey* (dec.), 2020, § 22; *Yevgeniy Dmitriyev v. Russia*, 2020, § 32); *Kapa and Others v. Poland*, § 149, 2021; *Thibaut v. France* (dec.), 2022, § 38).

In particular, breaches that are not concrete or physical, such as noise, emissions, smells or other forms of interference, may affect a person's right to respect for his private life and home, meaning the right not only to the actual physical area but also to the quiet enjoyment of that area (*Moreno Gómez v. Spain*, 2004; *Luginbühl v. Switzerland* (dec.), 2006; *Wałkuska v. Poland* (dec.), 2008; *Oluić v. Croatia*, 2010, § 44; *Deés v. Hungary*, 2010, § 21; *Apanasewicz v. Poland*, 2011, § 93; *Martínez and Pino Manzano v. Spain*, 2012, § 40; *Flamenbaum and Others v. France*, 2012, § 133); *Kapa and Others v. Poland*, § 148, 2021; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 516; *Đorđević v. Serbia*, 2025, § 56).

A. Applicability

76. In environmental cases (*Solyanik v. Russia*, 2022, §§ 39-45) as elsewhere, the Court will as a rule treat the applicability of Article 8 as an issue of admissibility *ratione materiae*. However, it has also found that complaints which failed to meet the Article 8 applicability requirements were inadmissible for being manifestly ill-founded (see, for example, *Calancea and Others v. Republic of Moldova* (dec.), 2018, §§ 27-33, and *Thibaut v. France* (dec.), 2022, §§ 38-48).

77. The distance from the source of the pollution complained of is one of the relevant factors to be considered, but the fact that an applicant does not live in the immediate vicinity is not sufficient to exclude the applicability of Article 8 (*Pavlov and Others v. Russia*, 2022, §§ 63-66).

1. Exposure to pollution and nuisance: necessity of a direct and severe impact on private and family life and the home

78. For Article 8 to be applicable, the applicant must be able to show that: 1. there was actual interference with his private sphere on account of the environmental situation complained of, and 2. that interference attained a minimum level of severity (*Çiçek and Others v. Turkey* (dec.), 2020, § 29; *Pavlov and Others v. Russia*, 2022, § 61; *Kotov and Others v. Russia*, 2022, § 101; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 515; *L.F. and Others v. Italy*, 2025, § 115).

a. Direct impact

79. The Court acknowledges that in today's society the protection of the environment is an increasingly important consideration. However, Article 8 is not engaged every time environmental deterioration occurs. Thus, the Court has held that there is no explicit right in the Convention to a clean and quiet environment (*Hatton and Others v. the United Kingdom* [GC], 2003, § 96), that neither Article 8 nor any of the other Articles of the Convention are specifically designed to provide general protection of the environment as such (*Kyrtatos v. Greece*, 2003, § 52), and that no right to nature preservation is as such included among the rights and freedoms guaranteed by the Convention (*Fadeyeva v. Russia*, 2005, § 68; *Ivan Atanasov v. Bulgaria*, 2010, § 66). In this connection, the State's obligations under Article 8 only come into play if there is a direct and immediate link between the alleged environmental nuisance and the applicant's home, or his private or family life (*Ivan Atanasov v. Bulgaria*, 2010, § 66). In other words, in order to raise an issue under Article 8, environmental damage must have a direct effect on the right to respect for the applicant's home, family life or private life (*Guerra and Others v. Italy*, 1998, § 57; *Luginbühl v. Switzerland* (dec.), 2006); (*Fadeyeva v. Russia*, 2005, § 68; *Thibaut v. France* (dec.), 2022, § 38); (*Borysiewicz v. Poland*, 2008, § 51; *Fägerskiöld v. Sweden* (dec.), 2008; *Leon and Agnieszka Kania v. Poland*, 2009, § 100; *Marchiş and Others*

v. Romania (dec.), 2011; *Hardy and Maile v. United Kingdom*, 2012, § 187; *Dzemyuk v. Ukraine*, 2014, § 77; *Kožul and Others v. Bosnia and Herzegovina*, 2019, § 34; *Solyanik v. Russia*, 2022, § 40), or amount to an "actual interference" with the applicant's enjoyment of his or her private or family life or home (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, §§ 514-515).

80. This means that general deterioration of the environment is not sufficient; there must be a negative effect on an individual's private or family sphere (*Kyrtatos v. Greece*, 2003, § 52; *Martínez and Pino Manzano v. Spain*, 2012, § 42) that can be characterised as an interference (*Fadeyeva v. Russia*, 2005, § 70; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 515).

In the case of *Kyrtatos v. Greece,* 2003, § 53, the applicants complained that urban development had destroyed the swamp which was adjacent to their property and that the area where their home was located had lost all of its scenic beauty. The Court noted that even assuming that the environment has been severely damaged by the urban development of the area, the applicants had not advanced any convincing arguments to show that the alleged damage to the birds and other protected species living in the swamp was such as to directly affect their own rights under Article 8 § 1 of the Convention. While observing that it might have been different if, for instance, the environmental deterioration complained of had consisted in the destruction of a forest area in the vicinity of the applicants' house, a situation which could have more directly the applicants' own well-being, it was unable to accept that the interference with the conditions of animal life in the swamp had constituted an attack on the applicants' private or family life.

In *Ivan Atanasov v. Bulgaria*, 2010, §§ 76-79, the applicant complained about a plan to clean up a tailings pond containing residue from a former copper mine located one kilometre from his home, involving laying sludge from a sewage station on the pond. The Court stated that while not in doubt that that procedure had created an unpleasant situation in the surroundings, it was not persuaded that the resulting pollution had affected the applicant's private sphere to the extent necessary to trigger the application of Article 8. First of all, the applicant's home and land had been a considerable distance away from the source of the pollution. Secondly, the pollution emanating from the pond had not been the result of active production processes which could lead to the sudden release of large amounts of toxic gases or substances, such that there was less risk of a sudden deterioration of the situation. Thirdly, there was no indication that there had been incidents entailing negative consequences for the health of those living in the area. The Court also noted that there had been no proof of any direct impact on the applicant or his family caused by the alleged pollution from the sewage sludge.

In the case of *Çiçek and Others v. Turkey* (dec.), 2020, §§ 30-32, where the applicants had complained about fumes emitted by a lime production plant located a few hundred metres from their homes, the Court, noting the absence of any proof of a direct impact on the applicants or their quality of life, stated that it was not convinced that there had been an interference in their private lives. It therefore concluded that Article 8 was inapplicable.

81. The unlawfulness of a private business producing pollution or other nuisance is insufficient to amount to an interference in the rights secured under Article 8 (see the cases of *Furlepa v. Poland* (dec.), 2008, concerning noise and air pollution from an illegally constructed car repair garage, *Galev and Others v. Bulgaria* (dec.), 2009, concerning noise produced by a dentist's surgery illegally installed in the applicants' block of flats, *Mileva and Others v. Bulgaria*, 2010, § 91, relating to noise from an illegal computer club in the applicants' block of flats, and *Đorđević v. Serbia*, 2025, § 41, concerning the construction of a building so close to the applicant's flat that it blocked natural light and ventilation; see also *Çiçek and Others v. Turkey* (dec.), 2020, § 29).

b. Severity threshold

82. The adverse effects of environmental pollution must attain a certain minimum level of severity if they are to fall within the scope of Article 8 (*Kyrtatos v. Greece*, 2003, § 54; *Fadeyeva v. Russia*, 2005,

§ 69; *Borysiewicz v. Poland*, 2008, § 51; *Fägerskiöld v. Sweden* (dec.), 2008; *Furlepa v. Poland* (dec.), 2008; *Mileva and Others v. Bulgaria*, 2010, § 90; *Leon and Agnieszka Kania v. Poland*, 2009, § 100; *Marchiş and Others v. Romania* (dec.), 2011; *Zammit Maempel v. Malta*, 2011, § 37; *Apanasewicz v. Poland*, 2011, § 96; *Dubetska and Others v. Ukraine*, 2011, § 105; *Grimkovskaya v. Ukraine*, 2011, § 58; *Martínez Martínez and Pino Manzano v. Spain*, 2012, § 46; *Hardy and Maile v. United Kingdom*, 2012, § 188; *Udovičić v. Croatia*, 2014, § 139; *Dzemyuk v. Ukraine*, 2014, § 77; *Płachta and Others v. Poland* (dec.), 2014, § 80; *Fieroiu and Others v. Romania* (dec.), 2017, § 19; *Jugheli and Others v. Georgia*, 2017, § 62; *Calancea and Others v. Moldova* (dec.), 2018; *Kožul and Others v. Bosnia and Herzegovina*, 2019, § 34; *Cordella and Others v. Italy*, 2019, § 157; *Çiçek and Others v. Turkey* (dec.), 2020, § 22; *Yevgeniy Dmitriyev v. Russia*, 2020, § 32; *Kapa and Others v. Poland*, § 153, 2021; *Solyanik v. Russia*, 2022, § 40; *Locascia and Others v. Italy*, 2023, § 121; *L.F. and Others v. Italy*, 2025, § 115; *Đorđević v. Serbia*, 2025, § 41).

It is necessary to show that the alleged environmental nuisance was serious enough to affect adversely, to a sufficient extent, an applicant's enjoyment of the right to respect for his or her private and family life or his or her home (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 514).

83. The assessment of that minimum is relative and depends on all the circumstances of the case, such as the intensity and duration of the nuisance, and its physical or mental effects on the applicant's health or quality of life (*Fadeyeva v. Russia*, 2005, § 69; *Borysiewicz v. Poland*, 2008, § 51; *Fägerskiöld v. Sweden* (dec.), 2008; *Oluić v. Croatia*, 2010, § 49; *Mileva and Others v. Bulgaria*, 2010, § 90; *Leon and Agnieszka Kania v. Poland*, 2009, § 100; *Dubetska and Others v. Ukraine*, 2011, § 105; *Apanasewicz v. Poland*, 2011, § 96; *Marchiş and Others v. Romania* (dec.), 2011; *Grimkovskaya v. Ukraine*, 2011, § 58; *Zammit Maempel v. Malta*, 2011, § 37; *Hardy and Maile v. United Kingdom*, 2012, § 188; *Martínez Martínez and Pino Manzano v. Spain*, 2012, § 46; *Udovičić v. Croatia*, 2014, § 139; *Dzemyuk v. Ukraine*, 2014, § 78; *Płachta and Others v. Poland* (dec.), 2014, § 80; *Fieroiu and Others v. Romania* (dec.), 2017, § 19; *Jugheli and Others v. Georgia*, 2017, § 62; *Calancea and Others v. Moldova* (dec.), 2018, § 27; *Kožul and Others v. Bosnia and Herzegovina* , 2019, § 34; *Cordella and Others v. Italy*, 2019, § 157; *Çiçek and Others v. Turkey* (dec.), 2020, § 22; *Yevgeniy Dmitriyev v. Russia*, 2020, § 32; *Solyanik v. Russia*, 2022, § 40; *Pavlov and Others v. Russia*, 2022, § 61; *Kotov and Others v. Russia*, 2022, § 101; *Locascia and Others v. Italy*, 2023, § 121; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 516; *L.F. and Others v. Italy*, 2025, § 115).

The general environmental context should also be taken into account. There would be no arguable claim under Article 8 if the detriment complained of was negligible in comparison to the environmental hazards inherent in life in every modern city (*Fadeyeva v. Russia*, 2005, § 69; *Fägerskiöld v. Sweden* (dec.), 2008; *Galev and Others v. Bulgaria* (dec.), 2009; *Mileva and Others v. Bulgaria*, 2010, § 90; *Dubetska and Others v. Ukraine*, 2011, § 105; *Zammit Maempel v. Malta*, 2011, § 37; *Apanasewicz v. Poland*, 2011, § 96; *Marchiş and Others v. Romania* (dec.), 2011; *Hardy and Maile v. United Kingdom*, 2012, § 188; *Płachta and Others v. Poland* (dec.), 2014, § 80; *Fieroiu and Others v. Romania* (dec.), 2017, § 19 *Jugheli and Others v. Georgia*, 2017, § 62; *Kožul and Others v. Bosnia and Herzegovina*, 2019, § 34; *Çiçek and Others v. Turkey* (dec.), 2020, § 22; *Solyanik v. Russia*, 2022, § 40; *Pavlov and Others v. Russia*, 2022, § 71; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 517).

In the case of *Mileva and Others v. Bulgaria*, 2010, §§ 95-96, the Court accordingly concluded that it could not be assumed that the noise emanating from an office in a block of flats, or from works being carried out in that block, as a rule, had exceeded the usual level of noise in a block of flats in a modern town.

In contrast, in the case of *Đorđević v. Serbia*, 2025, §§ 59 and 61-72, after emphasising that where nuisances went beyond the ordinary difficulties of living with neighbours, they could affect the peaceful enjoyment of one's home, whether those difficulties were caused by private individuals,

business activities or public agencies, the Court held that the construction of a building in proximity to the applicant's flat, preventing access to natural light and air, had had such an adverse effect on her daily life and her well-being for more than twenty years that it had reached the necessary level of severity for Article 8 to be applicable.

84. Depending on the circumstances, the severity threshold may be reached even where the pollution or noise complained of it is only occasional (see *Zammit Maempel v. Malta*, 2011, § 38, concerning noise from fireworks let off only during two separate weeks annually).

85. A person's health does not necessarily have to be affected, or even threatened, for an issue to arise under Article 8 on the grounds of his or her exposure to pollution or other nuisance (*López Ostra v. Spain*, 1994, § 51; see also: *Sciavilla v. Italy* (dec.), 2000; *Botti v. Italy* (dec.), 2004; *Kyrtatos v. Greece*, 2003, § 52; *Taşkın and Others v. Turkey*, 2004, § 113; *Fägerskiöld v. Sweden* (dec.), 2008; *Furlepa v. Poland* (dec.), 2008; *Greenpeace E.V. and Others v. Germany* (dec.), 2009; *Marchiş and Others v. Romania* (dec.), 2011; *Zammit Maempel v. Malta*, 2011, § 36; *Dzemyuk v. Ukraine*, 2014, § 88; *Jugheli and Others v. Georgia*, 2017, § 62; *Yevgeniy Dmitriyev v. Russia*, 2020, § 32; *Solyanik v. Russia*, 2022, § 41; *Pavlov and Others v. Russia*, 2022, § 69; *Kotov and Others v. Russia*, 2022, § 108; *Locascia and Others v. Italy*, 2023, § 131).

This is illustrated by the case of *Brânduşe v. Romania*, 2006, § 67, concerning offensive odours affecting a person detained in a prison near a rubbish tip. The Court pointed out that the fact that the applicant's state of health had not deteriorated was insufficient to rule out the applicability of Article 8. It deduced the provision's applicability from the fact that the impugned nuisance had affected his quality of life and his well-being. Similarly, in *Di Sarno and Others v. Italy*, 2012, § 108, the Court noted that the applicants, who had been forced to live in an environment polluted by refuse left in the streets for several months, had not alleged that they had fallen ill, and that there was no evidence that their lives and health had been in danger. It did, however, consider that this situation could have led to a deterioration of the applicants' quality of life and, in particular, have adversely affected their right to respect for their homes and their family life, and emphasised that "Article 8 may be relied on even in the absence of any evidence of a serious danger to people's health".

That being so, the fact that the severity threshold has been reached can be deduced even more easily where pollution or another nuisance had affected human health (*Fadeyeva v. Russia*, 2005, § 88; *Ledyayeva and Others v. Russia*, 2006, § 100; *Băcilă v. Romania*, 2010, §§ 63-64; see, by contrast, the following: *Borysiewicz v. Poland*, 2008, § 54; *Ruano Morcuende v. Spain* (dec.), 2005; *Fägerskiöld v. Sweden* (dec.), 2008; *Furlepa v. Poland* (dec.), 2008).

2. Exposure to an environmental threat

86. The exposure of a person to an environmental hazard as opposed to pollution or nuisance whose effects he or she experiences directly may be sufficient to trigger the application of Article 8. The environmental hazard in question must be such as to impinge significantly on the person's ability to enjoy his home or private or family life (*McGinley and Egan v. United Kingdom*, 1998, §§ 96-97; *Roche v. United Kingdom* [GC], 2005, § 155-156; *Dubetska and Others v. Ukraine*, 2011, §§ 105 and 111; *Hardy and Maile v. United Kingdom*, 2012, § 192; *Dzemyuk v. Ukraine*, 2014, §§ 81-84; *Cordella and Others v. Italy*, 2019, §§ 157 and 172). In other words, the environmental risk to which the individual is exposed must be "serious" (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, §§ 435 and 518; *Greenpeace Nordic and Others v. Norway*, 2025, § 292).

87. The Court has, in particular, found Article 8 to apply where the dangerous effects of an activity to which the individuals concerned are likely to be exposed have been determined under an environmental impact assessment procedure in such a way as to establish a sufficiently close link with private and family life for the purposes of Article 8 of the Convention (*Taşkın and Others v. Turkey*, 2004, §§ 112-113; *Öçkan and Others v. Turkey*, 2006, § 39; *Hardy and Maile v. United Kingdom*, 2012,

§ 189; *Thibaut v. France* (dec.), 2022, § 38), even where the dangerous activity is still in the planning stages (*Thibaut v. France* (dec.), 2022, § 38).

The Court has emphasised that if this were not the case, the positive obligation on the State to take reasonable and appropriate measures to secure the applicant's rights under paragraph 1 of Article 8 would be set at naught (*Taşkın and Others v. Turkey*, 2004, § 113).

88. The danger in question must be characterised in the light of the applicant's situation, as illustrated by the decisions in the cases of *Folkman and Others v. Czech Republic* (dec.), 2006, and *Sdružení Jihočeské Matky v. Czech Republic* (dec.), 2006. In those cases, individuals living in the area covered by the damage control plan for the Temelin nuclear power station who had considered that the operation of the power station posed a threat to the environment, public health and human life, had unsuccessfully lodged an action with the Constitutional Court to set aside the decision to start operations. Having observed, when assessing the complaint under Article 6, that the applicants had been complaining about the overall danger of using nuclear energy rather than a specific and imminent threat to their own health or lives, thus putting forward arguments relevant to an *actio popularis*, the Court declared the complaint under Article 8 unarguable, in view of the highly tenuous link between the impugned decision and the rights secured under that provision.

89. In the case of *Locascia and Others v. Italy*, 2023, §§ 127-130, on the waste management crisis in the Campania region, the Court held that while it was not possible, given the lack of medical evidence, to say that the pollution resulting from the waste crisis had necessarily caused damage to the applicants' health, it was possible to establish, taking into account the official reports and available evidence, that living in the area marked by extensive exposure to waste in breach of the applicable safety standards had made the applicants more vulnerable to various illnesses. The Court relied on several studies on the environmental situation in the area concerned, which showed that the mortality risk associated with tumours and other health problems were higher than in the rest of Campania, and saw no reason to question that, as suggested by these studies, a causal link existed between exposure to waste treatment and an increased risk of developing pathologies such as cancer or congenital malformations, even though other factors such as family history, nutrition and smoking habits in the area could also have had an influence. It also referred to the fact that the existence of a risk to human health as a consequence of the waste management crisis had been recognised by the Court of Justice of the European Union and by an Italian parliamentary commission.

90. Cases examined on the merits by the Court have mainly concerned situations in which people were exposed to a danger to their health or physical integrity. However, the Court's use in its judgments of the terms "environmental danger" or "environmental risk/hazard" might suggest that Article 8 could be applicable to cases of environmental risks whose materialisation would not have very serious consequences (see *Dzemyuk v. Ukraine*, 2014, §§ 81-84, where the applicant had complained of the construction of a cemetery near his home, submitting that it was liable to contaminate the water in the well which supplied his water, in the absence of mains supplies).

3. Examples

91. Pollution and nuisance and attacks on persons' quality of life:

- air traffic noise caused by Heathrow airport in general (*Powell and Rayner v. United Kingdom*, 1990) and by night flights in particular (*Hatton and Others v. United Kingdom* [GC], 2003), or caused by the extension of the main landing strip at an airport (*Flamenbaum and Others v. France*, 2012) or by a military airport (*Płachta and Others v. Poland* (dec.), 2014);
- night-time noise from a bar (*Sciavilla v. Italy* (dec.), 2000; *Oluić v. Croatia*, 2010; *Udovičić v. Croatia*, 2014), night clubs (*Moreno Gómez v. Spain*, 2004) or bars, pubs and discothèques (*Cuenca Zarzoso v. Spain*, 2018);

- noise from a tailoring workshop (*Borysiewicz v. Poland*, 2008);
- noise caused by a windfarm (*Fägerskiöld v. Sweden* (dec.), 2008);
- noise and vibrations caused by a computer gaming club (*Mileva and Others v. Bulgaria*, 2010);
- noise caused by firework displays during two separate weeks annually (*Zammit Maempel v. Malta*, 2011);
- odours, noise and toxic fumes from a plant for the treatment of liquid and solid waste (*López Ostra v. Spain*, 1994);
- offensive odours emanating from a municipal rubbish tip (*Brânduşe v. Romania*, 2009);
- unpleasant smells, air pollution and groundwater contamination caused by a landfill site (*Kotov and Others v. Russia*, 2022);
- pollution and other nuisance caused by mismanagement of waste collection and processing (*Di Sarno and Others v. Italy*, 2012); *Locascia and Others v. Italy*, 2023, §§ 131-132).
- noise, vibrations and pollution that would emanate from a planned railway line (*Maatschap Smits and Others v. Netherlands* (dec.), 2001);
- noise and pollution caused by a motorway (*Ward v. United Kingdom* (dec.), 2004);
- noise, vibrations, pollution and odours caused by road traffic (*Deés v. Hungary*, 2010; *Grimkovskaya v. Ukraine*, 2011); *Kapa and Others v. Poland*, 2021 ;
- noise from an urban railway station (*Bor v. Hungary*, 2013);
- air pollution from steelworks and other industrial plants (*Fadeyeva v. Russia*, 2005; *Ledyayeva and Others v. Russia*, 2006; *Pavlov and Others v. Russia*, 2022; *L.F. and Others v. Italy*, 2025);
- noise and air pollution produced by an illegally built car repair garage (*Furlepa v. Poland* (dec.), 2008);
- exposure to water, air and soil pollution caused by a coalmine, a coal processing factory and spoil heaps (*Dubetska and Others v. Ukraine*, 2011);
- noise and dust resulting from the operation of a concrete production plant and movement of lorries transporting materials (*Apanasewicz v. Poland*, 2011);
- noise caused by quarry operations (*Martínez Martínez and Pino Manzano v. Spain*, 2012);
- air pollution produced by a thermal power station (*Jugheli and Others v. Georgia*, 2017);
- noise from a limestone and cement plant (*Podelean v. Romania* (dec.), 2019).

92. Pollution and other nuisance and damage to health:

- air pollution from a steelworks (*Fadeyeva v. Russia*, 2005; *Ledyayeva and Others v. Russia*, 2006);
- exposure of a person living near a gold and silver mine to sodium cyanide used in the mining process (*Tătar v. Romania*, 2009);
- air pollution produced by a lead and zinc plant (*Băcilă v. Romania*, 2010);
- air pollution caused by a thermal power station (*Jugheli and Others v. Georgia*, 2017).

93. Exposure to an environmental risk:

- proximity of a chemical factory classified “Seveso high risk”, releasing large quantities of inflammable gas and toxic substances in the course of its manufacturing cycle; there had been an accident at the factory in the past, leading to the admission of 150 persons to hospital (*Guerra and Others v. Italy*, 1998);

- exposure of solders to radiation during atmospheric tests of nuclear weapons conducted by the United Kingdom on Christmas Island in the late 1950s (*McGinley and Egan v. United Kingdom*, 1998, §§ 96-97 and 99);
- proximity of a plant for the storage and treatment of hazardous waste by means of chemicals "potentially entailing significant risks to the environment and human health" (*Giacomelli v. Italy*, 2006, §§ 85 and 89);
- a health and safety risk facing the inhabitants of villages located near a gold mine authorised to operate using a cyanidation process (*Taşkın and Others v. Turkey*, 2004; *Öçkan and Others v. Turkey*, 2006, §§ 39-40);
- exposure to passive smoking in public spaces (*Botti v. Italy* (dec.), 2004) or in prison (*Aparicio Benito v. Spain* (dec.), 2006);
- exposure of a soldier to low doses of mustard gas and nerve gas for research purposes (*Roche v. United Kingdom* [GC], 2005, §§ 155-156);
- exposure to radiation from cell towers (*Luginbühl v. Switzerland* (dec.), 2006) or a mobile phone base station (*Gaida v. Germany* (dec.), 2007);
- proximity of a gold and silver mine using a cyanidation process and a tailings pond (*Tătar v. Romania*, 2009);
- exposure to soot and dust particles emitted by diesel vehicles (*Greenpeace E.V. and Others v. Germany* (dec.), 2009);
- exposure to water, air and soil pollution caused by a coalmine, a coal processing factory and spoil heaps (*Dubetska and Others v. Ukraine*, 2011);
- proximity of liquefied natural gas terminals posing a risk of explosion (*Hardy and Maile v. United Kingdom*, 2012) ;
- construction of a municipal cemetery near a person's house, exposing him to an environmental risk, particularly water contamination, including his drinking water (*Dzemyuk v. Ukraine*, 2014; see also *Solyanik v. Russia*, 2022);
- exposure to polluting emissions from a steelworks, giving rise to a well-substantiated health risk (*Cordella and Others v. Italy*, 2019; *L.F. and Others v. Italy*, 2025);
- exposure to the electromagnetic field generated by an extra-high-voltage power line (*Thibaut v. France* (dec.), 2022);
- risks to health in connection with the waste management crisis in the Campania region (*Locascia and Others v. Italy*, 2023).

94. The case of *Kolyadenko and Others v. Russia*, 2012, is also of interest: it concerned flooding caused by a sudden large-scale evacuation of water from a reservoir in order to prevent it from bursting its banks, which flooding had damaged, *inter alia,* the houses in which the applicants resided. The Court assessed the matter under Article 8 of the Convention and Article 1 of Protocol No. 1, concluding that the positive obligation under those provisions had required the domestic authorities to take the same practical measures as the positive obligation under Article 2 of the Convention (see below).

4. Climate change

95. In the case of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, an association of older women, established to promote and implement effective climate protection on behalf of its members, and four of its members, complained, *inter alia* under Article 8, about the inadequacy of the measures taken in this area by the Swiss authorities to mitigate the effects of climate change.

96. The Court held (§§ 519-520) that Article 8 could be applicable in the area of climate change, emphasising that this provision had to be seen as encompassing 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. It specified, however, that the question of "actual interference" with the applicant's enjoyment of his or her private or family life (see paragraph 75 above) or home or the existence of a relevant and sufficiently serious risk entailing the applicability of Article 8 essentially depends on the assessment of similar criteria to those set out in paragraph 231 below, concerning the victim status of individuals, or in paragraph 235, concerning the standing of associations. These criteria are therefore determinative for establishing whether Article 8 rights are at stake and whether this provision applies (see also *Greenpeace Nordic and Others v. Norway*, 2025, § 292, and *Fliegenschnee and Others v. Austria* (dec.), 2025, § 26). In each case, these are matters that remain to be examined on the facts of a particular case and on the basis of the available evidence.

97. Applying these criteria, the Court noted as follows in the judgment (§§ 521-526): the applicant association, according to its Statute, is a non-profit association established under Swiss law to promote and implement effective climate protection on behalf of its members. It has more than 2,000 female members who live in Switzerland and whose average age is 73. Close to 650 members are 75 years or older. Its Statute further provides that it is committed to engaging in various activities aimed at reducing greenhouse gas emissions in Switzerland and addressing their effects on global warming. It acts not only in the interest of its members, but also in the interest of the general public and future generations, with the aim of ensuring effective climate protection. The applicant association pursues its aims through various actions, including by taking legal action to address the effects of climate change in the interests of its members. The Court then held that the grant of standing to the applicant association before the Court was in the interests of the proper administration of justice. In this connection, it accepted that, first, given the applicant association's membership basis, representativeness and the purpose of its establishment, it represented a vehicle of collective recourse aimed at defending the rights and interests of individuals against the threats of climate change in the respondent State, and, secondly, that the individual applicants had not had access to a court in the respondent State.

The Court concluded that the applicant association had been lawfully established, it had demonstrated that it pursues a dedicated purpose in accordance with its statutory objectives in the defence of the human rights of its members and other affected individuals against the threats arising from climate change in the respondent State and that it was genuinely qualified and representative to act on behalf of those individuals who could arguably claim to be subject to specific threats or adverse effects of climate change on their life, health, well-being and quality of life as protected under the Convention. Accordingly, the complaints pursued by the applicant association on behalf of its members fell within the scope of Article 8, with the consequence that the applicant association had standing before it and that Article 8 was applicable to its complaint.

98. In the case of *Greenpeace Nordic and Others v. Norway*, 2025, §§ 293-300, six individuals and two associations complained about a ministerial decision of 2016 awarding exploration licences to private companies for petroleum gas production. In examining the applicability of Article 8, the Court verified whether there existed a sufficiently close link between that decision and the individuals' Convention rights. It noted, first, that there was a link between petroleum exploration licences and petroleum extraction. It then noted, on the one hand, that oil and gas extraction was the most important source of Norway's greenhouse-gas emissions and that the burning of fossil fuels was one of the main causes of climate change. At the same time, it reiterated its finding in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, §§ 436 and 499, that there were sufficiently reliable indications that anthropogenic climate change existed, that it posed a serious current and future threat to the enjoyment of the human rights guaranteed under the Convention, that States were aware of it and capable of taking measures to effectively address it, 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 were taken

urgently, and that current global mitigation efforts were not sufficient to meet that target. It concluded that there was a sufficiently close link between the disputed procedure for the licensing of exploration and serious adverse effects of climate change on the lives, health, well-being and quality of life of individuals. After noting that the applicant associations had standing to act before it with regard to the complaint under Article 8 (see paragraph 250 below), the Court concluded that Article 8 was applicable to their complaint.

5. Proof

a. General

99. It is incumbent on the applicant to prove that there was an interference in his private life on account of the nuisance, pollution or environmental hazard of which he is complaining (*Ivan Atanasov v. Bulgaria*, 2010, § 75).

100. He must also prove that a minimum level of severity has been attained or that he is exposed to an environmental hazard (see, for example, *Furlepa v. Poland* (dec.), 2008; *Galev and Others v. Bulgaria* (dec.), 2009; *Ivan Atanasov v. Bulgaria*, 2010, § 75; *Calancea and Others v. Republic of Moldova* (dec.), 2018, § 28; *Thibaut v. France* (dec.), 2022, §§ 40-48).

101. The applicant's submissions are, in principle, insufficient. It might, however, be noted that in *Hatton and Others v. United Kingdom* [GC], 2003, § 118, concerning noise pollution suffered by people living near Heathrow airport in the context of amended regulations on night flights, the Court relied mainly on the applicants' submissions, emphasising that it had no doubt that the situation had been susceptible of adversely affecting the quality of their private life and the scope for their enjoying the amenities of their respective homes, and that it saw no reason to doubt their sincerity. it observed that sensitivity to noise included a subjective element, such that the discomfort caused to the individuals concerned therefore depended not only on the geographical location of their respective homes in relation to the various flight paths, but also on their individual disposition to be disturbed by noise. Similarly, in the case of *Ashworth and Others v. United Kingdom* (dec.), 2004, in which persons living near a private airport had complained about noise pollution, the Court merely pointed out that in its view the level of noise from the aircraft had been sufficient for the applicability of Article 8 of the Convention, apparently relying on the applicants' submissions.

102. The Court generally applies the "beyond reasonable doubt" standard of proof. Such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact. The Court allows flexibility in this respect, taking into consideration the nature of the substantive right at stake and any evidentiary difficulties involved. In certain instances, only the respondent Government have access to information capable of corroborating or refuting the applicant's allegations; consequently, a rigorous application of the principle *affirmanti, non neganti, incumbit probatio* is impossible (*Fadeyeva v. Russia*, 2005, § 79; *L.F. and Others v. Italy*, 2025, § 117).

103. As regards pollution in particular, the Court holds that there is no doubt that serious industrial pollution negatively affects public health in general (*Ledyayeva and Others v. Russia*, 2006, § 90; *Wałkuska v. Poland* (dec.), 2008) and may worsen the quality of an individual's life (*Pavlov and Others v. Russia*, 2022, § 61; *Kotov and Others v. Russia*, 2022, § 101; *L.F. and Others v. Italy*, 2025, § 115). However, it is hard to distinguish the effect of environmental hazards from the effects of other relevant factors, such as age, profession or personal lifestyle. The same applies to deteriorating quality of life as a result of industrial pollution, "quality of life" itself being a subjective characteristic which does not lend itself to a precise definition (*Ledyayeva and Others v. Russia*, 2006, § 90; *Wałkuska v. Poland* (dec.), 2008; *Pavlov and Others v. Russia*, 2022, § 61; *Kotov and Others v. Russia*, 2022, § 101; *Locascia and Others v. Italy*, 2023, § 122; *L.F. and Others v. Italy*, 2025, § 115). Those considerations also apply to pollution which is not industrial in origin (*Dzemyuk v. Ukraine*, 2014, § 79).

104. Consequently, in establishing the factual circumstances of cases before it, the Court relies mainly, although not exclusively, on the findings of the domestic courts and the other competent domestic authorities (*Ledyayeva and Others v. Russia*, 2006, § 90; *Wałkuska v. Poland* (dec.), 2008; *Dubetska and Others v. Ukraine*, 2011, § 107; *Jugheli and Others v. Georgia*, 2017, § 63; *Cordella and Others v. Italy*, 2019, § 160); *Kapa and Others v. Poland*, § 153, 2021; *Pavlov and Others v. Russia*, 2022, § 62; *Kotov and Others v. Russia*, 2022, § 102; *Locascia and Others v. Italy*, 2023, § 122; *L.F. and Others v. Italy*, 2025, § 116).

105. Yet the Court has also pointed out that it cannot rely blindly on the decisions of the domestic authorities. That is particularly the case when they are obviously inconsistent or contradict each other; in such situations the Court has to assess the evidence in its entirety (*Ledyayeva and Others v. Russia*, 2006, § 90; *Dubetska and Others v. Ukraine*, 2011, § 107; *Dzemyuk v. Ukraine*, 2014, § 80; *Jugheli and Others v. Georgia*, 2017, § 63; *Pavlov and Others v. Russia*, 2022, § 62; *Kotov and Others v. Russia*, 2022, § 102; *L.F. and Others v. Italy*, 2025, § 116).

106. In order to assess whether the threshold of severity has been attained or if there is an environmental risk, the Court may have regard to a violation of not only domestic (*Kapa and Others v. Poland*, § 153, 2021; *Kotov and Others v. Russia*, 2022, § 106) but also international pollution standards (for example: *Fägerskiöld v. Sweden* (dec.), 2008; *Oluić v. Croatia*, 2010, §§ 52-62 and 65; *Frankowski and Others v. Poland* (dec.), 2011). It can also take account of medical certificates as well as expert assessments, studies and reports, including those drawn up by private experts (for example: *Oluić v. Croatia*, 2010, §§ 52-62 and 65; *Dubetska and Others v. Ukraine*, 2011, § 107; *Pavlov and Others v. Russia*, 2022, § 62; *Kotov and Others v. Russia*, 2022, § 102 ; *L.F. and Others v. Italy*, 2025, § 116). As regards climate change, it has pointed to the particular importance of the reports prepared by the intergovernmental panel of independent experts (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 429).

In fact, the Court has in many cases deduced that the threshold has been reached on the basis of a combination of data from different sources (example: *Pavlov and Others v. Russia*, 2022, §§ 65-71).

107. Examples

In the case of *López Ostra v. Spain*, 1994, § 50, concerning odours, noise and fumes from a waste treatment station, the Court observed that the domestic court had agreed that the nuisance in issue had impaired the quality of life of those living in the vicinity.

In *Guerra and Others v. Italy*, 1998, § 57, the Court deduced that persons living near a chemical factory had been exposed to a health risk from the facts that at the domestic level, that factory had been classified “Seveso high risk”, that it had verifiably released large quantities of inflammable gas and toxic substances in the course of its manufacturing cycle, that a serious accident had occurred on the site in the past and that an expert report had established that its emissions into the atmosphere had often been often channelled towards the town where the applicants lived.

In the case of *McGinley and Egan v. United Kingdom*, 1998, § 99, concerning the exposure of solders to radiation during atmospheric tests of nuclear weapons, the Court, having noted that the applicants, together with other servicemen, had been ordered to line up in the open air with their backs to the explosions, keeping their eyes closed for twenty seconds after the explosions, merely observed that exposure to high levels of radiation was known to have hidden, but serious and long-lasting, effects on health.

In *Taşkın and Others v. Turkey*, 2004, § 112 (see also *Öçkan and Others v. Turkey*, 2006, § 40), concerning authorisation to operate a gold mine using a cyanidation process, the Court noted that, relying on several studies, the Supreme Administrative Court had concluded that the decision to issue a permit had not been compatible with the public interest. It noted that that that higher court had found that, given the gold mine’s geographical location and the geological features of the region, the use of sodium cyanide in the mine had represented a threat to the environment and the right to life

of the neighbouring population, and that the safety measures which the company had undertaken to implement had been insufficient to eliminate the risks involved in such an activity. The Court also had regard to the impact study which had been carried out in the framework of the domestic proceedings, noting that it had established the health risk to which the applicants had been exposed, thus proving a sufficiently close connection with their private and family lives.

In *Moreno Gómez v. Spain,* 2004, §§ 58-59, concerning noise from night clubs, the Court did not deem decisive the fact that the domestic courts had considered that the applicant had failed to establish the noise levels inside her home. It held that it had been unduly formalistic to require such evidence in the instant case, as the City authorities had already designated the area in which the applicant lives an acoustically saturated zone, which meant an area in which local residents were exposed to high noise levels which caused them serious disturbance, and that the fact that the maximum permitted noise levels had been exceeded had been confirmed on a number of occasions by council staff. It concluded that there had been no need to require a person from an acoustically saturated zone such as the one in which the applicant lived to adduce evidence of a fact of which the municipal authority was already officially aware. In view of the volume of the noise – at night and beyond the permitted levels – and the fact that it had continued over a number of years, the Court found that there had been a breach of the rights protected by Article 8.

In the case of *Ward v. United Kingdom* (dec.), 2004, concerning noise and pollution affecting a person living in a caravan on a travellers' site located close to motorway and railway infrastructures, the Court relied on reports drawn up by independent environmental health officers which had found that the site was not a suitable location for parking caravans, particularly because of the noise and nitrogen dioxide levels.

Similarly, in *Brânduşe v. Romania*, 2009, § 66, concerning offensive odours inflicted on a person detained in a prison next to a municipal dump, the Court had regard to subsequent impact studies which had confirmed the very high level of air pollution in the vicinity of the dump, causing extreme discomfort to local residents.

In the case of *Mileva and Others v. Bulgaria*, 2010, § 97, concerning noise pollution and vibrations from a computer gaming club, the Court, having observed that the case file did not contain exact measurements of the noise levels inside the applicants' flats, deduced that the severity threshold had been reached from the fact that the applicants had shown that it had been open twenty-four hours a day, seven days a week for some four years, and that the club's clients, who must have been quite numerous, given that it had had almost fifty computers, had generated a high level of noise, both inside and outside the building, and created various other disturbances, bearing in mind that the building in question had been essentially residential in character.

In *Fadeyeva v. Russia*, 2005, §§ 80-88, where a person living in the vicinity of a steelworks complained that she had been exposed to pollution, the Court noted that over a lengthy period the concentrations of various toxic substances in the air as measured close to the applicant's home had far exceeded the maximum permissible levels, that is, in Russian law, the maximum levels of concentration of toxic pollutants posing no risk to health. It accepted a rebuttable presumption that where pollution in a specific area exceeded those limits, it became potentially dangerous to the health and well-being of persons exposed to it. It also noted that the very strong combination of indirect evidence and presumptions made it possible to conclude that the applicant's health had deteriorated as a result of her prolonged exposure to the industrial emissions, even though the applicant had failed to present any medical evidence clearly indicating that the illnesses from which she suffered were linked to such exposure. The Court added that even assuming that the pollution had not caused any quantifiable harm to her health, it had inevitably made the applicant more vulnerable to various illnesses, and had indubitably adversely affected her quality of life at home. Therefore, the Court accepted that the actual detriment to the applicant's health and well-being had reached a level sufficient to bring it within the scope of Article 8 (cf. *Gronuś v. Poland* (dec.), 1999).

In the case of *Ruano Morcuende v. Spain* (dec.), 2005, concerning electromagnetic radiation and vibrations produced by an electric transformer adjacent to the applicant's home, the Court noted that the domestic courts had considered, in sufficiently reasoned, non-arbitrary decisions based on several expert assessments, that the contamination levels in the applicant's home had remained below the values considered harmful to health. It considered that the applicant had not proved that the intensity of the vibrations and radiation in her home had exceeded the severity threshold.

in *Fägerskiöld v. Sweden* (dec.), 2008, concerning noise generated by wind turbines, the Court had regard to the fact that although they had slightly exceeded the levels recommended in Sweden, they had not exceeded the maximum levels recommended by the World Health Organisation.

In *Tătar v. Romania*, 2009, §§ 93-97 and 107, concerning a gold mine using a cyanidation process, the Court examined the fact that no judicial decision or other official document had been issued clearly indicating how dangerous the impugned activity was to human health and the environment. It had regard to the official reports prepared by the United Nations, the European Union and the Romanian Ministry of the Environment, as well as impact studies carried out by the Romanian authorities after an accident in January 2000 when large quantities of polluted water stored in a tailings pond had spilt into a river near the mine and then into the Danube, causing major environmental damage. It observed that the reports had shown that for some time after the accident various pollutants (cyanide, lead, zinc and cadmium) had exceeded the permissible domestic and international levels in the environment, including in the vicinity of the applicants' home, and that the impact studies had pointed to a risk of pollution by chemicals posing a threat to human health. On that basis it concluded that the pollution generated could have damaged local residents' quality of life, and, in particular, have affected the applicants' well-being and deprived them of the enjoyment of their home, such as to damage their private and family life.

In the case of *Greenpeace E.V. and Others v. Germany* (dec.), 2009, in which persons living in the vicinity of road infrastructures had complained about pollution from fumes emitted by diesel vehicles, the Court relied on the conclusions of the domestic courts as well as on the expert reports presented by the applicants to find that soot and respirable dust particles could have a serious detrimental effect on health, in particular in densely populated areas with heavy traffic.

In *Leon and Agnieszka Kania v. Poland*, 2009, § 102, concerning noise and pollution from a craftsmen's cooperative specialising in metalwork, the Court, in concluding that the severity threshold had not been reached, relied on the finding that the many inspections carried out of the premises had shown that the cooperative's activities had not caused a nuisance and had not exceeded the permissible level of noise. It also noted that the cooperative had eventually ceased all its activities, and that the applicants had failed to submit a valid claim that they had sustained serious and long-term health problems as a consequence of the noise of which they had complained.

In the case of *Oluić v. Croatia*, 2010, §§ 52-62 and 65, concerning night-time noise from a bar, the Court relied mainly on a series of acoustic measurements carried out by independent experts showing that the domestic standards and the maximum levels set by the World Health Organisation had been exceeded. It found that in view of the volume of the noise and of the fact that it had occurred at night and had continued over a number of years, the level of disturbance had reached the minimum level of severity required for Article 8 to apply, triggering the positive obligation to protect the applicant.

In the case of *Apanasewicz v. Poland*, 2011, §§ 98-101, concerning noise and dust produced by the operation of a concrete production plant and the concomitant movements of lorries, the Court had regard to the fact that the domestic court had ordered the cessation of the plant's operations on the grounds that they had disturbed the applicant's peaceful enjoyment of her property in a manner which went beyond the normal level of inconvenience caused by neighbours. It noted that the domestic court had based its decision on the unlawful nature of the construction carried out by the plant's owner, the lengthy period of the disturbances and their intensity, the fact that the properties were in direct proximity, and the incompatibility of the plant's operations with the designated use of the land

under the relevant urban planning regulations. The Court also noted that the domestic court had relied on technical data collected after a noise measuring exercise on site, which had pointed to a high level of noise in excess of domestic and international standards. Observing that there was no evidence on file to show how the levels of noise had changed subsequently to the final judgment at the domestic level, the Court noted that there had been further unlawful work and developments on the site aimed at expanding its activities.

In *Marchiş and Others v. Romania* (dec.), 2011, in which local residents had complained about disturbances caused by a distillery and an alcohol residue-collecting basin located in their village, the Court relied on the following facts to find that those disturbances had not amounted to an interference with their rights: the domestic courts had dismissed the applicants' appeal on the grounds that they had not fulfilled all the conditions for obtaining an environmental permit and that the competent authorities had concluded that the distillery disturbed neither the neighbourhood nor the environment; the reasons given by the administrative and judicial authorities had been plausible and been based on a careful examination of the case, and there had been no indication of any arbitrariness in their reasoning; the applicants had failed to substantiate their complaint concerning the alleged environmental nuisance before the national authorities. They had provided no medical or environmental expert opinions or other evidence of the damage or nuisance allegedly caused to them by the operation of the distillery in the vicinity of their properties, either in the domestic proceedings or in the proceedings before the Court, so that it had not been reliably established that the operation of the distillery had caused an environmental hazard, or that the pollution it had caused had exceeded safe levels set by the applicable regulations; it did not appear that the smells were such as to seriously affect the applicants or prevent them from enjoying their homes and their private and family lives; the distillery had only been authorised to operate thirty days per year, twenty-four hours per day, and it had only operated for a total of three years.

In the case of *Dubetska and Others v. Ukraine*, 2011, § 111, concerning water, air and soil pollution and disturbance caused by the operation of a coalmine, the Court ruled that living in an area affected by pollution in clear excess of the applicable safety standards had exposed the applicants to a major health risk.

In *Grimkovskaya v. Ukraine*, 2011, §§ 59-62, concerning pollution and noise from traffic in the street which the applicant and her family lived, the Court noted that neither the noise levels to which they had been exposed nor the impact of the noise on her private and family life had been measured. However, having regard to an on-the-spot investigation report prepared by the health authorities showing that the surface of the road near the applicant's house had been severely damaged and more than one hundred vehicles had passed on it over a one-hour period, it considered it plausible that the applicant had been regularly disturbed by noise and vibration. The Court further noted that it had transpired from the report that over half of the vehicles examined had been emitting pollutants, including lead and copper, in excess of applicable health and safety standards and that the applicant's son had been diagnosed with chronic lead and copper salts poisoning. It deduced from the foregoing that the cumulative effect of noise, vibration and air and soil pollution generated by the motorway had significantly deterred the applicant from enjoying her rights under Article 8, which was therefore applicable.

In the case of *Martínez Martínez and Pino Manzano v. Spain*, 2012, § 46, concerning disturbances caused by operations at a quarry, the Court relied on a gendarmerie report prepared in the framework of criminal proceedings brought by the applicants concerning environmental offences and the conclusions of the report regarding compliance with domestic regulations.

In the case of *Flamenbaum and Others v. France*, 2012, § 140, concerning noise from an airport, the Court noted that the domestic courts had held that the applicants could have been exposed to a high level of noise when aircraft were flying overhead. It concluded that the noise to which they had been exposed reached the threshold for the application of Article 8.

In *Bor v. Hungary*, 2013, § 26, concerning noise affecting a person living in the vicinity of an urban railway station, the Court attached importance to the fact, undisputed by the Government, that the domestic legal standards had been exceeded.

In the case of *Udovičić v. Croatia*, 2014, §§ 141-149, concerning noise from a bar, the file had comprised several expert reports, some of which had found that the standards had been complied with and others that they had been exceeded. The Court conducted a detailed analysis of the reports, observing, in particular, that the most recent one had found that the standards had been overstepped and that the soundproofing had been inadequate. It further had regard to the fact that the bar had been operating for ten years and that the police had been called eighty-seven times, which had resulted in forty-two actions for minor offences against various individuals for breaches of public peace and order.

In *Płachta and Others v. Poland* (dec.), 2014, §§ 83-84, concerning noise from a military airport, the Court relied on the fact that the experts commissioned by the domestic courts had established that the noise produced by the aircraft in the vicinity of the applicants' properties had far exceeded the maximum levels, and that the military training flights had most certainly disturbed the local residents.

In *Fieroiu and Others v. Romania* (dec.), 2017, §§ 22-23, where individuals had complained about a temporary site for the processing and storage of waste located a few hundred metres from their dwellings, the Court noted that the latter had been more than 200 metres away from the site, that no report or other document had established the existence of environmental pollution or of effects harmful to human health, and that the applicants had failed to provide any medical documents certifying the impact of the alleged pollution on their health or mentioning any kind of health risk. It deduced that there was no reason to conclude that the site in question had affected their quality of life and well-being in such a way as to interfere with their private and family lives and the enjoyment of their homes.

In the case of *Jugheli and Others v. Georgia*, 2017, §§ 65-72, persons living in the vicinity of a thermal power station had complained about air, noise and electromagnetic pollution. The Court noted that the allegations of noise and electromagnetic pollution had not been corroborated by the expert assessments conducted in the framework of the domestic proceedings and that the domestic courts had dismissed the applicants' claims for that reason. The Court consequently declared that aspect of the application manifestly ill-founded. Conversely, it deemed Article 8 applicable in respect of the air pollution, observing in that connection that the said expert reports had confirmed that the absence of a buffer zone between the plant and the building where the applicants had lived, coupled with the absence of filters or other purification equipment over the plant's chimneys, had created a real risk to the residents, and that the reports had stated that the concentrated toxicity of various substances emitted by the plant had been twice the norm. It also had regard to a forensic medical report drawn up by a body answerable to the Ministry of Labour, Health and Social Affairs, which had shown that several applicants had suffered from largely similar health conditions such as neurasthenia and asthenic syndrome, which could have been caused "by the prolonged and combined effect of being exposed to harmful factors". The Court held that even assuming that the pollution had not caused any quantifiable harm to their health, it had inevitably made the applicants more vulnerable to various illnesses, and had undoubtedly had an adverse effect on the quality of their home lives.

In *Calancea and Others v. Republic of Moldova* (dec.), 2018, §§ 29-33 (see also *Mastelica and Others v. Serbia* (dec.), 2020, §§ 47-50), in which persons living in the vicinity of a high-voltage power line complained of the risks to which they had been exposed on account of their proximity to the line, the Court had regard to the fact that the strength of the electric field as measured on the applicants' properties had lain well below the limit recommended by the World Health Organisation. As regards the magnetic field, it noted that there was nothing in the case file concerning any measurement of its strength. Furthermore, the Court noted that the illnesses reported by some of the applicants had been

diagnosed before the completion of the construction work on their houses, such that there had been no causal link between those disorders and the high-voltage power line.

In the case of *Kožul and Others v. Bosnia and Herzegovina*, 2019, §§ 35-38, where persons living near an industrial plant which had been under a demolition order as having been erected illegally complained about the noise and dust from the plant, the Court found that the severity threshold had not been reached, given that an expert report submitted by the Government had shown that the relevant domestic norms had been complied with. It noted that the applicants had contested the results of the report, but had not provided any proof whatsoever that noise and air quality in their houses indeed exceeded the norms set either by domestic law or by applicable international environmental standards, or exceeded the environmental hazards inherent in life in every modern town.

In *Yevgeniy Dmitriyev v. Russia*, 2020, § 33-34, concerning noise and other disturbances from a police station housed in a residential building, the Court noted that the applicant had not submitted any direct evidence to show that the noise had exceeded acceptable levels in his flat or that any relevant measurements had been carried out. It nevertheless found that the severity threshold had been reached, relying on an inspection report issued by a State-controlled consumer protection agency, and on the facts that a domestic court had determined that the applicant's right to peaceful rest had been breached, that the authorities had admitted that the police station had been unlawfully located in a residential building and that the situation had endured for thirteen years.

In the case of *Kapa and Others v. Poland*, 2021, § 155, concerning noise pollution from road traffic, the Court noted that the domestic courts had found a violation of the right of local residents to health and peaceful enjoyment of their homes on the grounds that domestic legal noise limits had been exceeded. It ruled that in the light of the circumstances of the case, and having regard to its intensity, duration and physical and mental effects, the harmful impact of the pollution (noise, vibrations and exhaust fumes) on the applicants had attained the requisite threshold for the applicability of Article 8.

In *Solyanik v. Russia*, 2022, §§ 42-45, the applicant complained that the cemetery near his property had contaminated the soil on his land and the well which supplied his drinking water, and that this had affected his right to respect for his private life and home. In reaching its conclusion that the interference in issue had attained a degree of seriousness sufficient to trigger the application of Article 8, the Court had regard to expert reports and to the fact that the gradual expansion of the cemetery had placed the applicant's house within the boundaries of the "sanitary protection zone" that ought to have been created around the cemetery pursuant to domestic health regulations.

In *Thibaut v. France* (dec.), 2022, § 40-48, the applicants complained that the planned installation of an extra-high-voltage power line would pose a health risk to persons living near it, them included, and would affect their enjoyment of their home. The Court considered that they had not shown that the installation of the line would expose them to an environmental hazard of a kind that would directly and seriously affect their ability to enjoy their private and family life or home. It noted that the applicants had mainly argued that exposure to the electromagnetic fields generated by extra-high-voltage power lines increased the risk of leukaemia in children. It acknowledged the domestic court's finding that the state of scientific knowledge was such that the risk fell to be regarded as sufficiently plausible to warrant application of the precautionary principle, and reiterated its own observation from *Calancea and Others v. Republic of Moldova* (dec.), 2018, § 19, that, according to the guidelines released by the International Commission on Non-Ionizing Radiation Protection, epidemiological studies had shown that everyday exposure to low-intensity magnetic fields was associated with an increased risk of childhood leukaemia, and the International Agency for Research on Cancer had classified such fields as probably carcinogenic to humans, although a causal relationship between magnetic fields and childhood leukaemia or other long-term effects had not been established. The Court pointed out, however, that the applicants were adults, that they had not stated whether there were any children in their household and that their home was not in the immediate

vicinity of the projected route but a little over 115 metres away. It further observed that they had not provided any evidence that the implementation of the project would expose them to an electromagnetic field exceeding domestic or international standards. The Court noted more generally that the applicants had not substantiated their allegations concerning the risk to which they personally would be exposed.

b. Specific: proof of a causal link between an illness and a source of pollution and disturbance – possibility of a probabilistic approach

108. Where applicants submit that pollution or disturbances have had negative effects on their health, medical certificates or reports must be presented as evidence of their illness and the causal link between the latter and the impugned pollution or disturbance (examples: *Fägerskiöld v. Sweden* (dec.), 2008; *Cuenca Zarzoso v. Spain*, 2018, § 47). However, in the case of *Kotov and Others v. Russia*, 2022, § 107, concerning pollution from a landfill site, the Court found that even though it could not be said, owing to the lack of medical evidence, that the pollution complained of had necessarily caused damage to the applicant's health, it was possible to establish, taking into account the official reports and available evidence, that living in an area marked by pollution in clear excess of the applicable safety standards had made him more vulnerable to various illnesses. Similarly, in the case of *L.F. and Others v. Italy*, 2025, § 118-125, concerning the pollution caused by a foundry located near the applicants' homes, the Court, having noted the lack of medical documents establishing a causal link between their illnesses and the pollution, concluded, in the light of indirect evidence (such as official documents showing that the foundry generated forms of pollution affecting nearby residents) and presumptions, that the fact of living near the metal plant had made them more vulnerable to various illnesses or had affected their well-being in such a way as to adversely affect their private life.

109. The fact that a pathology occurred prior to the exposure to pollution or disturbances may prevent the establishment of a causal link between the two (*Calancea and Others v. Republic of Moldova* (dec.), 2018, § 31).

110. In the case of *Tătar v. Romania*, 2009, §§ 102-106, the Court pointed out that it could not rule out adopting a "probabilistic approach". One of the applicants in the case had submitted that his asthma had been aggravated by his exposure to the sodium cyanide used in operating the mine. The Court noted that the fact that the applicant suffered from that illness had been attested by medical certificates, that sodium cyanide was indisputably a toxic substance which could, under specific conditions, endanger human health, and that a high degree of pollution had been detected in the vicinity of the applicants' home following an environmental accident in January 2000. However, relying on the scientific studies on file, it observed that no one knew the concentration of sodium cyanide required to aggravate respiratory illnesses such as asthma. It added that "in the absence of relevant evidence, [it] could possibly adopt a probabilistic approach, since a common feature of many modern pathologies was that they had many different causes. That would be possible in the event of scientific uncertainty accompanied by adequate and convincing statistics". Observing that there was no such evidence in the instant case, the Court concluded that the applicants had not succeeded in proving the existence of a properly established causal link between the exposure to specific levels of sodium cyanide and the aggravation of the asthma suffered by one of the applicants.

5. Other factors relevant to applicability

111. In the case of *Dubetska and Others v. Ukraine*, 2011, § 108, the Court pointed out that in order to determine whether or not the State could be held responsible under Article 8 of the Convention, it also had to ascertain:

- whether a situation was a result of a sudden and unexpected turn of events or, on the contrary, was long-standing and well known to the State authorities;

- whether the State was, or should have been, aware that the hazard or the nuisance was affecting the applicant's private life;
- to what extent the applicant contributed to creating this situation for himself and was in a position to remedy it without a prohibitive outlay.

112. Thus, in the aforementioned case, which concerned water, air and soil pollution and disturbances created by the operation of a mine, a coal processing factory and spoil heaps, affecting local residents, the Court had regard to the following factors in finding that the environmental disturbances complained of had reached the severity threshold for the complaint to fall within the ambit of Article 8:

- the existence of a risk to the applicants' health, inferred from the fact that they lived in an area marked by pollution in clear excess of applicable safety standards;
- as regards the applicants' quality of life, photographs of the polluted water and descriptions of their everyday lives;
- evidence on file showing that the operation of the mine had contributed to the impugned environmental problems for a number of years, at least to some extent;
- domestic legislation provided that residential houses could not be located within the buffer zones of the mines, designated the spoil heaps as *a priori* environmentally hazardous, and estimated a "safe distance" from a house to a spoil heap exceeding 50 metres in height at 500 metres, whereas the applicants' houses were located less than 500 metres from the spoil heaps in question;
- measurements of pollutants in the vicinity of the impugned infrastructures showing that the norms had been exceeded;
- the fact that the authorities had on several occasions considered rehousing the applicants and that the domestic court had confirmed the need to rehouse some of them.

The Court deduced that for over twelve years from the entry into force of the Convention in respect of Ukraine, the applicants had constantly resided in an area where, according to domestic law and the measurements carried out on the site, it was dangerous to live on account of the air and water pollution and the subsidence of the land caused by the operation of the two State-owned industrial plants. It went on to consider whether there had been an adequate link between the pollution and the State to raise the issue of the latter's responsibility under Article 8, which it deduced from the following facts:

- the State, as the owner, ought to have been aware, and had in fact been aware, of the environmental effects of operating the coalmine and the coal processing factory;
- the applicants had had no realistic hope of moving house;
- the applicants had settled in their homes before the impugned installations had begun operations.

113. In *Jugheli and Others v. Georgia*, 2017, § 72, concerning air pollution affecting local residents near a thermal power station, the Court noted that unlike those in *Dubetska and Others v. Ukraine*, 2011, the applicants had moved into their block of flats when the power station had been up and running. It considered, however, that they might not have been able to make an informed choice at the time, or possibly had not even been in a position to reject the housing offered by the State during Soviet times. It deduced, in examining the applicability of Article 8, that it could not be claimed that they themselves had created the situation complained of or were somehow responsible for it.

114. In the case of *Podelean v. Romania* (dec.), 2019, in which a person living in a house had complained about the noise caused by a nearby limestone and cement factory, the Court considered that the applicant's decision to live in the house even though he had known about the disturbance had initiated the situation of which he was complaining. That fact led it to question the applicability

of Article 8, even though it had transpired from the case file that the applicant had been exposed to noise disturbance exceeding the norms fixed by domestic law.

B. States' obligations and supervision by the Court

1. Negative obligations and positive obligations

115. Article 8 may apply in environmental cases whether the pollution is directly caused by the State or whether State responsibility arises from the failure to regulate private industry or the private sector properly (*Hatton and Others v. United Kingdom* [GC], 2003, §§ 98 and 119; *Fadeyeva v. Russia*, 2005, § 89; *Borysiewicz v. Poland*, 2008, § 50; *Wałkuska v. Poland* (dec.), 2008; *Tătar v. Romania*, 2009, § 87; *Giacomelli v. Italy*, 2006, § 78; *Leon and Agnieszka Kania v. Poland*, 2009, § 99; *Frankowski and Others v. Poland* (dec.), 2011; *Zammit Maempel v. Malta*, 2011, § 61; *Flamenbaum and Others v. France*, 2012, § 134); *Tolić and Others v. Croatia* (dec.), 2019, § 91).

Where noise disturbances or other nuisances go beyond the ordinary difficulties of living with neighbours, they may affect the peaceful enjoyment of one's home, whether they be caused by private individuals, business activities or public agencies (*Kapa and Others v. Poland*, § 151, 2021).

116. Whether a case be analysed in terms of a positive duty on the State to take reasonable and appropriate measures to secure the applicants' rights under paragraph 1 of Article 8 or in terms of an interference by a public authority to be justified in accordance with paragraph 2, the applicable principles are broadly similar. In both contexts regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole; and in both contexts the State enjoys a certain margin of appreciation in determining the steps to be taken to ensure compliance with the Convention (*Powell and Rayner v. United Kingdom*, 1990, § 41; *López Ostra v. Spain*, 1994, § 51; *Hatton and Others v. United Kingdom* [GC], 2003, § 98; *Sciavilla v. Italy* (dec.), 2000; *Apanasewicz v. Poland*, 2011; *Moreno Gómez v. Spain*, 2004, § 55; *Fadeyeva v. Russia*, 2005, § 94; *Giacomelli v. Italy*, 2006, § 78; *Wałkuska v. Poland* (dec.), 2008; *Oluić v. Croatia*, 2010, § 46; *Zammit Maempel v. Malta*, 2011, § 61; *Flamenbaum and Others v. France*, 2012, § 134; *Greenpeace E.V. and Others v. Germany* (dec.), 2009; *Bor v. Hungary*, 2013, § 24; *Udovičić v. Croatia*, 2014, § 138; *Jugheli and Others v. Georgia*, 2017, §§ 64 and 73; *Kožul and Others v. Bosnia and Herzegovina*, 2019, § 33; *Cordella and Others v. Italy*, 2019, § 158); *Tolić and Others v. Croatia* (dec.), 2019, § 92; *Pavlov and Others v. Russia*, 2022, § 75; *Locascia and Others v. Italy*, 2023, § 123; *L.F. and Others v. Italy*, 2025, § 153; *Đorđević v. Serbia*, 2025, § 57).

Furthermore, even in relation to the positive obligations flowing from the first paragraph of Article 8, in striking the required balance the aims mentioned in the second paragraph may be of a certain relevance (*Powell and Rayner v. United Kingdom*, 1990, § 41; *López Ostra v. Spain*, 1994, § 51; *Hatton and Others v. United Kingdom* [GC], 2003, § 98; *Moreno Gómez v. Spain*, 2004, § 55; *Gaida v. Germany* (dec.), 2007; *Giacomelli v. Italy*, 2006, § 78; *Wałkuska v. Poland* (dec.), 2008; *Greenpeace E.V. and Others v. Germany* (dec.), 2009; *Oluić v. Croatia*, 2010, § 46; *Apanasewicz v. Poland*, 2011; *Zammit Maempel v. Malta*, 2011, § 61; *Martínez and Pino Manzano v. Spain*, 2012, § 43; *Flamenbaum and Others v. France*, 2012, § 134; *Bor v. Hungary*, 2013, § 24; *Udovičić v. Croatia*, 2014, § 138; *Pavlov and Others v. Russia*, 2022, § 75; *Đorđević v. Serbia*, 2025, § 57).

Thus, in the case of *Zammit Maempel v. Malta*, 2011, concerning noise caused by firework displays during two separate weeks annually in the framework of local festivities, the Court had regard to the fact that those events had attracted tourists, thus generating income, and was part of the Maltase cultural and religious heritage. Noting the link with some of the legitimate aims set out in Article 8 (2) – the economic well-being of the country and the protection of the rights and freedoms of others – it considered that it had been legitimate for the State to have taken the above interests into consideration in the shaping of the regulatory framework applicable to the fireworks culture.

117. Since the essential question is whether a fair balance has been struck between the interests of persons affected by pollution or disturbances and the competing interests of society as a whole, the Court sometimes refrains from specifying where a given case should be examined from the angle of the negative obligation not to interfere with the exercise of the rights guaranteed by Article 8 or that of the positive obligation to regulate private industry in such a way as to ensure respect for those rights (*Powell and Rayner v. United Kingdom*, 1990; *López Ostra v. Spain*, 1994; *Hatton and Others v. United Kingdom* [GC], 2003, § 119; *Gaida v. Germany* (dec.), 2007; *Dubetska and Others v. Ukraine*, 2011; *Zammit Maempel v. Malta*, 2011, § 63).

In most of these cases, the Court conducted the same kind of scrutiny as in the context of positive obligations, generally seeking to ascertain whether the aforementioned fair balance was struck (*Powell and Rayner v. United Kingdom*, 1990; *López Ostra v. Spain*, 1994; *Hatton and Others v. United Kingdom* [GC], 2003; *Dubetska and Others v. Ukraine*, 2011; *Zammit Maempel v. Malta*, 2011; *Yevgeniy Dmitriyev v. Russia*, 2020).

However, the Court has also had occasion to conduct a type of scrutiny similar to that which it uses in the context of negative obligations, ascertaining in advance the existence of a legal basis and a legitimate aim. That was the approach it adopted in *Gaida v. Germany* (dec.), 2007, concerning radiation from a mobile phone base station installed by a phone operator in which the State had been the main shareholder. It verified whether the permit to build the said infrastructure had been prescribed by law, whether the permit had been issued in pursuit of a legitimate aim – in this case the economic well-being of the country and the interest of the general public in using mobile phone technology – and whether the authorities had struck a fair balance between the public interest and the applicant's interest in being protected against potentially harmful radiation.

118. The Court has sometimes applied the negative obligation test to the examination of the positive obligation to ensure respect for the rights secured under Article 8 (*Fadeyeva v. Russia*, 2005). Furthermore, it has occasionally identified an interference, decided to consider it under the second paragraph of Article 8 and then set out the reasoning used in respect of positive obligations (*Yevgeniy Dmitriyev v. Russia*, 2020, §§ 53-57).

119. The Court has pointed out that although environmental protection should be taken into consideration by States in acting within their margin of appreciation and by the Court in its review of that margin, it would not be appropriate for the Court to adopt a special approach in this respect by reference to a special status of environmental human rights protection (*Hatton and Others v. United Kingdom* [GC], 2003, § 122; *Ashworth and Others v. United Kingdom* (dec.), 2004).

120. The Court has also held that in cases raising environmental issues, the State must be allowed a wide margin of appreciation (*Hatton and Others v. United Kingdom* [GC], 2003, § 100; *Taşkın and Others v. Turkey*, 2004, § 116; *Luginbühl v. Switzerland* (dec.), 2006; *Giacomelli v. Italy*, 2006, § 80; *Gaida v. Germany* (dec.), 2007; *Wałkuska v. Poland* (dec.), 2008; *Frankowski and Others v. Poland* (dec.), 2011; *Hardy and Maile v. United Kingdom*, 2012, § 218; *Flamenbaum and Others v. France*, 2012, § 136; *Płachta and Others v. Poland* (dec.), 2014, § 79).

2. The Court's supervision

121. In cases involving State decisions affecting environmental issues, there are two aspects to the inquiry which may be carried out by the Court. First, the Court may assess the substantive merits of the government's decision, to ensure that it is compatible with Article 8. Secondly, it may scrutinise the decision-making process to ensure that due weight has been accorded to the interests of the individual. That applies in cases of examining decisions or measures taken by the authorities to protect the rights guaranteed by Article 8, and also of examining decisions or measures amounting to an interference by a public authority with the exercise of those rights (*Hatton and Others v. United Kingdom* [GC], 2003, § 99; *Taşkın and Others v. Turkey*, 2004, § 115; *Öçkan and Others v. Turkey*, 2006, § 41; *Gaida v. Germany* (dec.), 2007; *Giacomelli v. Italy*, 2006, § 79; *Wałkuska*

v. Poland (dec.), 2008; *Hardy and Maile v. United Kingdom*, 2012, § 217; *Brânduşe v. Romania*, 2009, § 62; *Flamenbaum and Others v. France*, 2012, § 135; *Udovičić v. Croatia*, 2014, § 150).

a. General considerations

i. Substantive limb

α. Negative obligations: interference by a public authority

122. Examples of interference by a public authority:

- *Maatschap Smits and Others v. Netherlands* (dec.), 2001: planned public railway line;
- *Ruano Morcuende v. Spain* (dec.), 2005: installation by a municipality of an electric transformer emitting electromagnetic radiation and vibrations;
- *Flamenbaum and Others v. France*, 2012, § 141: noise caused by the extension of a landing strip belonging, together with its infrastructure, to a public authority; the strip was being redeveloped, managed and maintained by public bodies, while the decisions concerning the extensions to the landing strip had been taken by the public authorities;
- *Dzemyuk v. Ukraine*, 2014, § 90: construction of a municipal cemetery close to a private house, exposing its occupant to an environmental risk, particularly water contamination, including his drinking water (see also *Solyanik v. Russia*, 2022, § 50);
- *Płachta and Others v. Poland* (dec.), 2014, § 85: noise from a military airport;
- *Yevgeniy Dmitriyev v. Russia*, 2020, § 53: noise and other disturbances caused by a police station housed in a residential building.

123. As in all cases falling under Article 8 § 2, the Court ascertains whether the interference was prescribed by law, pursued a legitimate aim and was necessary in a democratic society (*Flamenbaum and Others v. France*, 2012, § 142; *Płachta and Others v. Poland* (dec.), 2014, § 85).

• Interference prescribed by law

124. The Court attaches significant weight to the domestic judge's findings in this connection (*Flamenbaum and Others v. France*, 2012, § 144).

In *Dzemyuk v. Ukraine*, 2014, §§ 91-92 (see also *Solyanik v. Russia*, 2022, §§ 51-54), concerning the construction by the municipal authorities of a cemetery close to the applicant's house, exposing him to a risk, in particular, of drinking water contamination, the Court based its finding of a violation of Article 8 on the fact that the cemetery had been built and was being used unlawfully, which fact had been noted on several occasions at the domestic level and had been acknowledged by the respondent Government. The impugned interference had therefore not been prescribed by law.

• Legitimate aim

125. In the cases concerning noise caused by the operation of public civil airports, the Court has relied on the "economic well-being of the country" within the meaning of Article 8, even where the economic interest is principally local (*Flamenbaum and Others v. France*, 2012, §§ 147-149; see also *Hatton and Others v. United Kingdom* [GC], 2003, § 121, although the Court did not explicitly assess this case with reference to negative obligations).

See also *Maatschap Smits and Others v. Netherlands* (dec.), 2001, concerning a planned public railway line.

126. In *Ruano Morcuende v. Spain* (dec.), 2005, concerning electromagnetic radiation and vibrations produced by an electric transformer, the Court noted that the installation of the transformer had

pursued a legitimate aim: improving quality of life in the municipality and its economic and social well-being by supplying electricity in a municipal district.

127. In the case of *Płachta and Others v. Poland* (dec.), 2014, § 87, concerning noise from a military airport, the Court acknowledged the preservation of national security as a legitimate aim.

- **Necessity of the interference**

128. Having regard to the broad margin of appreciation granted to States in environmental cases, it is primarily incumbent on the national authorities to assess the "necessity" of an interference (*Maatschap Smits and Others v. Netherlands* (dec.), 2001; *Giacomelli v. Italy*, 2006, § 80; *Hardy and Maile v. United Kingdom*, 2012, § 218), as regards both the legal framework and the specific implementing measures (*Maatschap Smits and Others v. Netherlands* (dec.), 2001).

129. However, it remains open to the Court to conclude that there has been a manifest error of appreciation by the national authorities (*Maatschap Smits and Others v. Netherlands* (dec.), 2001).

130. It is incumbent on it to assess whether the interference was proportionate to the legitimate aim pursued, and in particular whether, having regard to the State's broad margin of appreciation in the environmental sphere, a fair balance was struck between the competing interests (*Flamenbaum and Others v. France*, 2012, § 150).

In so doing the Court must have regard to all the measures implemented by the authorities to limit pollution and disturbances (*Flamenbaum and Others v. France*, 2012, § 153).

In some cases it acknowledges that the authorities have an inevitably limited choice of measures to meet a "pressing social need" to deal with the possible negative consequences of interfering in citizens' private lives (*Ruano Morcuende v. Spain* (dec.), 2005).

131**. Examples:**

In *Flamenbaum and Others v. France*, 2012, §§ 150-154, concerning an extension to an airport's main landing strip, the Court considered that there was nothing in the case file to suggest that it had been established that the extension to the landing strip had led to any significant increase in air traffic, as submitted by the applicants. It went on to examine the measures put in place by the authorities to limit the impact of the noise disturbances: the landing strip was to be extended to 2,550 metres instead of the planned 2,750 metres; the noisiest aircraft were no longer allowed to fly in French air space; the airport would no longer accommodate gliding or military training flights; civil training flights were also regulated and limited; few night flights were allowed; and the altitude and trajectory of aircraft landing and taking off had been modified for all airports in order to reduce noise disturbance. The Court concluded that the authorities had struck a fair balance between the competing interests in the case.

In the case of *Płachta and Others v. Poland* (dec.), 2014, §§ 88-94, the Court held that the acoustic disturbances causing the interference complained of by persons living near a military airport had not been disproportionate to the legitimate aim of operating that facility. It observed that some of the applicants had been reimbursed for the soundproofing work which they had carried out, that the applicants had failed to demonstrate that the disturbances perceptible in the vicinity of their homes had been so intense and frequent as to be deemed intolerable and exceptional as compared to the situation of many people living near an airport, that the domestic courts had established that they had not been forced to change the designated use of their properties, and that they had failed to demonstrate that the noise levels had rendered the latter unsaleable or unusable, that their value had been substantially reduced, or that the applicants consequently could not have moved, had they so wished, without substantial financial loss.

β. Positive obligations: protective measures

• General

132. States must take "the necessary measures" (*López Ostra v. Spain*, 1994, § 55; *Guerra and Others v. Italy*, 1998, § 58; *Sciavilla v. Italy* (dec.), 2000) or, phrased differently, "all the necessary measures" (*Luginbühl v. Switzerland* (dec.), 2006; *Cordella and Others v. Italy*, 2019, § 173; *L.F. and Others v. Italy*, 2025, § 171) or "reasonable and appropriate measures" (*Fadeyeva v. Russia*, 2005, § 89; *Di Sarno and Others v. Italy*, 2012, § 110; *Pavlov and Others v. Russia*, 2022, § 77; *Kotov and Others v. Russia*, 2022, § 123), to protect the rights secured under Article 8. Those positive obligations may involve the authorities' adopting measures to protect those rights even in the sphere of the relations of individuals between themselves (*Sciavilla v. Italy* (dec.), 2000; *Botti v. Italy* (dec.), 2004; *Deés v. Hungary*, 2010, § 21).

133. Thus the State's responsibility may be engaged even where the pollution or environmental disturbance or risk complained of are the result of the actions of individuals (*Ashworth and Others v. United Kingdom* (dec.), 2004), particularly on account of a failure to regulate private industry (*Fadeyeva v. Russia*, 2005, § 89).

134. The State cannot rely in this connection on the fact that the competent authorities had handed over to a private entity the management of a public service that was a source of pollution or nuisance (*Di Sarno and Others v. Italy*, 2012, § 110; *Kotov and Others v. Russia*, 2022, § 123).

135. Failure by the competent authorities to adopt measures to protect the rights of individuals exposed to pollution and other nuisance or to a health risk could in itself amount to a violation of Article 8 (*Dubetska and Others v. Ukraine*, 2011, §§ 154-156).

In the case of *López Ostra v. Spain*, 1994, § 56, concerning offensive smells, noise and fumes from a waste-treatment plant, the Court noted that not only had the authorities failed to take steps to protect the applicant's right to respect for her home and her private and family life, but also they had resisted judicial decisions to that effect. The Court concluded that despite the margin of appreciation left to respondent States, the State in this case had not succeeded in striking a fair balance between the interest of the town's economic well-being - that of having a waste-treatment plant available - and the applicant's effective enjoyment of her right to respect for her home and her private and family life , and that there had therefore been a violation of Article 8.

In *Bor v. Hungary*, 2013, §§ 25-28, concerning noise affecting a person living in the vicinity of an urban railway station, the Court emphasised that in itself, noise significantly exceeding the legal norms could give rise to a breach of Article 8, if the State has not responded with appropriate measures. The Court pointed out that following the applicant's complaint the State authorities had been under a positive obligation to strike a fair balance between the applicant's interest in having a quiet living environment and the competing interest of others and the community as a whole in having rail transport, noting that it had taken the domestic courts sixteen years to conduct an appropriate balancing exercise and issue a decision. The Court found a violation of Article 8.

In the case of *Yevgeniy Dmitriyev v. Russia*, 2020, §§ 53-57, concerning noise and other disturbances from a police station housed in a residential building, no action had been taken for several years, even though the local head of police had acknowledged that the station was housed in a building which had not been designated for such purposes, a petition submitted by local residents had constituted a "dead letter" and the authorities had taken almost seven years to react to the domestic judgment to the effect that the applicant's right to rest in his home had been flouted. The Court found that the State had not succeeded in striking a fair balance between the interest of the local community in benefiting from the protection of public peace and security and the effective implementation of laws by the police force, and the applicant's effective enjoyment of his right to respect for his private life and his home.

In the case of *Đorđević v. Serbia*, 2025, §§ 61-72, concerning the construction of a building in such close proximity to the applicant's flat that it blocked natural light and ventilation, the Court held that the State had failed to discharge its positive obligation to ensure the applicant's right to respect for her home and her private life.

136. The same applies to failure by the authorities to ensure the effective implementation of regulations and measures which they have adopted (*Oluić v. Croatia*, 2010, § 63; *Dubetska and Others v. Ukraine*, 2011, § 144; *Yevgeniy Dmitriyev v. Russia*, 2020, § 53; *Kotov and Others v. Russia*, 2022, § 135): regulations to protect guaranteed rights serve little purpose if they are not duly enforced; (*Moreno Gómez v. Spain,* 2004, § 61; *Oluić v. Croatia*, 2010, § 63; *Cuenca Zarzoso v. Spain*, 2018, § 51; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 538(b)).

In *Moreno Gómez v. Spain*, 2004, §§ 61-63 (see also *Cuenca Zarzoso v. Spain*, 2018, §§ 50-54), concerning noise from night clubs, the Court noted that the municipal authorities had taken measurements to ensure respect for the guaranteed rights (such as a bylaw concerning noise and vibrations), which should, in principle, have been adequate, had tolerated, and thus contributed to, the repeated flouting of the rules which they themselves had established. Emphasising that regulations to protect guaranteed rights served little purpose if they were not duly enforced and that the Convention was intended to protect effective rights, not illusory or theoretical ones, the Court considered that the facts showed that the applicant had suffered a serious infringement of her right to respect for her home as a result of the authorities' failure to take action to deal with the night-time disturbances. It concluded that the State had failed in its positive obligation to guarantee the applicant's right to respect for her home and her private life.

Similarly, in the case of *Oluić v. Croatia*, 2010, §§ 63-66, concerning night-time noise from a bar, the Court observed that the authorities had adopted measures but failed to implement them properly. They had ordered the owner of the bar to reduce the level of noise from their music reproduction equipment. However, that decision had not been complied with. They had subsequently ordered the owner of the bar to add sound insulation to the walls and inter-floor construction in accordance with the relevant domestic standards, but the insulation installed had proved inadequate. Furthermore, the proceedings relating to the administrative claim lodged by the applicant had lasted almost four years. Noting that the authorities had allowed this situation to persist for almost eight years while the various proceedings before the administrative authorities and the Administrative Court had been pending, thus rendering those proceedings ineffective, the Court found that the respondent State had failed to discharge its positive obligation to guarantee the applicant's right to respect for her home and her private life.

In *Apanasewicz v. Poland*, 2011, §§ 102-104, concerning noise and dust caused by the operation of a concrete production plant and the concomitant movements of lorries, the applicant's claim had been upheld in the domestic court, which had ordered the cessation of the activities giving rise to the disturbances. Noting the insufficiency of the measures adopted by the authorities to enforce that decision, the Court ruled that the measures to protect the applicant 's rights under Article 8 had been completely ineffective and that there had been a violation of that provision.

137. In environmental matters, as in many other areas, the choice of which positive measures to be implemented by the States, in principle, falls within their margin of appreciation (*Fadeyeva v. Russia*, 2005, § 96; *Greenpeace E.V. and Others v. Germany* (dec.), 2009; *Dubetska and Others v. Ukraine*, § 141, 2011; *Zammit Maempel v. Malta*, 2011, § 66; *Kotov and Others v. Russia*, 2022, § 128); *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 538(c)).

Whilst the State is required to give due consideration to individual interests, the respect for which it is obliged to secure by virtue of Article 8, it must in principle be left a choice between different ways and means of meeting this obligation. The Court's supervisory function being of a subsidiary nature, it is limited to reviewing whether or not the particular solution adopted can be regarded as striking a fair balance (*Hatton and Others v. United Kingdom* [GC], 2003, § 123; *Zammit Maempel v. Malta,*

2011, § 66) or whether the reasons given by the State to justify the measures taken are relevant and sufficient (*Kotov and Others v. Russia*, 2022, § 128).

138. In particular, the Court has emphasised, in connection with the exposure of persons living in the vicinity of industrial installations to pollution from the latter, that when it comes to the wide margin of appreciation available to States in the context of their environmental obligations under Article 8, it would be going too far to establish an applicant's general right to free new housing at the State's expense, since the complaints under that provision could also be remedied by duly addressing the environmental hazards (*Dubetska and Others v. Ukraine*, 2011, § 150).

See also *Grimkovskaya v. Ukraine*, 2011, § 65, concerning exposure to pollution and disturbances caused by traffic on a street through which the authorities had decided to re-route a motorway, where the Court also pointed out that Article 8 could not be interpreted as requiring the Government to ensure that everyone had housing that corresponded to specific environmental standards.

See also *Ward v. United Kingdom* (dec.), 2004, concerning the noise and pollution affecting a person living in a caravan on a travellers' site located close to motorway and railway infrastructures, the Court pointed out that there was no right under Article 8 requiring the authorities to provide housing, or conditions for housing, that met particular environmental standards or were in a specific location.

139. However, it remains open to the Court to conclude that the national authorities committed a manifest error of appreciation in striking the balance between the competing interests of different private actors in this sphere (*Fadeyeva v. Russia*, 2005, § 105), or between the competing interests of the community as a whole and those of the applicant (*Dubetska and Others v. Ukraine*, 2011, §§ 141-142). Nevertheless, the complexity of the issues involved in environmental policymaking renders the Court's role primarily a subsidiary one. It must first examine whether the decision-making process was fair, and only in exceptional circumstances may it go beyond this line and revise the material conclusions of the domestic authorities (*Fadeyeva v. Russia*, 2005, § 105; *Dubetska and Others v. Ukraine*, 2011, § 142).

140. Where the domestic courts have omitted to ascertain whether the measures adopted were in fact effective and capable of remedying the adverse consequences of the pollution complained of, and to take into consideration the applicants' interest in living in a safe environment and balance it against the general economic interest, the Court may carry out this assessment on its own, taking account not just of the information available to the domestic courts but also subsequent developments (*Pavlov and Others v. Russia*, 2022, §§ 85-86).

141. The Court may thus be called on to examine whether the measures taken by the authorities were adequate and sufficient. For example, in *Deés v. Hungary*, 2010, §§ 23-24, concerning disturbances caused by traffic on an urban road, it pointed out that noise far exceeding the statutory levels, against which the State failed to take appropriate action, may as such amount to a violation of Article 8 of the Convention. In the case of *Kapa and Others v. Poland*, §§ 164 and 174, 2021, which also concerned disturbances caused by road traffic, the Court, having considered the action taken by the authorities, concluded that it had not amounted to an adequate or appropriate response to the situation faced by the applicants, living near the road in question. See also the case of *Pavlov and Others v. Russia*, 2022, §§ 87-93, in which the Court found that the measures taken to tackle the air pollution to which the inhabitants of an industrial city were exposed were insufficient.

142. In view of the margin of appreciation enjoyed by the national authorities in that domain, it is not in the Court's remit to determine what exactly should have been done to put an end to or reduce the disturbance. The Court can, however, assess whether the authorities approached the matter with due diligence and took all the competing interests into consideration (*Mileva and Others v. Bulgaria*, 2010, § 98; *Podelean v. Romania* (dec.), 2019; *Kotov and Others v. Russia*, 2022, § 134; *Locascia and Others v. Italy*, 2023, § 140; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 538(e); *L.F. and Others v. Italy*, 2025, § 158). In this connection, it pointed out that the onus was on the State

to justify, using detailed and rigorous data, a situation in which certain individuals bore a heavy burden on behalf of the rest of the community (*Locascia and Others v. Italy*, 2023, § 140; *L.F. and Others v. Italy*, 2025, § 158).

143. In that connection, it will have regard, among other things, to whether the national authorities acted in accordance with domestic law (*Mileva and Others v. Bulgaria*, 2010, § 98; *Dubetska and Others v. Ukraine*, 2011, § 141).

Thus in *Brânduşe v. Romania*, 2009, §§ 71-72, concerning offensive smells from a municipal tip, the Court took account of the fact that the tip had not obtained the requisite permits for either its operation or its closure, and that having failed to comply with the requisite procedure, the local authorities had been able to ignore the requirements concerning the location of the dump and the installation of air-pollution monitoring systems.

However, the Court has pointed out that the failure of a State to implement a specific measure prescribed by domestic law does not prevent it from honouring its positive obligation by some other means. Domestic legality should be approached not as a separate and conclusive test, but rather as one of many aspects which should be taken into account in assessing whether the State has struck a "fair balance" in accordance with Article 8 § 2 (*Fadeyeva v. Russia*, 2005, § 98; see also *Pavlov and Others v. Russia*, 2022, § 83; *Kotov and Others v. Russia*, 2022, § 128).

In the case of *Calancea and Others v. Republic of Moldova* (dec.), 2018, § 26, in which persons living in the vicinity of a high-voltage power line had complained of the risks to which they were exposed on account of their proximity to the power line, the Court noted that the local authorities had allowed the applicants' houses to be built inside the twenty-metre protection zone around the power lines, in breach of domestic regulations. However, it concluded that that fact alone was insufficient for a finding of a violation of Article 8.

144. Referring to its case-law on Article 2 of the Convention, the Court has also made clear that an impossible or disproportionate burden must not be imposed on the authorities without consideration being given to the operational choices which they must make in terms of priorities and resources (*Kotov and Others v. Russia*, 2022, § 134).

145. In connection with neighbourhood disturbance, the fact that applicants had been aware of the impugned pollution, disturbances or risks when they had settled in their home was a weighty factor in the relevant balancing exercise, irrespective of the fact that they had been lawfully entitled to live there (*Zammit Maempel v. Malta*, 2011, § 72).

The Court may also have regard to the unlawfulness of the applicants' situation. In *Martínez Martínez and Pino Manzano v. Spain*, 2012, § 47-50, concerning disturbances caused by the operation of a quarry, it noted that the applicants had set up their home in an "industrial building", which, under domestic law, should not have been used as a dwelling, despite the fact that their successive applications for a permit had been rejected. The Court deduced that they had deliberately placed themselves in an unlawful situation and should have accepted the consequences, and that they had hardly been in a position to complain about noise from a quarry which had been lawfully installed on land legally designated for industrial activities.

146. In cases concerning noise from airports, the Court attached importance to the fact that the applicants could have moved house without suffering any financial loss (*Hatton and Others v. United Kingdom* [GC], 2003, § 127; *Ashworth and Others v. United Kingdom* (dec.), 2004).

Similarly, in the case of *Ward v. United Kingdom* (dec.), 2004, concerning noise and pollution affecting an individual living in a caravan on a travellers' site located close to motorway and railway infrastructures, the Court had regard to the fact that he could have moved away from the location. As regards the difficulties encountered by Travellers in finding alternative sites in which to live in their caravans, it referred to the judgment in the case of *Chapman v. United Kingdom* [GC], 2001, § 111,

where it had noted that many Gypsy families still lived an itinerant life without recourse to official sites, and that it could not be doubted that vacancies on official sites arose periodically. The Court went on to stress that, as in the case of *Chapman*, no information had been provided on efforts expended by the applicant to find other sites, and that it could not be deemed established that no other alternative had been available.

147. **Examples :**

In *Powell and Rayner v. United Kingdom*, 1990, §§ 42-45, concerning noise from Heathrow airport, the Court had regard to the necessity of large international airports for the economic well-being of the country, emphasising that their operations pursued a legitimate aim and that that the consequential negative impact on the environment could not be entirely eliminated. It further noted that a number of measures had been introduced by the responsible authorities to control, abate and compensate for aircraft noise at and around Heathrow Airport, including aircraft noise certification, restrictions on night jet movements, noise monitoring, the introduction of noise preferential routes, runway alternation, noise-related landing charges, the revocation of the licence for the Gatwick/Heathrow helicopter link, a noise insulation grant scheme, and a scheme for the purchase of noise-blighted properties close to the airport, etc. It observed that those measures, adopted progressively as a result of consultation of the different interests and people concerned, had taken due account of international standards established, developments in aircraft technology, and the varying levels of disturbance suffered by those living around the airport. It concluded that despite the restrictions on the right of appeal of persons exposed to noise, there was no serious ground for maintaining that either the policy approach to the problem or the content of the particular regulatory measures adopted by the United Kingdom authorities gave rise to violation of Article 8, whether under its positive or negative head. The Court held that in forming a judgment as to the proper scope of the noise abatement measures for aircraft arriving at and departing from Heathrow Airport, the United Kingdom Government could not arguably be said to have exceeded the margin of appreciation afforded to them or upset the fair balance required to be struck under Article 8.

Similarly, in the case of *Hatton and Others v. United Kingdom* [GC], 2003, § 126-130, concerning noise pollution suffered by people living near Heathrow airport in the context of amendments to the regulations on night flights, the Court conducted a balancing exercise between the economic interest of night flights and the measures taken to mitigate the noise pollution. On the latter point, it first of all observed that the impugned regulations, based on a quota count system, had been aimed at noise abatement. It further had regard to the measures implemented to mitigate the effects of aircraft noise generally: aircraft noise certification to reduce noise at source; the compulsory phasing out of older, noisier jet aircraft; noise preferential routes and minimum climb gradients for aircraft taking off; noise abatement approach procedures; limitation of air transport movements; noise-related airport charges; noise insulation grant schemes; and compensation for noise nuisance for house owners. The Court also had regard to the fact that houseowners in the vicinity could have sold their properties without financial loss, emphasising that where a restricted number of persons in a locality were particularly affected by a general measure, the fact that they could, if they chose, move elsewhere without financial loss had to be significant to the overall reasonableness of the general measure in question. Furthermore, in finding no violation of Article 8, the Court noted that the decision-making process had been properly conducted: investigations and studies had been carried out and the public had been kept duly informed, had access to the relevant Consultation Paper, been able to put forward observations, and could have made any representations they felt appropriate.

In *Fadeyeva v. Russia*, 2005, §§ 99-134, in which a person living in the vicinity of a steelworks had complained about the pollution to which she was exposed, the Court considered the question of compliance with domestic law, the existence of a legitimate aim and the necessity of the activity in a democratic society (see also, for a more conventional approach to positive obligations, *Ledyayeva and Others v. Russia*, 2006, §§ 101-110). It agreed with the Government that the continued operation of the steelworks had pursued a legitimate aim in contributing to the economic activity of the region. In

examining whether a fair balance had been struck, it first of all considered the applicant's argument that the authorities should have rehoused her. It noted that she had lived in the steelworks' sanitary security zone, where the level of industrial pollution had exceeded safe levels and where any housing had, in principle, been prohibited under domestic legislation. However, noting that the applicant had obtained the flat lawfully from the State, it ruled out the possibility that the applicant had herself created the situation complained of or was somehow responsible for it. The Court also noted that the applicant had been unable to move house and that the only solution proposed by the national law in this situation was to place the applicant on a waiting list for accommodation. Since there had been no hope of her obtaining new housing in the foreseeable future, the Court concluded that the measure applied by the domestic courts had made no difference to the applicant, giving her no realistic hope of being removed from the source of the pollution. The Court also sought to ascertain whether the State had taken other measures to prevent or reduce the pollution. It noted that although significant progress had been made in reducing emissions over the previous ten to twenty years, the overall improvement of the environmental situation had been very slow. It also noted that the Government had not explained what practical measures had been adopted to take account of the interests of persons living close to the steelworks. In conclusion, it observed that although the situation around the plant had called for special treatment of those living within the zone, the State had not offered the applicant any effective solution to help her move away from the dangerous area. It also observed that although the polluting plant in issue had operated in breach of domestic environmental standards, there was no indication that the State had designed or applied effective measures to take into account the interests of the local population, affected by the pollution, capable of reducing the industrial pollution to acceptable levels. The Court concluded that despite the broad margin of appreciation left to the respondent State, it had failed to strike a fair balance between the interests of the community and the applicant's effective enjoyment of her right to respect for her home and her private life.

In the case of *Sciavilla v. Italy* (dec.), 2000, concerning night-time noise from a bar, the Court concluded that the authorities had expended the requisite efforts to protect the applicant's right to respect for her home and her private and family life and struck a fair balance between that right and the rights of the bar manager, given that the mayor had imposed limits on the latter and the courts had ordered her to pay damages to the applicant, and that the noise had stopped one year and nine months after the mayor's action. The Court declared the application manifestly ill-founded.

In *Ashworth and Others v. United Kingdom* (dec.), 2004, concerning noise disturbances from a private aerodrome, the Court considered that the State's policy to the effect that matters concerning the operation of local aerodromes, including noise issues, should be resolved locally, with ultimate power to regulate resting with the Government and the Civil Aviation Authority subject to the supervision of the courts, was, in principle, acceptable under Article 8, provided that the legislative framework and the local regulations were shown to be such as to preserve a fair balance between the competing interests. Having regard to the statutory framework and the local regulations, and noting that no evidence had been submitted to show the effect, if any, of the noise disturbance from the aerodrome on house prices in general or the value of the applicants' properties in particular or to establish that there existed no realistic prospect of being able to move, the Court was unable to find that the Government had exceeded the margin appreciation afforded to them or failed to take appropriate measures to strike a fair balance and to secure the rights of the applicants under Article 8.

In the case of *Botti v. Italy* (dec.), 2004, the Court addressed under Articles 2 and 8 the issue of exposure of non-smokers to second-hand smoke in places to which the public had access. The Court, considering that the applicant's interests as a non-smoker had clashed with those of other individuals in continuing to smoke, and having regard to the margin of appreciation available to the national authorities, held that the absence of a broad prohibition on smoking in public places could not be regarded as a failure on the part of the Italian State to protect the applicant's rights under Articles 2 and 8 of the Convention.

The Court adopted a similar approach in the case of *Aparicio Benito v. Spain* (dec.), 2006, concerning passive smoking in prison. It noted that the member States had not adopted a uniform response to passive smoking, and pointed out that it was not its task to impose on States any specific conduct to be adopted in every sector of society. More specifically, it noted the lack of any standard approach, as regards smoking in prison, to situations such as that of the applicant, who had had an individual cell, coexisting with cases in which non-smoking prisoners had been sharing their cells with smokers. Similarly, some States Parties, such as Spain, restricted the communal areas where smoking was permitted, while others laid down no such restrictions. Given the lack of a consensus in the States Parties concerning smoking and the manner in which it was regulated in prisons, and having regard to the specific circumstances of the case, the Court declared the complaint under Article 8 manifestly ill-founded.

In *Luginbühl v. Switzerland* (dec.), 2006, relating to the concerns of a person suffering from electromagnetic hypersensitivity about the planned erection of cell towers for mobile phones, the Court noted, first of all, that the domestic standards had been complied with and secondly, that the harmfulness of this type of infrastructure to public health had not yet been scientifically proved. It deduced that, despite the applicant's electromagnetic hypersensitivity, given the State's broad margin of appreciation and the interest of modern society in having a complete mobile telephone network, it would be neither reasonable nor appropriate to conclude that the protection of the applicant's rights required imposing on the State an obligation to adopt more extensive measures than establishing and complying with the applicable regulations on transmissions. It declared the complaint under Article 8 manifestly ill-founded.

In the case of *Ward v. United Kingdom* (dec.), 2004, a person living in a caravan on a travellers' site located close to motorway and railway infrastructures complained about the noise and pollution to which he had been exposed. The Court concluded that the authorities had neither interfered with the applicant's right to respect for his home or his private life nor shown any lack of respect. It noted that it had not been shown that the applicant had had no other alternatives, and had regard to the fact that measures had been taken to improve the situation, observing that the banning of leaded petrol had eradicated a major source of health concern for children, and that the domestic courts had pointed out that the local council had obtained a large Government grant for refurbishing the site and that remedies existed under the environmental protection legislation which could have been activated.

In *Greenpeace E.V. and Others v. Germany* (dec.), 2009, in which persons living in the vicinity of road infrastructures had complained about pollution from fumes emitted by diesel vehicles, the Court, having observed that the respondent State had taken measures to curb diesel-vehicle emissions, held that the applicants had failed to show that by rejecting the specific measure which they had recommended – making the installation of particulate filters in diesel vehicles compulsory – the State had exceeded its discretionary power by failing to strike a fair balance between the interests of the individual and of the community as a whole.

In the case of *Deés v. Hungary*, 2010, §§ 22-24, in which a person living near an urban road had complained about noise, vibrations, pollution and offensive odours caused by the heavy traffic which had built up following the introduction of a toll on a nearby motorway, the Court noted that the authorities had taken steps to reduce the disturbances: construction of three bypass roads, reduction of the night-time speed-limit, installation of traffic lights, and new road signs prohibiting the access of heavy vehicles and redirecting traffic. It did, however, note that those measures had proved insufficient, as a result of which the applicant had been exposed to excessive noise disturbance over a substantial period of time, thus placing a disproportionate burden on him. Observing that, despite the State's efforts to slow down and reorganise traffic in the neighbourhood, the statutory norms had been exceeded for several years, the Court considered that the street in which the applicant lived had been affected by a direct and serious nuisance which had prevented him from enjoying his home; it

found that the respondent State had failed to discharge its positive obligation to guarantee the applicant's right to respect for his home and private life.

In the case of *Mileva and Others v. Bulgaria*, 2010, §§ 99-102, concerning noise and other disturbances from a computer gaming club operating in a residential building, the Court noted that despite receiving a number of complaints and establishing that the club was operating without the requisite licence, the police and the municipal authorities had failed to take effective steps to ascertain the effect of its operations on the well-being of those living in the same building, or to exercise their powers to check the disturbances caused, which appeared to be in clear breach of the regulations on noise in residential buildings. The municipality had approved a plan for the conversion of the flat in which the club was located into commercial premises, without trying to establish whether the domestic-law rules aimed at reconciling the existence of commercial structures in residential buildings with the well-being of the persons living in such buildings had been complied with. The municipality had subsequently made the club's operating permit subject to the condition that its clients enter through the back door and not through the passageway used by the building's residents, but that condition had been imposed some two and a half years after the club had opened and had not been complied with. Moreover, the domestic court had suspended the enforcement of the Regional Building Control Directorate's decision prohibiting the use of the flat as a computer gaming club and ordering the cutting off of water and electricity supplies, which, in conjunction with the length of proceedings, had prevented the applicants from obtaining effective protection of their rights. The Court concluded that the respondent State had failed to approach the matter with due diligence or to give proper consideration to all the competing interests, and thus to discharge its positive obligation to ensure the applicants' right to respect for their homes and their private and family lives.

In *Dubetska and Others v. Ukraine*, 2011, §§ 146-156, concerning water, air and soil pollution from a coalmine, a coal processing factory and spoil heaps, the Court noted that the authorities had taken a number of steps to minimise the harmful effects: there had been a legislative framework which had not been in dispute; pollution levels had been measured on a regular basis; sanctions had been imposed on the mine and the factory; a buffer zone had been identified; an aqueduct had been built to supply drinking water; and several plans had been made to rehouse the applicants. The Court nonetheless noted that despite those efforts, the authorities had not been able to put in place an effective solution for the applicants' personal situation, which had remained virtually the same throughout the period in question (more than twelve years). Indeed, the State, which owned the mine and the factory, had contemplated two major policy choices *vis-à-vis* the applicants' situation – either to facilitate their relocation to a safer area or to mitigate the pollution effects in some way. The rehousing had never materialised, and the intended mitigating measures, such as introducing a buffer zone management plan, had never come to fruition.

In *Zammit Maempel v. Malta*, 2011, §§ 68-69, concerning noise caused by firework displays during two separate weeks annually, the Court attached importance to the fact that the State had regulated the activity in question, such that the fireworks had been let off under the supervision of police officers and firefighters and been covered by mandatory insurance, and obligations had been imposed on the third parties operating the displays.

In the case of *Di Sarno and Others v. Italy*, 2012, §§ 111-112, on the waste management crisis in the Campania region, in which the applicants had complained about pollution and disturbances caused by waste piling up in the streets for several months, the Court based its finding of a violation of their right to respect for their private lives and homes on the protracted inability of the authorities to ensure the proper functioning of the waste collection, treatment and disposal service. In *Locascia and Others v. Italy*, 2023, §§ 126-138 and 140-151, concerning this same crisis, with regard to the management of waste collection and disposal, the Court found a violation of Article 8 on account of the health risk to which the applicants had been exposed, and the environmental nuisance that they had experienced in the course of their everyday life until the end of the state of emergency. On the other hand, it held that the applicants had not shown that they had personally suffered a severe impact from the waste

pollution following the end of the state of emergency. It acknowledged that the fact that there remained significant quantities of waste stored in Campania showed the persistence of a general deterioration of the environment in that region. However, it considered that this was not in itself sufficient to establish that the situation specifically affected the population of the municipalities in which the applicants lived and, if so, the extent of the interference with the applicants' right to respect for their home and private life. In contrast, with specific regard to the situation of the persons living in the vicinity of a landfill site, it concluded that, given the authorities' actions before and after its closure, they had failed in their positive obligation to take all necessary measures to ensure effective protection of those persons' right to respect for their private life.

In the case of *Udovičić v. Croatia*, 2014, §§ 152-160, concerning noise disturbances from a bar, the Court noted that despite all the complaints and actions lodged by the applicant with the competent administrative authorities, the latter had for over ten years failed to reach any appropriate decision. The Court held that the respondent State, having allowed the situation to persist in this way for over ten years, had failed to approach the matter with due diligence and to give proper consideration to all the competing interests, and thus to discharge its positive obligation to ensure the applicant's right to respect for her home and her private life.

In *Podelean v. Romania* (dec.), 2019, in which a person had complained about noise from a limestone and cement factory, the Court attached special importance to four factors in finding that the State had honoured its positive obligations: the applicant had decided to live near the source of the noise even though he had known about it; he had failed to complain to the authorities and courts about the other noise sources, which had added to the acoustic disturbances to which he had been exposed; he had benefited from the requisite procedural guarantees; the domestic authorities had endeavoured to reduce the noise (by ensuring that the operation of the factory was based on environmental permits, measuring the noise levels and carrying out modernising and soundproofing works). The Court concluded that although the authorities' efforts had not reduced the noise levels below the limit set out in domestic law, that had been partly due to the existence of other sources of pollution and to the applicant's decision not to take action at the domestic level to complain of all those sources.

In the case of *Kapa and Others v. Poland*, 2021, §§ 164-175, in which the applicants had complained of disturbances from the exposure of their home to heavy road traffic caused by a diversion introduced by the authorities, the Court noted that the latter had not remained passive, but that despite the "considerable efforts" which they had expended to reduce the disturbances, the action which they had taken to that end had been largely ineffective, thus giving precedence to the road users over the local residents. The Court found a violation of the applicants' right to respect for their homes on account of the diversion of dense traffic on to a road which was unsuited to such traffic and of the lack of an effective and adequate response from the domestic authorities to the problems faced by the residents.

In the case of *Kotov and Others v. Russia*, 2022, §§ 123-136, concerning pollution and nuisance caused by a landfill site managed by a private company, the Court found a violation of Article 8 on the grounds that, despite the existence of a strong regulatory framework governing waste management operations, the authorities had at first omitted to apply it rigorously. However, it held that in view of the measures taken subsequently by the authorities the Government had managed to strike a fair balance between, on the one hand, the general socio-economic interest in having a sound waste management policy and effective waste treatment practices in place and, on the other hand, the first applicant's individual interest in living in favourable environmental conditions.

In *L.F. and Others v. Italy*, 2025, § 156-172, in finding a violation of Article 8 the Court held, in particular, that although the measures to minimise the pollution arising from the operations of a foundry had produced tangible effects, the authorities had not attached any weight to the fact that the local population had already been exposed to significant harmful effects.

- **Specific to dangerous activities: prevention and information**

- The emphasis must be on prevention

148. The Court has pointed out that, *in the context of dangerous activities*, the scope of the positive obligations under Articles 2 and 8 of the Convention largely overlap. The positive obligation under Article 8 thus requires the national authorities to take the same practical measures as those expected of them in the context of their positive obligation under Article 2 (*Kolyadenko and Others v. Russia*, 2012, §§ 212 and 216; *Brincat and Others v. Malta,* 2014, § 102; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 538).

149. In particular, as in the framework of Article 2, the positive obligation to take all appropriate action to protect applicants' rights under Article 8 § 1 entails above all a primary duty on the State to put in place a legislative and administrative framework designed to provide for effective prevention of damage to the environment and human health (*Tătar v. Romania*, 2009, § 88).

When examining complaints under Article 8, in cases where a State is faced with complex environmental and economic policy issues, *particularly cases involving dangerous activities*, the Court has emphasised that that State must, in addition, set in place regulations geared to the special features of the activity in question, particularly with regard to the level of risk potentially involved. The regulations must cover the licensing, setting-up, operation, security and supervision of the activity and make it compulsory for all those concerned to take practical measures to ensure the effective protection of citizens whose lives might be endangered by the risks inherent in the sphere in question (*Tătar v. Romania*, 2009, § 88*; Brânduşe v. Romania*, 2009, § 63; *Băcilă v. Romania*, 2010, § 61; *Di Sarno and Others v. Italy*, 2012, § 106; *Fieroiu and Others v. Romania* (dec.), 2017; *Jugheli and Others v. Georgia*, 2017, § 75; *Cordella and Others v. Italy*, 2019, § 159; *Locascia and Others v. Italy*, 2023, § 124; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 538(a); *L.F. and Others v. Italy*, 2025, § 154).

150. **Examples:**

In the case of *Băcilă v. Romania*, 2010, §§ 66-73, the applicant complained of the local authorities' inability to force a company operating a lead and zinc plant to reduce its pollution to levels compatible with the well-being of local residents. The Court noted that the Government had not presented any evidence that the measures aimed at reducing pollution attached to the operational permits for the plant had been duly implemented, and that the plant had operated for three years without the requisite authorisation, even though the local authorities had been aware of the serious pollution issues involved in the plant's activities, and had waited for several years to take any action against the operator. The Court considered that the domestic authorities' interest in maintaining the economic activities of the municipality's largest employer could not take precedence over the right of those concerned to enjoy a balanced, healthy environment. The Court concluded that notwithstanding its margin of appreciation, the respondent State had failed to strike a fair balance between the interests of the economic well-being of the town (protecting the activities of the main local employer) and the applicant's effective enjoyment of her right to respect for her home and her private and family life.

In *Kolyadenko and Others v. Russia,* 2012, §§ 215-216, finding a violation of Article 8 of the Convention and Article 1 of Protocol No. 1, the Court referred back to its finding under Article 2 of the Convention (see section on Article 2 above): 1. the authorities had not established a clear legislative and administrative framework enabling them effectively to assess the risks inherent in the operation of a reservoir and to implement urban development policies in the proximity of the reservoir in compliance with the relevant technical standards; 2. there had been no coherent supervisory system to encourage those responsible to take steps to ensure adequate protection of the population living in the area, and in particular to keep the river channel clear enough to cope with urgent releases of water from the reservoir, to put in place an emergency warning system there, and to inform the local population of the potential risks linked to the operation of the reservoir; 3. it had not been established that there

had been sufficient coordination and cooperation between the various administrative authorities to ensure that the risks brought to their attention would not become so serious as to endanger human lives. The Court also noted that the authorities had remained inactive even after the flood complained of by the applicants, with the result that the risk to the lives of those living near the reservoir had still appeared to persist at the time of the judgment.

In *Brincat and Others v. Malta*, 2014, §§ 103-117, which concerned workers' exposure to asbestos while working on a State shipyard, the Court found a violation of Article 2 in respect of one of the applicants who had died of mesothelioma, on account of the inadequacy of the regulations and the partial measures implemented (see section on Article 2 above). Relying on the reasoning which had led it to that finding, it ruled that there had been a violation of Article 8 in respect of the surviving applicants.

In the case of *Jugheli and Others v. Georgia*, 2017, §§ 73-78, concerning air pollution from a thermal power plant, the Court's finding of a violation was based on two facts. First of all, it noted that at the material time there had been no preventive regulations on dangerous activities, observing that the virtual absence of a regulatory framework applicable to the thermal plant's potentially dangerous activities had meant that it was able to operate in the immediate vicinity of the applicants' homes without any safeguards to prevent or at least reduce air pollution and its negative impact on the applicants' health and well-being. Secondly, the Court noted the authorities' inertia in the face of that situation, despite acknowledging the ecological discomfort suffered by the population. The Court deduced that despite the margin of appreciation available to the authorities in cases involving environmental issues, the respondent State had failed to strike a fair balance between the interests of the community in having an operational thermal power plant and the applicants' effective enjoyment of their right to respect for their home and private life.

In *Cordella and Others v. Italy*, 2019, §§ 162-174, where local residents complained of the lack of State action to protect their health and the natural environment from toxic emissions from a steel processing plant in Taranto, the Court noted that various studies carried out at the domestic level had mentioned the effects of those emissions on the environment and on public health, and highlighted a causal link between exposure to the emissions and a number of serious pathologies, as well as an increase in mortality rates. The Court noted that the authorities' attempts to decontaminate the region had not had the desired results, and, in particular, that the Government had intervened on numerous occasions to guarantee the continuity of the steel-producing activities, despite the finding by the relevant judicial authorities, based on chemical and epidemiological expert reports, that there were serious risks to health and to the environment. The Court concluded that the authorities' management of the environmental issues surrounding the factory's production activities had reached stalemate, pointing to a persistence of a situation of environmental pollution endangering the health of the applicants and, more generally, that of the entire population living in the areas at risk, who, as things stood, had been deprived of information on progress in the decontamination of the areas in question, particularly as regards timescales for the related works. It consequently concluded that the authorities had failed to take all the necessary steps to ensure protection of the applicants' right to respect for their private lives.

- Information for persons exposed to a health hazard, outside of any decision-making process

151. In the sphere of dangerous activities, Article 8 requires persons exposed to a health risk to have access to available information enabling them to assess the risk, including outside of any decision-making process (*Guerra and Others v. Italy*, 1998, § 60; *Locascia and Others v. Italy*, 2023, § 125; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 538(f); (re. access to information in the framework of a decision-making process, see below).

In assessing compliance with this right, the Court may take into consideration the obligations stemming from other relevant international instruments, such as the Aarhus Convention, in particular Article 5 § 1 (c) of that text ("Each Party shall ensure that ... in the event of any imminent threat to human health or the environment, whether caused by human activities or due to natural causes, all information which could enable the public to take measures to prevent or mitigate harm arising from the threat and is held by a public authority is disseminated immediately and without delay to members of the public who may be affected") (*Di Sarno and Othes v. Italy,* 2012, § 107; (*Locascia and Others v. Italy*, 2023, § 125; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 539(d)).

152. Where a Government engages in hazardous activities which might have hidden adverse consequences on the health of those involved in such activities, respect for private and family life under Article 8, in the absence of national security considerations, requires that an effective and accessible procedure be established which enables such persons to seek all relevant and appropriate information (*McGinley and Egan v. United Kingdom*, 1998, § 101; *Roche v. United Kingdom* [GC], 2005, § 162; *Hardy and Maile v. United Kingdom*, 2012, § 246).

153. Certain judgments would seem to suggest that the State has an obligation under Article 8 to provide information *proprio motu* (*Tătar v. Romania*, 2009, §§ 120-124; *Brânduşe v. Romania*, 2009, § 74; *Di Sarno and Others v. Italy,* 2012, §§ 107 and 113; *Locascia and Others v. Italy*, 2023, § 152 ; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 539(d)), as well as under Article 2 (see above).

154**. Examples:**

In *Guerra and Others v. Italy*, 1998, § 60, concerning the situation of persons living in the vicinity of a chemical factory classified "Seveso high risk", which had been releasing large quantities of inflammable gas and toxic substances in the course of its manufacturing cycle, leading to the hospitalisation of 150 persons, the Court ruled that the respondent State had failed in its obligation to safeguard the applicants' right to respect for their private and family lives because it had left them waiting for essential information that would have enabled them to assess the risks they and their families might run if they continued to live in a town which had also been exposed to danger in the event of an accident at the factory.

In the case of *McGinley and Egan v. United Kingdom,* 1998, §§ 101-103, concerning the exposure of military personnel to radiation during a series of atmospheric tests of nuclear weapons, the Court ruled that where a Government engages in hazardous activities which might have hidden adverse consequences for the health of those involved in such activities, respect for private and family life under Article 8 required that an effective and accessible procedure be established enabling such persons to seek all relevant and appropriate information. Noting that the applicants had had access to a procedure which, in the circumstances of their case, would have allowed them to request documents concerning the level of radiation recorded on Christmas Island after the tests, the Court found no violation of that provision.

Similarly, in *Roche v. United Kingdom* [GC], 2005, §§ 162-167, concerning the exposure of a serviceman to low doses of mustard gas and nerve gas for research purposes, subsequently to which several illnesses had been diagnosed (late-onset bronchial asthma, hypertension and chronic obstructive airways disease), the Court held that the authorities had had a positive obligation to provide the applicant with an effective and accessible procedure enabling him to have access to all relevant and appropriate information which would allow him to assess any risk to which he had been exposed during his participation in the tests. It considered that in this case, the procedure used in *McGinley and Egan v. United Kingdom,* 1998 would not have satisfied the said obligation inasmuch as it had only applied to disputes relating to pensions, and found a violation of Article 8.

In *Tătar v. Romania*, 2009, §§ 120-124, concerning an accident which had occurred in a gold mine using a cyanidation process, the major health-related and environmental consequences of which had

been recorded in international studies and reports, the Court emphasised that the authorities had been required to provide adequate detailed information on the past, present and future consequences of the accident for local residents' health and the environment, and preventive measures and recommendations on looking after populations subjected to similar events in the future. The Court noted that one of the applicants had made many unsuccessful attempts to obtain information from the administrative and judicial authorities concerning the potential risks to which he and his family had been exposed and secure the prosecution of those responsible. It went on to note that the authorities had failed in their duty to information the population group concerned, and in particular the applicants, who had been unable to secure information on possible measures to prevent the recurrence of a similar accident or the action to be taken in that event.

In the case of *Brânduşe v. Romania*, 2009, § 74, where a prisoner had complained about a municipal tip adjacent to the prison in which he had been detained, the Court attached particular importance to the fact that having initiated the procedure for shutting down the tip, the municipality had been penalised for the failure to install on the site any type of public information or warnings about the environmental and public-health risks of the tip. It further noted that the Government had not described the measures taken by the authorities to ensure that the prisoners, in particular the applicant – who had requested information from the authorities on the impugned rubbish tip – had effective access to the findings of the impact studies and to information which would allow them to assess the health risk to which they had been exposed.

In *Di Sarno and Others v. Italy* 2012, §§ 107 and 113, in which the applicants had complained about pollution and other disturbances caused by the poor management of the waste collection, treatment and disposal services in the Campania region of Italy, the Court emphasised the particular importance of public access to information allowing them to assess the risk to which they were exposed. It further pointed out that Article 5 § 1 (c) of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, which had been ratified by Italy, provided that every Party should ensure that "in the event of any imminent threat to human health or the environment, whether caused by human activities or due to natural causes, all information which could enable the public to take measures to prevent or mitigate harm arising from the threat and is held by a public authority is disseminated immediately and without delay to members of the public who may be affected". In the instant case, however, it noted that the studies commissioned by the civil emergency planning department had been made public. It deduced that the Italian authorities had discharged their duty to inform the people concerned, including the applicants, of the potential risks to which they had exposed themselves by continuing to live in Campania. See also the case of *Locascia and Others v. Italy*, 2023, § 152, which also concerned the waste crisis in Campania, in which the Court concluded that the authorities had discharged their duty to inform the persons concerned, including the applicants, of the potential risks to which they were exposed, in that the Civil Protection Department had published health-impact studies and information about the environmental situation of the landfill site in the vicinity of the applicants' homes had been made public by a parliamentary commission, mayors and the public prosecutor.

In *Hardy and Maile v. United Kingdom*, 2012, §§ 245-250, in which the applicants complained about the inadequate public information on the risks linked to liquefied natural gas terminals, the Court had regard to the information made public in the framework of the decision-making process and the fact that domestic law had broadly enshrined and organised the right of access to information on the environment and on risks arising out of dangerous activities. The Court noted that a great deal of information had been voluntarily provided to the public by the authorities and the developers of the projects, observing that the applicants had failed to demonstrate that any substantive documents were not disclosed to them. It added that at any event they had had a mechanism established by law to allow them specifically to seek information any procedure to which they had not had access. The Court concluded that the State had fulfilled its positive obligation under Article 8.

ii. Decision-making process

155. Whenever discretion capable of interfering with the enjoyment of a Convention right such as that secured under Article 8 is conferred on national authorities, the procedural safeguards available to the individual will be especially material in determining whether the respondent State has remained within its margin of appreciation (*Flamenbaum and Others v. France*, 2012, § 137; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 539).

156. Thus the Court has pointed out that while Article 8 contains no explicit procedural requirements, the decision-making process must be fair and such as to afford due respect for the interests of the individual as safeguarded by Article 8 (*Maatschap Smits and Others v. Netherlands* (dec.), 2001; *Taşkın and Others v. Turkey*, 2004, § 118; *Giacomelli v. Italy*, 2006, § 82; *Wałkuska v. Poland* (dec.), 2008; *Zammit Maempel v. Malta*, 2011, § 62; *Hardy and Maile v. United Kingdom*, 2012, § 219; *Flamenbaum and Others v. France*, 2012, § 137; *Udovičić v. Croatia*, 2014, § 151). The Court is therefore required to consider all the procedural aspects, including the type of policy or decision involved, the extent to which the views of individuals were taken into account throughout the decision-making procedure, and the procedural safeguards available (*Hatton and Others v. United Kingdom* [GC], 2003, § 104; *Taşkın and Others v. Turkey*, 2004, § 118*; Giacomelli v. Italy*, 2006, § 82; *Zammit Maempel v. Malta*, 2011, § 62; *Hardy and Maile v. United Kingdom*, 2012, § 219; *Flamenbaum and Others v. France*, 2012, § 137; *Udovičić v. Croatia*, 2014, § 151; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 539(b); *L.F. and Others v. Italy*, 2025, § 155).

157. Referring directly in some of its judgments to the *Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (*Tătar v. Romania*, 2009, § 118; *Grimkovskaya v. Ukraine*, 2011, § 69; *Di Sarno and Others v. Italy*, 2012, § 107), the Court has pointed out that where a State must determine complex issues of environmental and economic policy, the decision-making process must:

- involve appropriate investigations and studies with an eye to prevention and assessment;
- allow public access to the conclusions of such studies as well as to information enabling them to assess the danger to which they are exposed;
- enable the individuals concerned to appeal.

158. Generally speaking, the individuals concerned must have an opportunity to protect their interests in the environmental decision-making process, which implies that they must be able to participate effectively in relevant proceedings and to have their relevant arguments examined, although the actual design of the process is a matter falling within the State's margin of appreciation (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 539(e)).

159. In the case of *Büttner and Krebs v. Germany* (dec) (2024, § 73), the Court emphasised that the requirements relating to decision-making processes served to ensure that due weight was accorded to the rights safeguarded by Article 8 and thus to enable the authorities properly to balance the competing individual rights and the interests of the community as a whole. The requirements were not an end in themselves, but they were intended to ensure that the authorities properly balanced the competing interests and acted within their margin of appreciation. Therefore, a defect in the implementation of those requirements in a planning procedure did, as a rule, call into question whether due weight had been accorded to the interests of the individual and whether the planning decision complied with the requirements of Article 8. However, there was no basis for finding a violation of Article 8 if the domestic courts demonstrated that the authorities had taken into account and balanced the rights at stake and if they ruled out, in accordance with the law and without there being any indications of arbitrariness, that the procedural defect had influenced the outcome of the balancing exercise to the detriment of the applicant, and if there was no other indication that the authorities had overstepped their margin of appreciation.

160. In this case, following that approach, the Court declared inadmissible as manifestly ill-founded the application lodged by individuals living in the vicinity of the Berlin Brandenburg Airport project who alleged that, in the course of the planning approval procedure, the authorities had knowingly provided incorrect information about the projected flight paths, with the result that they had discovered after the project had been approved that the noise impact on them would be far greater than originally thought. The Court observed, in particular, that the domestic courts, after examining the applicants' complaints in court proceedings which provided all necessary procedural safeguards, had found that the balancing exercise of the competing interests conducted by the authorities had not been deficient and that the shortcomings in the approval procedure had not affected its outcome with respect to the applicants; the Court also noted that the applicants had not argued before it that the altered flight paths had affected them in such a manner as to constitute a substantive violation of their right to respect for their home and their private and family life.

α. Prior investigations and studies

161. Where a State must determine complex issues of environmental and economic policy, the decision-making process must firstly involve appropriate investigations and studies, in order to enable them to strike a fair balance between the various conflicting interests at stake (*Hatton and Others v. United Kingdom* [GC], 2003, § 128; *Taşkın and Others v. Turkey*, 2004, § 119; *Öçkan and Others v. Turkey*, 2006, § 43; *Lemke v. Turkey*, 2007, § 41; *Gaida v. Germany* (dec.), 2007; *Giacomelli v. Italy*, 2006, § 83; *Tătar v. Romania*, 2009, § 88; *Hardy and Maile v. United Kingdom*, 2012, § 220; *Flamenbaum and Others v. France*, 2012, § 138; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 539(c)), predicting and evaluating in advance the effects of activities that might damage the environment and infringe individuals' rights (*Taşkın and Others v. Turkey*, 2004, § 119; *Öçkan and Others v. Turkey*, 2006, § 43; *Lemke v. Turkey*, 2007, § 41; *Băcilă v. Romania*, 2010, § 62; *Hardy and Maile v. United Kingdom*, 2012, § 220; *Fieroiu and Others v. Romania* (dec.), 2017, § 21).

162. The Court will examine in particular whether the authorities conducted sufficient studies to evaluate the risks of a potentially hazardous activity (*Dubetska and Others v. Ukraine*, 2011, § 143).

163. However, this does not mean that decisions can only be taken if comprehensive and measurable data are available in relation to each and every aspect of the matter to be decided (*Hatton and Others v. United Kingdom* [GC], 2003, § 128; *Taşkın and Others v. Turkey,* 2004, § 118; *Gaida v. Germany* (dec.), 2007; *Giacomelli v. Italy*, 2006, § 82; *Zammit Maempel v. Malta*, 2011, § 70; *Hardy and Maile v. United Kingdom*, 2012, §§ 219 and 231; *Flamenbaum and Others v. France*, 2012, § 138). What is important is that the effects of activities that might harm the environment and thus infringe the rights of individuals under the Convention may be predicted and evaluated in advance (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 539(c)).

164. In the case of *Zammit Maempel v. Malta*, 2011, § 70, the Court drew no conclusions from the fact that the authorisation to organise firework displays during two separate weeks annually in the context of local festivities had not been preceded by an impact study. Conversely, in *Brânduşe v. Romania*, 2009, § 73, concerning offensive odours from a rubbish tip, it had regard to the fact that that there had been no prior impact study in finding a violation of Article 8.

β. Access to information

165. The public must have access to the conclusions of such studies (*Taşkın and Others v. Turkey*, 2004, § 119; *Öçkan and Others v. Turkey*, 2006, § 43; *Lemke v. Turkey*, 2007, § 41; *Tătar v. Romania*, 2009, §§ 88 and 113; *Flamenbaum and Others v. France*, 2012, § 138; *Fieroiu and Others v. Romania* (dec.), 2017; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 539(d)).

Where appropriate, members of the public must also have access to information allowing them to assess the risk to which they are exposed (*Taşkın and Others v. Turkey*, 2004, § 119*; Öçkan and Others v. Turkey*, 2006, § 43; *Giacomelli v. Italy*, 2006, § 83; *Tătar v. Romania*, 2009, §§ 88 and 113; *Di Sarno and Others v. Italy*, 2012, § 107).

χ. Access to the courts

166. The individuals concerned must also be able to appeal to the courts against any decision, act or omission where they consider that their interests or their comments have not been given sufficient weight in the decision-making process (*Taşkın and Others v. Turkey*, 2004, § 119; *Öçkan and Others v. Turkey*, 2006, § 43; *Wałkuska v. Poland* (dec.), 2008; *Tătar v. Romania*, 2009, § 88; *Giacomelli v. Italy*, 2006, § 83; *Zammit Maempel v. Malta*, 2011, § 62; *Hardy and Maile v. United Kingdom*, 2012, § 221; *Flamenbaum and Others v. France*, 2012, §§ 138 and 155; *Fieroiu and Others v. Romania* (dec.), 2017, § 21).

δ. Examples

In the case of *Maatschap Smits and Others v. Netherlands* (dec.), 2001, concerning a planned public railway line, the Court noted that the possible harmful effects had been investigated by the Netherlands authorities at all stages of the planning process: a preliminary planning decision comprising an impact study had been presented to the public, who had been invited to submit comments, the planning decision had then been extensively revised, considerable public expenditure was envisaged to deal with the problems thus highlighted, and the applicants had had access to the courts.

In *Taşkın and Others v. Turkey*, 2004 (see also *Öçkan and Others v. Turkey*, 2006; *Lemke v. Turkey*, 2007, and *Genç and Demirgan v. Turkey,* 2017), concerning a permit to operate a gold mine using a cyanidation process, the Court noted that prior to the issue of the operating permit an impact study had been carried out and a public information meeting organised, at which the impact study had been presented and participants had been invited to make comments, and that the inhabitants of the region had had access to all the relevant documentation. It further noted that the Supreme Administrative Court, to which the inhabitants of the villages around the mine had appealed, had revoked the permit, relying on the State's positive obligation relating to the right to life and the right to the environment; referring to the findings of the impact study and other reports, the court had considered that given the gold mine's geographical location and the geological features of the region, the operating permit had been incompatible with the public interest, since the studies had revealed the dangers to the local ecosystem and to human health and safety of using sodium cyanide. However, even though the Supreme Administrative Court's judgment had been immediately enforceable, the closure of the mine had only been ordered ten months after its delivery and four months after it had been served on the authorities. Subsequently, under a decision which was not made public, the Council of Ministers had authorised the continuation of production at the gold mine. The Court concluded that the authorities had deprived the procedural safeguards available to the applicants of any useful effect.

In the case of *Giacomelli v. Italy*, 2006, concerning an operating licence for the storage and treatment of dangerous waste, the Court noted that neither the issuing of the operating licence nor the authorisation to detoxify industrial waste had been preceded by any appropriate study or investigation, even though domestic law had required such a prior impact study. The authorities had not asked the operator to conduct an impact study until seven years after the detoxification operations had begun. Furthermore, the administrative authorities had failed to order the closure of the plant even though the domestic court applied to by the applicant had found that its activities lacked any legal basis and that those activities had to be suspended immediately until they had been brought into line with the environmental protection regulations. The Court considered that the administrative authorities had failed to comply with domestic environmental legislation and had

subsequently refused to enforce the judicial decisions acknowledging the unlawfulness of the impugned activities, thus rendering inoperative the procedural safeguards previously enjoyed by the applicant and breaching the principle of the rule of law. The procedural mechanism provided for in domestic law to ensure the protection of individual rights, and in particular the obligation to conduct an environmental impact assessment prior to any project with potentially harmful environmental consequences and the possibility for any citizens concerned to participate in the licensing procedure and to submit their own observations to the judicial authorities and, where appropriate, obtain an order for the suspension of a dangerous activity, had been deprived of useful effect in the instant case for a very long period. The Court concluded, notwithstanding the margin of appreciation left to the respondent State, that the State had not succeeded in striking a fair balance between the interest of the community in having a plant for the treatment of toxic industrial waste and the applicant's effective enjoyment of her right to respect for her home and her private and family life.

In *Tătar v. Romania*, 2009, § 101 and §§ 110-119, concerning an operating permit for a gold and silver mine using a cyanidation process, the Court first of all considered that the authorities had failed in their duty to conduct a satisfactory prior assessment of the potential risks of the impugned activity and to take appropriate steps to protect the applicants' rights to respect for their private lives and for their homes, and, more broadly, to the enjoyment of a healthy, safe environment. It noted, in particular, that whilst an impact assessment had been conducted prior to the issuing of the permit, the case file had not shown that the authorities had discussed the dangers to the environment and public health which had emerged from the assessment. The Court further observed that the findings of the impact study, which had provided the basis for granting the permit, had not been made public, that a public debate had been held but that no impact study had been presented to the participants, and that the latter's questions concerning the danger of the cyanidation process had remained unanswered.

In *Grimkovskaya v. Ukraine*, 2011, §§ 67-72, concerning the exposure of local residents to pollution and other disturbances caused by traffic on an urban road on to which the authorities had decided to divert motorway-type traffic, the Court attached importance to the fact that the Government had failed to demonstrate: that that decision had been preceded by an appropriate environmental feasibility study and followed by the adoption of a reasonable environmental management policy; or that the applicant had had any significant opportunity to contribute to the decision-making process, in particular by challenging the municipal policies before an independent body. It deduced that, in view of those two factors and having regard to the *Aarhus Convention*, the requisite fair balance had not been struck.

In the case of *Hardy and Maile v. United Kingdom*, 2012, §§ 191-192, local residents had complained about the construction and operation of liquefied natural gas terminals in their town harbour, pointing to the risk of a ship collision leading to a large gas leak followed by an explosion or a fire. The applicant submitted that the authorities had conducted an inadequate assessment of that risk. The Court first of all noted that that an extensive legislative and regulatory framework was in place to promote safety and to limit the risks posed by the transfer and processing of liquefied natural gas. It further noted that the domestic court had considered that the authorities had conducted an adequate assessment of the risks, and observed that both sites had been the subject of lengthy Environmental Statements, which had identified potential risks from the operation of the liquid natural gas terminals and proposed mitigating measures. Finally, the Court observed that the applications for planning permission had been published, that members of the public had been invited to submit comments and that the applicants had been able to request and obtain a judicial review. It concluded that there did not appear to have been any manifest error of appreciation by the national authorities in striking a fair balance between the competing interests in the case, that the State had therefore fulfilled its obligation to secure the applicants' right to respect for their private lives and homes, and that there had accordingly been no violation of Article 8.

In *Flamenbaum and Others v. France*, 2012, §§ 155-160, concerning authorisation to extend the main landing strip at an airport, the Court noted that the planned extension had been the subject of a detailed impact assessment concerning noise pollution, that a public inquiry had been held during which the general public had had access to the project file and been able to submit comments, and that two further public inquiries had been held concerning the planned aeronautical and radio-electrical easements. It deduced that appropriate inquiries and studies had been conducted and that the public had had satisfactory access to their findings. The Court also observed that the applicants had had access to, and exercised, remedies to uphold their rights. It did not accept the applicants' criticism concerning the fragmentation of the decision-making process and the fact that they had been unable to peruse all the documentation for the project. The Court pointed out that in principle, the State had had a free choice of ways and means of fulfilling its obligations, deemed relevant the Government's argument that domestic law had permitted no other approach, and noted that at any event the applicants had had an opportunity to take part in every successive phase of the decision-making process and to put forward their observations.

The decision in the case of *Fieroiu and Others v. Romania* (dec.), 2017, §§ 24-29, concerning permission to build a temporary site for the processing and storage of waste, provides a further example of a decision-making process deemed compatible with case-law requirements.

b. Specific considerations with regard to climate change**

167. 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. The State's obligation under Article 8 is to do its part to ensure such protection (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, §§ 519 and 545; *Greenpeace Nordic and Others v. Norway*, 2025, § 314; *Fliegenschnee and Others v. Austria* (dec.), 2025, § 27).

i. Margin of appreciation

168. Given the nature and gravity of the threat and the general consensus as to the stakes involved in ensuring the overarching goal of effective climate protection by setting overall greenhouse gas reduction targets in accordance with the Contracting Parties' accepted commitments to achieve carbon neutrality, the 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 (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, §§ 541-543; *Fliegenschnee and Others v. Austria* (dec.), 2025, § 28).

The Court has held that, in contrast, the States have a wide margin of appreciation as regards their choice of means to achieve these objectives, including operational choices and policies adopted in order to meet internationally anchored targets and commitments, in the light of priorities and resources (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, §§ 541-543; *Greenpeace Nordic and Others v. Norway*, 2025, § 315; *Fliegenschnee and Others v. Austria* (dec.), 2025, § 315). Nonetheless, it has added that climate protection should carry considerable weight in the balancing of any competing considerations, in view of the scientific evidence on how climate change affects Convention rights; the scientific evidence showing the urgency of combating the adverse effects of climate change; the severity of its consequences; the scientific, political and judicial recognition of a link between the adverse effects of climate change and the enjoyment of human rights; the global nature of the effects of greenhouse gas emissions; and States' generally inadequate track record in taking action to address the risks of climate change (*Greenpeace Nordic and Others v. Norway*, 2025, §§ 315-316).

ii. Content of the positive obligations

α. Principles

- **Regulations and measures**

169. The State's primary duty is to adopt, and to effectively apply in practice, regulations and measures capable of mitigating the existing and potentially irreversible, future effects of climate change (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 545; *Greenpeace Nordic and Others v. Norway*, 2025, § 314). These regulations and measures must be aimed at preventing an increase in greenhouse gas concentrations in the Earth's atmosphere and a rise in global average temperature to levels capable of producing serious and irreversible adverse effects on human rights, notably the right to private and family life and home under Article 8 of the Convention. More specifically, effective respect for these rights requires that each Contracting State undertake measures for the substantial and progressive reduction of their respective greenhouse gas emission levels, with a view to reaching net neutrality within, in principle, the next three decades. Moreover, in order for this to be genuinely feasible, and to avoid a disproportionate burden on future generations, immediate action needs to be taken and adequate intermediate reduction goals must be set for the period leading to net neutrality. Such measures should, in the first place, be incorporated into a binding regulatory framework at the national level, followed by adequate implementation. The relevant targets and timelines must form an integral part of the domestic regulatory framework, as a basis for general and sectoral mitigation measures (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, §§ 545-549).

Thus, when assessing whether a State has remained within its margin of appreciation, the Court will examine whether, overall, the competent domestic authorities have had due regard to the need to (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 550-551; *Fliegenschnee and Others v. Austria* (dec.), 2025, § 29):

> (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 greenhouse gas emissions, in line with the overarching goal for national and/or global climate-change mitigation commitments;
>
> (b) set out intermediate greenhouse gas 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 greenhouse gas reduction targets (see sub-paragraphs (a)-(b) above);
>
> (d) keep the relevant greenhouse 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.

The Court's assessment of whether the above requirements have been met will, in principle, be of an overall nature, meaning that a shortcoming in one particular respect alone will not necessarily entail that the State would be considered to have overstepped its relevant margin of appreciation.

170. In addition to these mitigation measures, the 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 must 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 (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 552).

- **Decision-making process**

171. First, 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 may be affected by the regulations and measures in question or the absence thereof. In this connection, procedural safeguards must be available to ensure that the public can have access to the conclusions of the relevant studies, allowing them to assess the risk to which they are exposed. At the same time, 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, can be taken into account in the decision-making process (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 554).

172. In addition, an adequate, timely and comprehensive environmental impact assessment in good faith and based on the best available science must be conducted before authorising a potentially dangerous activity that may be harmful to the right for individuals to effective protection by the State authorities from the serious adverse effects of climate change on their life, health, well-being and quality of life (*Greenpeace Nordic and Others v. Norway*, 2025, § 318).

In the context of petroleum production projects, the environmental impact assessment must include, at a minimum, a quantification of the greenhouse gas emissions anticipated to be produced (including the combustion emissions both within the country and abroad). Moreover, the public authorities must assess whether the activity is compatible with their obligations under national and international law to take effective measures against the adverse effects of climate change. Lastly, informed public consultation must take place at a time when all options are still open and when pollution can realistically be prevented at source (*Greenpeace Nordic and Others v. Norway*, 2025, § 319).

β. The case of Verein KlimaSeniorinnen Schweiz and Others v. Switzerland [GC] (paragraphs 555-573) and subsequent cases

173. An applicant association of older women, established to promote and implement effective climate protection on behalf of its members, complained, *inter alia* under Article 8, about the alleged inadequacy of the measures taken by the Swiss authorities to mitigate the effects of climate change.

Applying the principles set out above, the Court held that Switzerland had failed to act in good time and in an appropriate and consistent manner regarding the devising, development and implementation of the relevant legislative and administrative framework, and that in consequence it had exceeded its margin of appreciation and failed to comply with its positive obligations in this area, thus breaching Article 8.

In this connection, the Court noted, first, that there were some critical lacunae in the Swiss authorities' process of putting in place the relevant domestic regulatory framework. It noted that the 2011 CO_2 Act imposed a 20% by 2020 compared with 1990 levels, although – according to a 2009 assessment by the Swiss Federal Council - the industrialised countries ought to reduce their emissions by 25-40% by that date. Furthermore, the Federal Council's 2017 proposal to amend the 2011 Act and to set the reduction target at 30% between 2020 and 2030 had been rejected in a referendum in 2021; this had left a legislative lacuna for the period after 2020, which the State had sought to address by enacting a partial revision of the 2011 Act, setting the reduction target for the years 2021 to 2024 at 1.5% per year, and contained no provisions for the subsequent period. The Court then noted that, in the context of monitoring of the Paris Agreement, Switzerland had submitted in December 2021 a "nationally determined contribution", consisting in reducing by 2030 its greenhouse gas emissions by at least 50% compared to the 1990 levels, or an average reduction of at least 35% for the period 2021-2030; this "nationally determined contribution" was transposed in the Climate Act of 30 September 2022, which envisaged a net-zero emissions target by 2050, by providing that greenhouse gas emissions should be reduced "as far as possible" , and which set interim measures for 2040, for the period 2031-2040 and

for the period 2041-2050. The Court noted, however, that this Act – which was confirmed in a referendum in June 2023 but had not yet come into force when it adopted its judgment –, set out general objectives but not the concrete measures for achieving them, which were to be determined by the Federal Council and proposed to Parliament "in good time". It also noted that the period 2025-2030 remained unregulated. The Court stated that, given the pressing urgency of climate change and the current absence of a satisfactory regulatory framework, it had difficulty in accepting that the mere legislative commitment to adopt the concrete measures "in good time" could satisfy the State's duty to provide, and effectively apply in practice, effective protection of individuals within its jurisdiction from the adverse effects of climate change on their life and health. It considered that the introduction of that new legislation was not sufficient to remedy the shortcomings identified in the legal framework applicable so far. It further noted that the Swiss authorities had not quantified, through a carbon budget or otherwise, the national limitations on greenhouse gas emissions.

At the same time, the Court noted that Switzerland had previously failed to meet its past greenhouse gas emission reduction targets (a 20% reduction by 2020 compared to 1990 levels).

174. In the case of *Greenpeace Nordic and Others v. Norway*, 2025, §§ 317-337, concerning a 2016 ministerial decision to award private companies exploration licences with a view to petroleum gas production, the Court was required to verify whether Norway had complied with its procedural obligations in the context of its duty to protect individuals effectively from the serious adverse effects of climate change on their life, health, well-being and quality of life.

It noted that Norway had adhered to the international legal framework on climate change and had devised national laws setting the requisite objectives.

It then noted that petroleum activities were highly regulated in Norway, under a framework that distinguished three consecutive stages: first, the opening of an area to exploration, which had to be preceded by a strategic environmental impact assessment conducted by the Ministry of Petroleum and Energy and by a public consultation; the second stage was licensing, which corresponded to the exploration phase and did not formally require any environmental impact assessment or public consultation; the third stage was the Plan for Development and Operation (PDO), which corresponded to petroleum extraction and had, in principle, to be preceded by an environmental assessment conducted by the licensee, as well as by a public consultation.

The Court noted that the processes leading to the 2016 decision had not been fully comprehensive. Indeed, the orientation paper explicitly deferred the assessment of climate effects, ecological relationships, ocean acidification, and so on, to the stage at which management plans were being laid, and the Supreme Court had in turn deferred the subject of exported combustion emissions either to general climate policy or to any future decisions taken in relation to the PDO. The Court also pointed out that the principle that the PDO could not be approved in the absence of an impact assessment could be waived on a case-by-case basis, and that a widespread use of such waivers could indeed circumvent, and, in reality, completely undermine, the very purpose of a comprehensive and timely environmental impact study, namely protection of the Convention rights against serious impacts of climate change on the life, health, well-being and the quality of life of individuals.

Noting, however, the member States' wide margin of appreciation in respect of the choice of means in this field, the Court noted that the later stages of the decision-making process, at the PDO stage, would involve a comprehensive assessment 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 was taken. It also considered that there was no structural problem that would undermine the conclusion that the legal framework was being implemented effectively, and no indication that a deferred EIA assessment was inherently insufficient to support the State's guarantees of private and family life: (i) persons affected would be able to act on information obtained through an EIA in time to effectively challenge the authorisation of a project; (ii) Directive 2011/92/EU on environmental impact studies prohibited any assessment of

GHG emissions, project by project, that would disregard the cumulative GHG emissions of all those projects combined; (iii) the domestic law provided that environmental impact studies had to be based on relevant, up-to-date and sufficient information. In consequence, the Court held that there had been no violation of Article 8.

175. In the case of *Fliegenschnee and Others v. Austria* (dec.), 2025, §§ 33-34, concerning the Austrian Federal Minister for Economic and Digital Affairs' refusal to ban the sale of fossil fuels to mitigate the impact of climate change, the Cour found the complaint under Article 8 manifestly ill-founded. It emphasised that this provision did not guarantee a right to a particular mitigation measure by a specific State body under a certain sectoral law of an applicant's choice, especially where, as in the present case, such a measure lay outside the competence of the particular authority engaged. It also noted that the applicant association had not substantiated how, in its view, Austria had failed to devise a regulatory framework to combat change, or in what way the existing regulatory activity was insufficient.

II. Restriction of rights guaranteed by Article 8 for reasons of environmental protection

176. Environmental protection is a legitimate aim capable of justifying interference with the rights secured under Article 8.

In *Buckley v. United Kingdom*, 1996, § 63 and §§ 74-85, the Court ruled that a refusal to grant planning permission to a Gypsy who had stationed caravans on a piece of land which she owned in order to live there with her family, and an enforcement notice for the removal of the caravans had pursued legitimate aims under Article 8. Those decisions had been taken in the enforcement of planning controls aimed at furthering highway safety, the preservation of the environment and public health, and the legitimate aims pursued had therefore been public safety, the economic well-being of the country, the protection of health and the protection of the rights of others. Having pointed out that States enjoyed a wide margin of appreciation in the sphere of planning policies, covering both the definition of general policies and the implementation of individual measures, the Court found no violation of the applicant's right to respect for her home.

In the case of *Chapman v. United Kingdom* [GC], 2001, §§ 82 and 90-116, concerning similar measures, the Court noted that the issue at stake was not only the applicant's right to respect for her home, as in *Buckley*, but also her right to respect for her private and family life. The Court considered that the impugned measures had pursued the legitimate aim of protecting the "rights of others" through preservation of the environment. It further emphasised that belonging to a minority with a traditional lifestyle different from that of the majority did not confer an immunity from general laws intended to safeguard the assets of the community as a whole, such as the environment. It added that it would be slow to grant protection to those who, in conscious defiance of the prohibitions of the law, establish a home on an environmentally protected site. "For the Court to do otherwise would be to encourage illegal action to the detriment of the protection of the environmental rights of other people in the community". Having observed that States enjoy a wide margin of appreciation in the choice and implementation of planning policies, it found no violation of Article 8.

In the case of *Wells v. United Kingdom* (dec.), 2007, concerning criminal proceedings against a Gypsy who had refused to remove a caravan from a piece of land which he owned and on which he had been living with his family, the Court assessed the application from the angle of the right to respect for private and family life and the home. It noted that the impugned measure had pursued one of the legitimate aims listed in Article 8: the protection of the "rights of others" through preservation of the environment. It then emphasised that States enjoyed a wide margin of appreciation in balancing the interests of the population in general, particularly in the sphere of environmental protection, and the

interests of a minority with possibly conflicting requirements, and declared the complaint manifestly ill-founded.

Conversely, the Court found a violation in *Winterstein and Others v. France*, 2013, § 146 and §§ 147-167, concerning Travellers who had been evicted from land on which they had been settled for a long time on the grounds that it formed part of a "natural area qualifying for protection on account of the quality of its landscape and its various characteristics". The Court considered that that measure had had a legitimate aim under Article 8 § 2: the protection of the "rights of others" through preservation of the environment. However, it ruled that the trial court had not conducted a proper examination of the proportionality of the interference, stressing that the loss of housing was a very serious infringement of the right to respect for the home. Furthermore, the Court found that the domestic court had had insufficient regard to the needs of some of the applicants, emphasising that they had belonged to a vulnerable minority.

See also the case of *Halabi v. France*, 2019, § 60, in which the Court held that the entry by planning officials into residential premises in order to inspect compliance of works with the building permit and prior declaration of work had been based, in particular, on environmental protection and prevention of nuisance, and had the legitimate aims of preventing crime and protecting the rights and freedoms of others. It found a violation of the right to respect for the home, held that the interference had been disproportionate to those aims, in the absence of the occupier's consent or judicial authorisation, and, especially, of an effective remedy.

In *Kaminskas v. Lithuania*, 2020, §§ 48-66, concerning an order to demolish a house which had been built unlawfully on forest land, the Court pointed out that environmental conservation was an increasingly important consideration in today's society, and held that the demolition measure had been aimed at the protection of the rights and freedoms of other, being intended to protect forest land, in addition to preventing disorder and promoting the economic well-being of the country. Noting that the house had been built unlawfully, the Court said that it would be slow to grant protection to those who, in conscious defiance of the prohibitions of the law, established a home on an environmentally protected site, as that would mean encouraging illegal action to the detriment of the protection of the *environmental rights of other people in the community*.

The Court followed the same approach in *Ayala Flores v. Italy*, 2025, §§ 94-95, 99 and 121, concerning a demolition order imposed on a house that had been unlawfully constructed on an environmentally protected site and in an area at risk of seismic activity. It stated that it would be all the more reluctant to grant protection to those who, in conscious defiance of the prohibitions of the law, established a home on an environmentally protected site, especially where it was located in an area at risk of seismic activity, in view of the State's preventive obligation to adopt the appropriate measures to minimise the effects of seismic events.

Article 9 (Freedom of thought, conscience and religion)

Article 9 of the Convention

> "1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
>
> 2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

177. The Court would not appear to date to have expressly held that environmental beliefs come within the scope of Article 9 (nonetheless, it is clear, in particular from the judgments in *A.S.P.A.S. and Lasgrezas v. France*, 2011, § 55, and *Chabauty v. France* [GC], 2012, §§ 41-47, that opposition to hunting on ethical grounds is liable to constitute a belief protected by the Convention).

178. In the case of *Executief van de Moslims van België and Others v. Belgium*, 2024, §§ 92-101, concerning the prohibition on animal slaughter without prior stunning in the Flemish and Walloon Regions, the Court held that the protection of animal wellbeing could be considered an aspect of "public morals", which was a legitimate aim within the meaning of paragraph 2 of Article 9. It pointed out, in particular, that the Convention could not be interpreted as could not be interpreted as promoting the absolute upholding of the rights and freedoms it enshrined without regard to animal suffering, on the grounds that, in its Article 1, it recognised rights and freedoms solely in respect of persons. It also stated that it saw see any reason to contradict the Court of Justice of the European Union and the Belgian Constitutional Court, which had both found that the protection of animal welfare was an ethical value to which contemporary democratic societies attached growing importance, and that this consideration should be taken into account when examining restrictions on the freedom to manifest one's religion outwardly.

Article 10 (freedom of expression)

Article 10 of the Convention

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

I. Environmentalist demonstrations and campaigns

179. Participation in environmentalist demonstrations constitutes the expression of an opinion for the purposes of Article 10, even where those demonstrations have the effect of physically preventing the activities objected to. Examples: protesting against a grouse shoot or a motorway extension (*Steel and Others v. United Kingdom*, 1998, § 92), against fox-hunting (*Hashman and Harrup v. United Kingdom* [GC], 1999, § 28), against an urban development project (*Peradze and Others v. Georgia*, 2022, § 41), or to draw public attention to the environmental effects of oil drilling and exploitation (*Bryan and Others v. Russia*, 2023, § 85) or coal burning, and to the need for a transition to renewable energy (*Friedrich and Others v. Poland*, 2024, § 248).

180. An environmentalist campaign also constitutes the expression of an opinion for the purposes of Article 10. Example: a campaign conducted by the Greenpeace NGO against whaling (*Drieman and Others v. Norway* (dec.), 2000).

181. In the case of *Ludes and Others v. France*, 2025, §§ 88-89, the Court held that the removal from town halls of the official portrait of the President of the Republic in order to denounce and draw attention to the State's alleged inaction in the fact of climate change had been part of a political and activist protest, covered by freedom of expression. It considered that the applicants had deliberately committed an ordinary criminal offence (they were convicted of theft committed as a joint enterprise) in order to express their opinions and beliefs on this matter, and noted that these actions had been carried out without violence, openly, in the presence of journalists, and publicised through the dissemination of leaflets, and the publication of press releases and messages on social media.

II. Expression of opinions on environmental subjects: a high level of protection

182. Subjects relating to the protection of nature and the environment, health and respect for animals are *issues of general concern* which, in principle, enjoy a high level of protection under the right to freedom of expression.

examples:

- the protection of the environment and public health by the French authorities in the aftermath of the Chernobyl disaster (*Mamère v. France*, 2006, § 20);
- treatment of animals (*VgT Verein gegen Tierfabriken v. Switzerland*, 2001, §§ 70-71; in this case, which concerned a refusal to broadcast a TV "commercial" on industrial animal production made by an animal protection association, the Court pointed out that the extent of the State's margin of appreciation should be reduced because since what was at stake was not a given individual's purely "commercial" interests, but his participation in a debate affecting the general interest; see also *Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland (n° 2)* [GC], 2009, § 92, and *Verein gegen Tierfabriken v. Switzerland* (dec.), 2011; *PETA Deutschland v. Germany*, 2012, § 47; *Animal Defenders International v. United Kingdom* [GC], 2013, § 102; *Tierbefreier e.V. v. Germany*, 2014, §§ 51-52; *Guseva v. Bulgaria*, 2015, §§ 41 and 55) ;
- abusive and immoral farming and employment practices, deforestation and the sale of unhealthy food (*Steel and Morris v. United Kingdom*, 2005, § 88);
- seal hunting in northern Norway (*Bladet Tromsø and Stensaas v. Norway* [GC], 1999, §§ 63-64);
- environmental impact of a nuclear power station (*Sdružení Jihočeské Matky v. Czech Republic* (dec.), 2006;
- planned construction of a new road (*Almeida Azevedo v. Portugal*, 2007, § 28), and an urban development project (*Peradze and Others v. Georgia*, 2022, §§ 41 and 45);
- protection of the environment and public health and the Turkish authorities' management thereof in the context of the catastrophic earthquake of 17 August 1999 (*Artun and Güvener v. Turkey*, 2007, § 29);
- water quality (*Desjardin v. France*, 2007, § 46; *Šabanović v. Montenegro and Serbia*, 2011, § 44; *Tănăsoaica v. Romania*, 2012, §§ 43 and 48);
- exposure to pollution and other disturbances (*Sapundzhiev v. Bulgaria*, 2018, § 40 and 45);
- preservation of a heritage building (*Margulev v. Russia*, 2019, §§ 37 and 47);
- protection of the agricultural and forestry use of land against the proliferation of second homes (*Österreichische Vereinigung zur Erhaltung, Stärkung und Schaffung v. Austria*, 2013, §§ 35-36);

- submersion of an ancient site as a result of the construction of a dam (*Cangı v. Turkey*, 2019, § 34);
- construction of hydro-electric power stations (*Kılıçdaroğlu v. Turkey*, 2020, § 49);
- environmental and health risks of a project involving the transit, handling and storage in deep geological repositories of large quantities of high-level and long-life radioactive waste presenting a high risk to public health and the environment (*Association Burestop 55 and Others v. France*, 2021, § 87);
- a plan to mine gold and silver deposits (*Bumbeș v. Romania*, 2022, § 92);
- climate change and a State's alleged inaction in this area (*Ludes and Others v. France*, 2025, §§ 88-89, 97-98 and 100-101).

183. Comments made in the framework of a commitment to ecological issues also have a high level of protection, since they constitute an expression of political or activist views. examples: statements by an elected representative committed to ecological issues (*Mamère v. France*, 2006, § 20) or comments made during an election campaign by a "Green" local elections candidate (*Desjardin v. France*, 2007, § 46).

184. That high level of protection means that the States Parties' margin of appreciation in assessing the necessity of an interference in a person's freedom of expression is "particularly narrow" (*Mamère v. France*, 2006, § 20) or "narrower" (*Artun and Güvener v. Turkey*, 2007, § 29; see also *Animal Defenders International v. United Kingdom* [GC], 2013, § 102).

185. The high level of protection does not apply where the methods and means of environmentalist expression amount to coercion; in such cases the States Parties have a broad margin of appreciation (see *Drieman and Others v. Norway* (dec.), 2000, concerning obstruction at sea by Greenpeace activists in the framework of an anti-whaling campaign). Such protection may nonetheless attach to non-violent obstructive environmentalist actions, as illustrated by *Bumbeș v. Romania*, 2022, §§ 92-102. In that case, to protest the government's approval of a mining project, the applicant and another person had handcuffed themselves to a barrier leading to the car park of the seat of the Romanian government, while other protestors held up signs. The applicant had subsequently been fined for "forming a group of three or more people in order to commit unlawful acts contrary to the public order and peace and to the norms of social coexistence". The Court found a violation of Article 10 read in the light of Article 11; it considered in particular that the domestic courts had given preponderant weight to the formal unlawfulness of the event and had not assessed the level of disturbance caused by the applicant's actions.

186. In the case of *Ludes and Others v. France*, 2025, §§ 100-101, the Court held that the removal of the French President's official portrait from town halls in order to denounce and draw attention to the State's alleged inaction in the face of climate change was, on the one hand, part of a non-violent political and activist protest, and, on the other, had been based on the commission of a criminal offence. It considered that the applicants' freedom of expression had to be granted an "adequate level of protection", with a correspondingly narrow margin of appreciation afforded to the national authorities. However, it held that the applicants' conviction for theft had not entailed a violation of Article 10, in view of the review carried out by the domestic courts and the particularly lenient sanctions imposed (suspended fines of EUR 200 to EUR 500).

187. In the case of *Bryan and Others v. Russia*, 2023, §§ 96-97, the Court held that the arrest and detention of activists from the NGO Greenpeace, following an attempt to board an oil platform with a view to drawing public attention to the environmental effects of oil drilling and exploitation, constituted interference with their freedom of expression. It then considered, in view of its finding that the arrest and detention had been unlawful within the meaning of Article 5 § 1, that the interference in the applicants' freedom of expression had not been "prescribed by law" within the meaning of Article 10. On that basis, it concluded that there had been a violation of Article 10,

observing that, in consequence, it was not called upon to examine whether the interference in question had had a legitimate aim and been necessary in a democratic society within the meaning of Article 10. The Court reached the same conclusion in *Friedrich and Others v. Poland*, 2024, § 255, which concerned the arrest and detention of Greenpeace activists while they were taking part in an operation to block a cargo vessel carrying coal in order to draw public attention to the environmental effects of coal burning and the need to move towards renewable energy.

III. Recognition of the special role of environmental conservation associations in disseminating information on the actions of the public authorities

188. In taking part in general-interest debates NGOs are exercising a public watchdog role of similar importance to that of the press; in order to carry out this task, they must be able to disclose facts which could be of interest to the general public, to provide them with an assessment and thereby contribute to the openness of the public authorities' activities. They therefore enjoy a high level of protection in terms of exercising their freedom of expression. That applies to environmentalist NGOs too (*Vides Aizsardzības Klubs v. Latvia*, 2004, § 42; see also *Animal Defenders International v. United Kingdom* [GC], 2013, § 103; *Cangı v. Turkey*, 2019, § 35; *Margulev v. Russia*, 2019, § 47). It also applies to small non-official activist groups (*Steel and Morris v. United Kingdom*, 2005, § 89).

IV. Access to information on environmental issues

A. Qualified, conditional recognition of a right of access to information held by the State

189. In the case of *Guerra and Others v. Italy*, 1998, §§ 53-60, lodged by persons living near an industrial plant which represented a risk to public health and the environment, the applicants and the Commission had considered that since the provision of information to the public was now one of the essential means of protecting the well-being and health of the local population in situations in which the environment was at risk, the freedom to receive information guaranteed in Article 10 should be interpreted as conferring an actual right to receive information on members of local populations who had been or might be affected by an activity representing a threat to the environment. According to the applicants and the Commission, Article 10 imposed on States not just a duty to make available information to the public on environmental matters, but also a positive obligation to collect, process and disseminate such information, which by its nature could not otherwise come to the knowledge of the public; they had considered that the protection afforded by Article 10 therefore had a preventive function with respect to potential violations of the Convention in the event of serious damage to the environment, and that Article 10 came into play even before any direct infringement of other fundamental rights, such as the right to life or to respect for private and family life, had occurred.

The Court rejected that argument. Observing that the freedom to receive information "basically prohibits a Government from restricting a person from receiving information that others wish or may be willing to impart to him", it ruled that that freedom could not be construed as imposing on a Contracting Party to the Convention positive obligations to collect and disseminate information of their own motion. It deduced that Article 10 did not apply. Nevertheless, it considered the issue under Article 8 (see above).

190. The Court subsequently pointed out that while Article 10 neither afforded the individual a right of access to information held by a public authority nor required the State to communicate such

information to him, such a right or obligation could arise: 1. where disclosure of the information has been imposed by a judicial order which has gained legal force; 2. where access to the information is instrumental for the individual's exercise of his or her right to freedom of expression, in particular "the freedom to receive and impart information" and where its denial constitutes an interference with that right (*Magyar Helsinki Bizottság v. Hungary* [GC], 2016, § 156).

In the second of these two situations, the question whether and to what extent the refusal of information amounted to an interference must be assessed on a case-by-case basis in the light of the specific circumstances of the case. The relevant criteria for defining further the scope of this right are: 1. the aim of the request for information; 2. the nature of the information sought; 3. the applicant's role; 4. the availability of the information requested (*ibid*., §§ 157-170). In the case of *Association Burestop 55 and Others v. France*, 2021, § 85, the Court emphasised that that approach should also be adopted where the alleged interference had been the result not of a refusal to provide access to information but of the alleged dishonesty, inaccuracy or inadequacy of information supplied by a public body pursuant to a requirement to provide information prescribed by domestic law. The Court held that provision of dishonest, inaccurate or inadequate information in such cases was akin to a refusal to provide information.

191. In *Association Burestop 55 and Others v. France*, 2021, §§ 79 and 107, the Court summarised the applicable principle as follows: while Article 10 of the Convention does not afford a general right of access to information held by the authorities, it may, to some extent and under certain conditions, guarantee such a right and an obligation on the authorities to impart information.

192. As shown by the cases of *Cangı v. Turkey*, 2019, §§ 30-37, and *Association Burestop 55 and Others v. France*, 2021, §§ 78-90 and 107-117, that applies in particular to access to environmental information.

In the case of *Cangı v. Turkey*, concerning a plan for a dam which would have led to the submersion of the ancient site of Allianoi, the applicant's request for a signed copy of the record of a meeting of the Cultural and Natural Heritage Board had been rejected. The Court noted that the information in question had concerned a public-interest subject, "the flooding of an historic site by a dam obviously being a matter which is capable of giving rise to considerable controversy, which concerns an important social issue, or which involves a problem that the public would have an interest in being informed about". It also noted that the applicant had been a member and a representative of an NGO, and that his action to protect the ancient site of Allianoi and to disseminate information on the current procedures concerning the site meant that he had been acting as a "public watchdog". The Court added that the applicant's request had been based not only on his wish to present the document in question as evidence of the deficiencies in the decision-making process concerning the dam, but also and above all on his desire to inform the public, and show that the document was available, ruling that by dismissing the applicant's request the domestic authorities had impeded the exercise of his freedom to receive and impart information in a manner striking at the very substance of the rights secured under Article 10. Further noting that that interference was not prescribed by law, the Court found a violation of that provision.

In *Association Burestop 55 and Others v. France*, 2021, environmental conservation associations opposing a projected industrial site for the storage in deep geological repositories of high-level and long-life radioactive waste (the "Cigéo" site) had complained that the national agency for the management of radioactive waste had supplied inaccurate information on the environmental and health risks of the project. The Court considered that the above-mentioned four criteria had been fulfilled and that Article 10 therefore applied. In concluding that the impugned information had been genuinely necessary for the exercise of freedom of expression, it noted that part of the statutory aim of the applicant associations had been to inform the public about the environmental and health risks of this project, such that the impugned information, precisely concerning those risks, had been inherent in the exercise of their freedom to impart information. As regards the nature of the

information, the Court noted that it was directly relevant to the debate on the risks raised by any plan to handle and bury large quantities of high-level and long-life radioactive waste, which was extremely dangerous for health and the environment, stressing that this kind of subject was indubitably a matter of public interest. In connection with the third criterion, the Court attached particular importance to the "watchdog" role played by non-governmental organisations not only in drawing public attention to matters of public interest, but also in encouraging the authorities to provide public information on such matters. As regards the fourth criterion regarding the availability of the impugned information, the Court noted that it had been fulfilled by definition in the instant case. It went on to consider the case in the light of access to a remedy facilitating a review of the content and quality of the information supplied (see below).

193. It would also be useful to mention the case of *Sdružení Jihočeské Matky v. Czech Republic* (dec.), 2006 – bearing in mind that the Court's decision in this case predated *Magyar Helsinki Bizottság* – where an environmental conservation association had complained that the authorities had denied him access to some of the documentation on the Temelin nuclear power station. The Court accepted that there had been an interference with his right to receive information. However, it considered that Article 10 could not be construed as guaranteeing an absolute right to access all the technical details concerning the construction of a nuclear power station, "a highly complex installation requiring a very high level of security", because, unlike information on the environmental impact of such an installation, such data was not a public-interest matter. It went on to note that the denial of information had been based on the need to prevent a violation of commercial confidentiality and contractual obligations relied upon by the constructor, which came under the protection of the rights of others, public safety and health within the meaning of Article 10 § 2. Having regard to the State's margin of appreciation, it concluded that the interference with the applicant's freedom to receive information could not be said to have been disproportionate to the legitimate aims pursued.

B. Access to a remedy facilitating review of the content and quality of the information provided

194. The Court has pointed out that the right of access to information (where it arises) would be devoid of substance if the information provided by the competent authorities were dishonest, inaccurate or even inadequate. Indeed, respect for the right of access to information requires the information provided to be reliable, particularly where that right stems from a legal obligation on the State. The effectiveness of that right therefore requires that in the event of a related dispute the persons concerned should have a remedy facilitating a review of the content and quality of the information provided, in the framework of adversarial proceedings (*Association Burestop 55 and Others v. France*, 2021, § 108).

195. In *Association Burestop 55 and Others v. France*, 2021, § 109, the Court pointed out that access to such review took on particular importance where the information in question concerned a project presenting a major environmental risk. That was especially so in the case of a nuclear hazard, because if such a risk materialised it was liable to have an impact over several generations.

In this case, noting that the applicant associations had been able to lodge with the domestic courts an appeal fulfilling the requirements of Article 10, the Court found no violation of that provision, while noting that the reasoning of the appellate court's judgment had not been beyond criticism.

V. Grounds relating to environmental protection can amount to a legitimate aim justifying interferences in the exercise of freedom of expression

196. In the case of *Ehrmann and SCI VHI v. France* (dec.), 2011, an artist had been convicted for transforming a building in the framework of an artistic project, contravening planning regulations and performing work, without authorisation, affecting the appearance of the outer walls of buildings included on the secondary list of historical buildings. The Court accepted that the aim of that interference had been the "prevention of disorder" and therefore also the "protection of the rights of others". It stated in that connection that the interference had had the aim of ensuring, by inspecting construction and other work in the vicinity, the quality of the environs of protected national heritage structures, which in this case had been "a legitimate aim for the purposes of protecting a country's cultural heritage, also having regard to the margin of appreciation afforded to the national authorities in determining what is in the general interest of the community". The Court referred in particular to the Council of Europe's Framework Convention on the Value of Cultural Heritage for Society, adopted on 27 October 2005, which stated in particular that the aim of conserving cultural heritage and its sustainable use was human development.

197. In *Tőkés v. Romania*, 2021, §§ 81 and 96, an MEP had been the subject of a minor-offence sanction, in the form of a warning, for displaying minority flags for advertising purposes on the building housing his office, without first obtaining temporary permission to advertise as prescribed by the Law on the placement and authorisation of advertising materials. The Court noted that the aim of the Law had been to ensure that the built environment was coherent, harmonious, safe and healthy, in order to protect natural and man-made assets, preserve the quality of the landscape and conform to the required standards in terms of building quality. It consequently accepted that the interference in the applicant's freedom of expression had pursued one of the legitimate aims listed in Article 10 § 2, namely the protection of the rights of others.

Article 11 (freedom of assembly and association)

Article 11 of the Convention

"1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

I. Environmentalist demonstrations

198. The jurisprudential principles relating to the right to freedom of peaceful assembly apply in a fairly standard manner to environmentalist demonstrations (see, for instance, the cases of *Makhmudov v. Russia*, 2007 (arbitrary ban on a demonstration which an environmental conservation association had wished to organise to protest against planned new constructions), *Kotov and Others v. Russia*, 2022 (arrest of persons protesting against a landfill site, imposition of administrative fines and refusal to approve notice of public events), and *Peradze and Others v. Georgia*, 2022 (arrest of persons demonstrating against an urban development project and imposition of administrative fines)).

199. Nevertheless, it would be worth mentioning a number of cases concerning obstructive environmentalist demonstrations or actions.

Drieman and Others v. Norway (dec.), 2000. This case concerned the arrest and fining of members of Greenpeace for having manoeuvred their dinghy between a whaling ship and a whale in the framework of an anti-whaling campaign. The Court gave no ruling on whether actions of that nature fell within the ambit of Article 11 of the Convention. However, having noted that the applicants' mode of action had corresponded to a form of coercion, forcing the whaling ship to abandon its lawful activity, it observed that the measures taken against the applicants had concerned a type of conduct which could not enjoy the same privileged protection under the Convention as political speech or debate on questions of public interest or the peaceful manifestation of opinions on such matters. Concluding, on the contrary, that States enjoyed a broad margin of appreciation as regards the assessment of the need for action to constrain conduct of this kind, it declared the complaint under Article 11 manifestly ill-founded.

Chernega and Others v. Ukraine, 2019. The case concerned measures taken against individuals who had been protesting in an obstructive manner against a road construction project, and in particular tree-felling, in an urban park. The applicants had submitted that their arrest and subsequent conviction for disobeying a police order to leave the worksite, and in the case of one of them, for resisting his removal by the police, as well as, in one case, the use of physical violence by private security guards at the site, had amounted to a violation of the right to demonstrate peacefully. Assessing the arrests and convictions from the angle of the State's negative obligations, the Court found a violation of Article 11 in respect of the applicants who had been sentenced to nine days' imprisonment for disobedience, on the grounds that the domestic courts had given insufficient reasons for their decision to impose such heavy penalties, given that special justification is required for imposing criminal penalties on demonstrators. Conversely, the Court found no violation in respect of the applicants who had not been sentenced to imprisonment on that count, noting that they had

acted in a deliberately obstructive manner despite the danger of the situation. It also found no violation in respect of an applicant who had been sentenced to ten days' imprisonment for resisting arrest, pointing out that a prison sentence for obstructive protest actions was not *per se* incompatible with Article 11. The Court further considered the issue of the use of violence by security guards from the angle of the State's positive obligations, reiterating that the authorities were required to take the necessary steps to guarantee the proper conduct of any lawful demonstration and ensure citizens' safety, and emphasising that that also applied to a gathering which, whether or not it was allowed under domestic law, was protected by Article 11 and had been adequately notified to the authorities, albeit informally. The Court ruled that having failed (i) to regulate adequately the use of force by the security guards, (ii) to organise properly the apportionment of responsibilities in terms of preventing disorder between the private security personnel and the police, which would have facilitated the identification of the security guards involved, (iii) to ensure implementation of the rules on the proper identification of persons empowered to use force, and (iv) to explain the police decision not to act to prevent or effectively control the confrontations, the respondent State had failed in its obligation to guarantee the peacefulness of the demonstrations.

II. Freedom of association and the environment

200. The case-law on the right to freedom of association applies in a fairly standard manner to environmentalist associations (see *Tebieti Mühafize Cemiyyeti and Israfilov v. Azerbaijan*, 2009, *Costel Popa v. Romania*, 2016, and *Ecodefence and Others v. Russia*, 2022, concerning, respectively, the dissolution of an environmental conservation association, a refusal to register an association involved in promoting sustainable development, and the application of the Russian Foreign Agents Act 2012 to, among others, the applicant NGOs and their directors; see also *Bogay and Others v. Ukraine*, 2025, concerning the arrest and detention of activists during a demonstration to protest against the use of animals in circus acts (Article 11 read in the light of Article 10).

201. Nevertheless, it would be worth mentioning a number of cases concerning the so-called "negative freedom of association", in which the Court considered the issue of the compulsory membership of anti-hunting landowners of private-law hunting associations in the framework of the organisation of hunting and shooting by means of pooling hunting grounds.

In *Chassagnou and Others v. France* [GC], 1999, §§ 103-117, the Government argued that the impugned interference in the applicants' right of freedom of association had had the legitimate aim of "the protection of the rights and freedoms of others" within the meaning of Article 11 § 2, since it had been intended to guarantee the democratic conduct of hunting activities. The Court pointed out that where "rights and freedoms" relied on in this respect were themselves among those guaranteed by the Convention or its Protocols, it had to be accepted that the need to protect them could lead States to restrict other rights or freedoms likewise set forth in the Convention. States therefore had a broad margin of appreciation in balancing the competing interest in that sphere. It was a different matter where restrictions were imposed on a right or freedom guaranteed by the Convention in order to protect "rights and freedoms" which were not, as such, enunciated therein, such as the right or freedom of hunting (assuming that such a right or freedom was enshrined in domestic law). In such a case only indisputable imperatives could justify interference with enjoyment of a Convention right. Further observing that the applicants had been opposed to hunting on ethical grounds, the Court found that "to compel a person by law to join an association such that it is fundamentally contrary to his own convictions to be a member of it", and to oblige him, on account of his membership of that association, to transfer his rights over the land he owned so that the association in question could attain objectives of which he disapproved, went beyond what was necessary to ensure that a fair balance was struck between conflicting interests, and could not be considered proportionate to the aim pursued (see also *Schneider v. Luxembourg*, 2007, §§ 75-83, and *A.S.P.A.S. and Lasgrezas*

v. France, 2011, §§ 55-57). The Court subsequently confirmed that the fact that the persons concerned were opposed to hunting on ethical grounds was decisive (*Baudinière and Vauzelle v. France* (dec.), 2007).

Article 13 (right to an effective remedy)

Article 13 of the Convention

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity ."

202. The jurisprudential principles relating to the right to an effective remedy apply in a fairly standard manner to cases with an environmentalist background. See the following examples:

- *Athanassoglou and Others v. Switzerland* [GC], 2000, §§ 58-60;
- *VgT Verein gegen Tierfabriken v. Switzerland*, 2001, §§ 82-83;
- *Hatton and Others v. United Kingdom* [GC], 2003, §§ 137-142;
- *Kolyadenko and Others v. Russia*, 2012, §§ 221-232;
- *Di Sarno and Others v. Italy*, 2012, §§ 84-89 and 116-118, and *Cordella and Others v. Italy*, 2019, §§ 121-127 and 175-176;
- *Kotov and Others v. Russia*, 2022, §§ 136 and 86-95;
- *Greenpeace Nordic and Others v. Norway*, 2025, §§ 354-366.

Article 14 (prohibition of discrimination)

Article 14 of the Convention

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

203. The jurisprudential principles relating to the prohibition of discrimination apply in a fairly standard manner to cases with an environmentalist background. See the following examples:

- *Chassagnou and Others v. France* [GC], 1999, §§ 89-95 and 120-121, and *Chabauty v. France* [GC], 2012, §§ 41-57;
- *Chapman v. United Kingdom* [GC], 2001, §§ 129-130;
- *VgT Verein gegen Tierfabriken v. Switzerland*, 2001, §§ 87-89;
- *Wells v. United Kingdom* (dec.), 2007.

Article 1 of Protocol No. 1 (protection of property)

Article 1 of Protocol No. 1 to the Convention

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

I. Restrictions on the right to respect for property on environmental grounds

204. For an interference with the right to property to be compatible with Article 1 of Protocol No. 1, it must comply with the rule of law and pursue a legitimate aim in the general or public interest. There must also be a reasonable relationship of proportionality between the means used and the aim sought to be achieved. In that regard, the Court will verify whether a fair balance has been struck between the requirements of the public interest and the interests of the person concerned. In doing so it will grant the State a broad margin of appreciation both in choosing the methods and means of implementation and in assessing whether their consequences have been legitimated, in the public interest, by the concern to achieve the aim pursued (see Guide on Article 1 of Protocol No. 1).

A. Environmental conservation: a general- or public-interest cause

205. Protection of the environment, nature, forests, the coastline, threatened species, biological resources, the heritage and public health are *public-interest* matters. Therefore, an environmental argument can be used to justify interference with the right to respect for property.

Examples:

- revocation of a permit to exploit a gravel pit (*Fredin v. Sweden (n° 1)*, 1991, § 48);
- revocation of planning permissions (*Pine Valley Developments Ltd and Others v. Irlande*, 1991, § 57);
- length of expropriation proceedings for setting up a nature reserve, leaving the owners uncertain about the future of their properties and limiting their use (*Matos e Silva, Lda., and Others v. Portugal*, 1996, § 88);
- compulsory contribution of land to a hunting association and requirement that a landowner tolerate hunting on his property (*Chassagnou and Others v. France* [GC], 1999, § 79; *Schneider v. Luxembourg*, 2007, § 46; *A.S.P.A.S. and Lasgrezas v. France*, 2011, § 36; *Herrmann v. Germany* [GC], 2012, §§ 83-85);
- redesignation of a property as a nature conservation site, thus removing its "building land" status (*Bahia Nova S.A. v. Spain* (dec.), 2000);
- annulment of decrees authorising development of an area, thus removing its "building land" status (*Kapsalis and Nima-Kapsali v. Greece* (dec.), 2004);
- demolition order targeting a building erected without planning permission (*Saliba v. Malta*, 2005, § 44; *Ivanova and Cherkezov v. Bulgaria*, 2016, § 71);

- listing of private buildings as historical monuments, leading to development restrictions on adjacent buildings and building restrictions on the remainder of the property (*SCEA Ferme de Fresnoy v. France* (dec.), 2005);
- designation of land as a protected area following an amendment to the urban planning scheme, resulting in a ban on building in order to protect buildings of historical or cultural value and to develop a green area in the city (*Galtieri v. Italy* (dec.), 2006);
- designation of a piece of land as a "forest estate", resulting, in particular, in a ban on building (*Ansay and Others v. Turkey* (dec.), 2006);
- imposition of a large fine for building work in breach of planning regulations (*Valico S.r.l. v. Italy* (dec.), 2006);
- refusal to issue an exemption permit for construction on land covered by a nationwide shore protection programme (*Saarenpään Loma ky v. Finland* (dec.), 2006);
- decision removing "building land" status from a plot of land on account of the archaeological importance of the area of which it formed part (*Perinelli and Others v. Italy* (dec.), 2007; *Longobardi and Others v. Italy* (dec.), 2007);
- demolition of a house on the grounds that it had been built without planning permission in in a forested area in which no such permission could be issued (*Hamer v. Belgium*, 2007, § 81);
- revocation of planning permission and demolition order on a summer residence (*Tumeliai v. Lithuania*, 2018, § 75);
- decisions limiting and later prohibiting development on a small island where loggerhead turtles, a threatened species, lay their eggs (*Z.A.N.T.E. – Marathonisi A.E. v. Greece*, 2007, § 50);
- decisions limiting and later prohibiting development on a plot of land located in a full protection area (*Anonymos Touristiki Etairia Xenodocheia Kritis v. Greece*, 2008, § 45);
- rejection of an application for a peat extraction permit (*Pindstrup Mosebrug A/S v. Denmark* (dec.), 2008);
- revocation of a title deed and re-registration thereof in the name of the Public Treasury without compensation, on the grounds that the land in question formed part of the public forest estate (*Turgut and Others v. Turkey*, 2008, § 90; *Cin and Others v. Turkey*, 2009, § 29; *Temel Conta Sanayi Ve Ticaret A.Ş. v. Turkey*, 2009, § 42; *Kök and Others v. Turkey*, 2009, § 22; *Keçeli and Başpınar v. Turkey*, 2010, § 40);
- designation of land as "public forest estate", preventing the owner from cultivating and harvesting it or entering into any transaction in respect of the land (*Köktepe v. Turkey*, 2008, § 87);
- designation of a plot of land as being in the "coastal area", bringing it "under the control and at the disposal of the State", and thus depriving the owner of the possibility of using, enjoying or disposing of it normally (*Hastaoğlu v. Türkiye*, 2025, § 91);
- ban on fox hunting (*Friend and Others v. United Kingdom* (dec.), 2009, §§ 56-57);
- rejection of an application for a building permit owing to the designation of farmland as a nature conservation site (*Tarim v. Turkey* (dec.), 2010);
- refusal, following the enactment of the Law of 3 January 1986 on the development, protection and promotion of coastal areas, to permit the applicant to continue to occupy maritime public property where he had had his home for several decades, and a consequent demolition order (*Depalle v. France* [GC], 2010, § 81);
- decision to reforest a piece of land, thus removing its "building land" status (*Lazaridi v. Greece*, 2006, § 34);

- preventive culling of sheep in response to an outbreak of foot-and-mouth disease (*Chagnon and Fournier v. France*, 2010, § 50) and culling of cattle to prevent the spread of bovine brucellosis (*S.A. Bio d'Ardennes v. Belgium*, 2019, §§ 50 and 57, 12 November 2019);
- denial of applications for planning permission on Porquerolles Island (*Consorts Richet and Le Ber v. France*, 2010, § 116);
- revocation of a title deed in respect of land subject to maritime public property (*Silahyürekli v. Turkey*, 2013, § 47);
- revocation a title deed in respect of sections of the Venice Lagoon used for fish farming (*Valle Pierimpiè Società Agricola S.P.A. v. Italy*, 2014, § 67);
- ban on building in the environs of a national park (*Matczyński v. Poland*, 2015, §§ 101-102);
- a preventive measure to protect the cultural heritage concerning a commercial building, which had restricted the use of the latter (*Petar Matas v. Croatia*, 2016, § 35);
- rejection of claims in compensation for a development-plan easement removing the "building land" status of various plots of land (*Malfatto and Mieille v. France*, 2016, § 63);
- imposition of a fine and confiscation of a large sum of money for operating a scrap metal firm without authorisation (*S.C. Fiercolect Impex S.R.L. v. Romania*, 2016, § 60);
- restrictions on development of property listed as a UNESCO World Heritage site *(Kristiana Ltd. v. Lithuania*, 2018, § 104-105);
- fishing restrictions imposed to safeguard fish stocks (*Posti and Rahko v. Finland*, 2002, §§ 77) and a temporary prohibition on mussel seed fishing (*O'Sullivan McCarthy Mussel Development Ltd v. Ireland*, 2018, § 109);
- confiscation of a vessel used for illegal fishing (*Yaşar v. Romania*, 2019, § 59);
- confiscation of land and buildings constituting unlawful site development (an offence under domestic law) (*Petruzzo and Others v. Italy*, 2025, § 159);
- ban on commercial exploitation of forests, with a view to preserving them (*Sakskoburggotski and Chrobok v. Bulgaria*, 2021, § 260; violation of Article 1 of Protocol No. 1).

206. Protection of public health and the environment is also a general-interest matter within the meaning of the second sentence of Article 1 of Protocol No. 1.

Examples:

- demolition of a house built on the basis of a permit which had become invalid on account of the fact that it was located in a groundwater protection area, which is not building land (*Yıldırır v. Turkey*, 2009, § 43);
- revocation of a title deed over a plot of land which was located on a site nominated for inclusion on the UNESCO World Heritage list and which had been sold in breach of the laws on the protection of cultural heritage, protected territories and territorial planning (*Bogdel v. Lithuania*, 2013, §§ 60-61);
- annulment of property rights over property erroneously returned after the collapse of the communist regime on the grounds that the land in question was covered by forests of national importance, which could only belong to the State (*Beinarovič and Others v. Lithuania*, 2018, §§ 135-137);
- revocation of title deeds over plots of land which constituted "forestry resources" and therefore could not be privatised (*Gavrilova and Others v. Russia*, 2021, § 73).
- restricted access to and use of a plot of land on account of its incorporation into a water protection zone in order to ensure access to clean drinking water for others (*Bērziņš and Others v. Latvia*, 2021, § 87).

207. The same is true as concerns the prevention of natural hazards and the relief provided to those affected by them (*Aktürk and Others v. Türkiye*, 2023, §§ 70-73 and 76).

208. The Court has very strongly emphasised the legitimacy of environmental protection considerations in the context of Article 1 of Protocol No. 1. Thus in *Hamer v. Belgium*, 2007, § 79, concerning the demolition of a house which had been built without a permit in forestry land where building was prohibited, the Court observed that while no provision of the Convention specifically provided for general environmental protection as such, in today's society the protection of the environment was an increasingly important consideration and the environment had become a cause whose defence aroused the constant and sustained interest of the public, and consequently of the public authorities. It added that financial imperatives and even certain fundamental rights, such as ownership, should not be afforded priority over environmental protection considerations, in particular when the State had legislated in this regard. It has subsequently reaffirmed this stance, particularly in the case of *Turgut and Others v. Turkey*, 2008, § 90 (see also *Köktepe v. Turkey*, 2008, § 87, *Temel Conta Sanayi Ve Ticaret A.Ş. v. Turkey*, 2009, § 42, and *Bil İnşaat Taahhüt Ticaret Limited Şirketi v. Turkey*, 2013, § 29, concerning the revocation of a title deed and its re-registration in the name of the Public Treasury without compensation, on the grounds that the land in question formed part of the public forest estate; see also, in a different context, *S.C. Fiercolect Impex S.R.L. v. Romania*, 2016, § 65). The Court specified that that public-interest finding applied in particular to the protection of nature and forests (*Nane and Others v. Turkey*, 2009, § 24). It added that the public authorities assumed a responsibility which should in practice result in their intervention at the appropriate time to ensure that the statutory provisions enacted with the purpose of protecting the environment were not entirely ineffective (*Hamer v. Belgium*, 2007, § 79; *S.C. Fiercolect Impex S.R.L. v. Romania*, 2016, § 65). In *Tarim v. Turkey* (dec.), 2010, concerning the rejection of a request for permission to build a tourist restaurant on farmland designated as a nature conservation site, the Court described environmental conservation as "extremely important". In the case of *Hastaoğlu v. Türkiye*, 2025, § 91, concerning the designation of land as a "coastal area" and placing it "under the control and at the disposal of the State", thus depriving the owner of the possibility of using, enjoying and disposing of it normally, the Court emphasised that making the coastline public property with a view to protecting it and enabling everyone to benefit from it on a free and equal basis was a "particularly important general interest aim".

B. Broader margin of appreciation

209. In taking, for general-interest purposes, action amounting to an interference in the right to property, States enjoy a broad margin of appreciation with regard both to choosing the means of enforcement in achieving the aim in question and to appraising the proportionality of those means to the aim. The Court has emphasised that that is particularly the case where the general interest pursued concerns environmental protection (*Hamer v. Belgium*, 2007, § 78; *Depalle v. France* [GC], 2010, §§ 84 and 87; *Matczyński v. Poland*, 2015, §§ 105-106; *S.C. Fiercolect Impex S.R.L. v. Romania*, 2016, § 67; *Tumeliai v. Lithuania*, 2018, § 72).

Similarly the Court has pointed out that the marge of appreciation is broader where the alleged interference in the right to respect for property relates to spatial planning and environmental protection policies (*Depalle v. France* [GC], 2010, §§ 84 and 87; *Malfatto and Mieille v. France*, 2016, § 64; *Barcza and Others v. Hungary*, 2016, § 46; *O'Sullivan McCarthy Mussel Development Ltd v. Irlande*, 2018, § 124); (*Bērziņš and Others v. Latvia*, 2021, § 90).

210. Thus, in a case concerning regulations on the use of property within the meaning of the second paragraph of Article 1 of Protocol No. 1, the Court stated that in fields such as the environment it will respect the legislature's judgment as to what is in the general interest unless that judgment is manifestly without reasonable foundation, with regard both to choosing the means of enforcement and to ascertaining whether the consequences of enforcement are justified in the general interest for

the purpose of achieving the aim of the law in question (*Płachta and Others v. Poland* (dec.), 2014, § 101).

B. Supervision by the Court

211. Apart from the broader margin of appreciation mentioned above, the case-law principles relating to the right to respect for property apply in a fairly standard manner to measures restricting that right which are aimed at environmental conservation (see Guide on Article 1 of Protocol No. 1).

212. Whether the interference is imputable to the respondent State or to a failure by the State to act, the Court examines whether its conduct was justifiable in view of the principles of lawfulness, the legitimate aim pursued and, if necessary, proportionality (*Associations of Communally-owned Forestry Proprietors Porceni Plesa and Piciorul Batran Banciu v. Romania*, 2023, § 73).

213. In the case of *Associations of Communally-owned Forestry Proprietors Porceni Plesa and Piciorul Batran Banciu v. Romania*, 2023, associations of forestry proprietors who, because their forests had been included in the European "Natura 2000" nature protection network could no longer make use of them but were still required to maintain them, complained that they had not been paid the compensation provided for by law, since the State had not adopted the implementing legislation. The Court concluded that there had been a violation of Article 1 of Protocol No. 1, on the grounds that the principle of lawfulness had not been complied with and that this omission did not appear to pursue a legitimate aim.

214. In assessing proportionality, the Court will verify in particular whether, having regard to the State's margin of appreciation, the applicant had to bear an individual and excessive burden such that the fair balance which should have been struck between the protection of the right to property and the requirements of the general interest had been upset (*Hamer v. Belgium*, 2007, § 78; *Turgut and Others v. Turkey*, 2008, § 91; *Köktepe v. Turkey*, 2008, §§ 91-92; *Consorts Richet and Le Ber v. France*, 2010, §§ 115 and 124; *Gavrilova and Others v. Russia*, 2021, §§ 74 and 87; *Sakskoburggotski and Chrobok v. Bulgaria*, 2021, §§ 261-268; *Bērziņš and Others v. Latvia*, 2021, § 90; *Hastaoğlu v. Türkiye*, 2025, §§ 75 and 97). Thus, for example, a deprivation of property without payment of an amount reasonably related to its value will normally constitute a disproportionate interference, and a total lack of compensation can be considered justifiable under Article 1 of Protocol No. 1 only in exceptional circumstances; that applies whether the expropriation was aimed at protecting the environment or had a different purpose (*Turgut and Others v. Turkey*, 2008, §§ 91-92; *Cin and Others v. Turkey*, 2009, § 30; *Temel Conta Sanayi Ve Ticaret A.Ş. v. Turkey*, 2009, § 43; *Kök and Others v. Turkey*, 2009, § 23; *Yıldırır v. Turkey*, 2009, § 44; *Ocak v. Turkey*, 2010, § 52; *Keçeli and Başpınar v. Turkey*, 2010, § 41; *Bölükbaş and Others v. Turkey*, 2010, § 35; *Silahyürekli v. Turkey*, 2013, § 48; *Valle Pierimpiè Società Agricola S.P.A. v. Italy*, 2014, § 71).

215. The judgment in the case of *Z.A.N.T.E. – Marathonisi A.E. v. Greece*, 2007, § 54, is worth mentioning because it shows that where a State adopts measures to restrict the right to property with a view to protecting the environment, the fair balance can be upset if the authorities fail to take other action to ensure such protection (see also the Court's considerations in the case of *G.I.E.M. S.R.L. and Others v. Italy* [GC], §§ 295-299, 2018).

In the case in question, the applicant company, which had purchased a small island with a view to building tourist facilities, had subsequently been impeded by decisions taken by the authorities restricting and then prohibiting the construction work (the plot had ultimately been included in the Zakynthos National Park), for reasons of protecting sites where loggerhead turtles, a threatened species, laid their eggs. Noting that the authorities had tolerated activities on the land in question which were incompatible with the reasons for which the applicant company's property had been subjected to very severe operational restrictions (the small island had been invaded by tourists on a daily basis, its beach had been severely polluted and there had been no toilets), the Court found that

the requisite fair balance had been upset between the public interest and private interests in terms of regulating the use of property. It emphasised the following: "... where the State imposes major restrictions on the exploitation of a private property with a view to guaranteeing effective environmental protection, it must, as a minimum, not tolerate activities liable to undermine the efforts to achieve that aim. Otherwise, the aim of the restriction may lapse and the burden initially imposed on the party concerned will become more intolerable to that party; this is a factor which must be taken into account in assessing the restriction's proportionality to the aim pursued. In the present case it would be unreasonable for the State to require the applicant to comply with severe restrictions on the enjoyment of his property with a view to protecting the loggerhead turtle while the competent authorities fail to take the requisite action *vis-à-vis* activities endangering the achievement of the said aim".

II. Infringement of property rights on account of environmental damage

216. Article 1 of Protocol No. 1 does not, in principle, guarantee the right to the peaceful enjoyment of possessions in a pleasant environment (*Ünver v. Turkey* (dec.), 2000; *Taşkin and Others v. Turkey* (dec.), 2004; *Galev and Others v. Bulgaria* (dec.), 2009; *Ivan Atanasov v. Bulgaria*, 2010, § 83; *Marchiş and Others v. Romania* (dec.), 2011, § 44; *Flamenbaum and Others v. France*, 2012, § 184; *Płachta and Others v. Poland* (dec.), 2014; *Marchiş and Others v. Romania* (dec.), 2011, § 44), in a particular environment (*Cokarić and Others v. Croatia* (dec.) 2006; *Zapletal v. Czech Republic* (dec.), 2010), or in a pleasant, unchanged rural environment (*Moore v. United Kingdom* (dec.), 1999).

217. Nevertheless, industrial accidents, natural disasters and, more broadly, damage to the environment can result in the destruction, deterioration or decrease in value of property. The State may be responsible for the latter under Article 1 of Protocol No. 1, whether the negative effects on the property were the outcome of a failure in the positive obligation to protect property rights or of an interference attributable to the authorities.

A. Direct State responsibility

218. The State may be responsible under Article 1 of Protocol No. 1 where a property is destroyed or damaged or has decreased in value on account of an environmental accident or of environmental damage attributable to a public-law body, institution or enterprise.

The jurisprudential principles relating to the right to respect for property apply in a fairly standard manner to interferences of that kind in the right to protection of property.

1. Destruction of or damage to property - example

219. In *Dimitar Yordanov v. Bulgaria*, 2018, the applicant complained that the operation by a public enterprise of an opencast coalmine, *inter alia* using explosives, had damaged his house, which had been located at a distance of 160-180 metres, forcing him out of his home. The Court noted that in this case there had been an interference by the State in the exercise of his right to protection of property. Considering the case under the first sentence of Article 1 of Protocol No. 1, the Court found a violation of that provision on the grounds that the interference had been unlawful, noting that the coalmine had been operating within the buffer zone provided for in domestic law and that the court of appeal had ruled that detonating explosives in such close proximity to housing was indisputably contrary to domestic law.

2. Loss of value - examples

220. The case of *Ouzounoglou v. Greece*, 2005, §§ 28-32, and *Athanasiou and Others v. Greece*, 2006, §§ 23-26, concerned the construction of infrastructures (roads in the former case and railways in the latter) near the applicants' homes, on expropriated sections of their land. The applicants complained about the refusal to provide compensation under the expropriation procedure for the decrease in value of their remaining properties because of the proximity of the said infrastructure, which had marred their view and allegedly exposed them to noise pollution and vibrations. The Court concluded that the denial of compensation had upset the fair balance between the competing individual rights and public-interest requirements.

The Court assessed a similar situation comparable in the case of *Bistrović v. Croatia*, 2007, §§ 42-45, concerning the partial expropriation of land owned by a farming couple with a view to building a motorway. The Court found a violation of Article 1 of Protocol No. 1 because no account had been taken in the expropriation proceedings of the significantly decreased value of their remaining property. In so finding it had noted, in particular, that when setting the compensation for the expropriation of the applicants' property the domestic authorities had taken no account of the fact that the future motorway would pass two to three metres from their house and that the estate had lost its former pleasant surroundings, a huge courtyard and low noise exposure, all of which had made the property very suitable for agricultural activities. The Court further noted that the domestic courts had relied on an expert report drawn up without the expert ever having visited the site, and had failed to verify the applicants' argument that their house had been erroneously drawn on the map of the plot of land, which had made it impossible for the courts to set an appropriate amount in compensation. It concluded that by failing to establish all the relevant factors for calculating the compensation for the applicants' expropriated property, and by failing to grant indemnity for the decrease in the value of their remaining estate, the national authorities had failed to strike a fair balance between the competing interests involved.

By way of comparison, see *Couturon v. France*, 2015, §§ 38 and 43, concerning lack of compensation for the decrease in value (of between 20% and 40%) of a property on account of the construction of a motorway on an expropriated section of the property. The Court noted that the effects of the proximity of the motorway on the applicant's property had been incommensurate with those in issue in *Ouzounoglou* and *Athanasiou* (the motorway had been adjacent to the applicant's property but 250 metres away from the house). It deduced that the applicant had not had to bear an individual and excessive burden. Furthermore, having regard to the domestic proceedings, the Court found no violation of Article 1 of Protocol No. 1.

221. In the case of *Orfanos and Orfanou v. Greece* (dec.), 2006 (see also *Calancea and Others v. Republic of Moldova* (dec.), 2018, § 36), the Court deemed the *Ouzounoglou* case-law inapplicable to the case of a house that had been built after a partial expropriation carried out with a view to the construction of railway infrastructure. It noted that the applicants had deliberately chosen to invest further in their expropriated land and that they had not been taken unawares by an expropriation order disrupting a long-established way of life *in situ*. It deduced that they had not been justified in contending that the State had been acting arbitrarily by denying compensation for the loss of value of their house or the disturbances in their day-to-day lives. Further noting that the domestic courts had granted them a special indemnity for the decrease in value of their land in addition to the expropriation award, the Court declared the complaint under Article 1 of Protocol No. 1 manifestly ill-founded.

222. In *Fotopoulou v. Greece*, 2004, §§ 33-38, the applicant complained that the authorities had refused to demolish a wall unlawfully built by neighbours beside her property despite a final enforceable decision ordering such demolition. The Court noted that that refusal had resulted in the survival of the illegally built wall. Noting that the wall had deprived the applicant's house of its sea view and marred the traditional character of the village, thus decreasing the value of the applicant's

property, the Court deduced that the authorities had been responsible for the interference in her property rights, which interference was covered by the first sentence of the first paragraph of Article 1 of Protocol No. 1. It found a violation of the provision on the grounds that the refusal or omission on the part of the authorities had had no legal basis in domestic law.

223. A loss of value of real estate on account of noise pollution from a public airport is also such as to incur the direct responsibility of the State under Article 1 of Protocol No. 1. However, the Court has so far never found a violation of that provision in such a context, since no applicants have ever provided evidence of a consequent decrease in value of their properties (*Flamenbaum and Others v. France*, 2012, § 190; *Płachta and Others v. Poland* (dec.), 2014).

224. The cases of *Ivan Atanasov v. Bulgaria*, 2010, § 83 and *Vecbaštika and Others v. Latvia* (dec.), 2019, are also worth mentioning. In the former case the applicant submitted that the practical implementation of a programme to rehabilitate a tailings pond from a former copper mine belonging to a public enterprise had prevented him from fully enjoying his property and had decreased its value. The Court found no violation of Article 1 of Protocol No. 1 on the grounds that the applicant had produced no evidence to show that there had been an impact on his property or that the latter had decreased in value. In the latter case the applicants complained under that provision of a decrease of value in their properties and the ruination of their professional projects (in the spheres of countryside tourism, livestock farming, agriculture and apiculture) as a consequence of the authorisation to install wind turbines in the vicinity. The Court declared the complaint manifestly ill-founded on the grounds that the applicants had produced evidence neither of the decrease in value of their properties nor of any economic impact on their occupational activities.

B. Failure of the State to honour its positive obligation to protect property

225. In a case concerning a man-made environmental disaster linked to dangerous activities, the Court confirmed the existence of positive obligations to protect the right to respect for property. In *Öneryıldız v. Turkey* [GC], 2004, §§ 134-135, where an explosion in a household refuse dump had caused a landslide killing a large number of persons and burying eleven slum houses situated below it, including the applicant's home. The Court emphasised that genuine, effective exercise of the right protected by that provision did not depend merely on the State's duty not to interfere, but could require positive measures of protection, particularly where there was a direct link between the measures an applicant might legitimately expect from the authorities and his effective enjoyment of his possessions.

226. Allegations of State failure to take positive action to protect private property are, in principle, considered in the light of the general rule set out in the first sentence of the first paragraph of Article 1 of Protocol No. 1, which provides for the right to the peaceful enjoyment of property (*Öneryıldız v. Turkey* [GC], 2004, § 133; *Budayeva and Others v. Russia*, 2008, § 172; *Kolyadenko and Others v. Russia*, 2012, § 213; *Hadzhiyska v. Bulgaria* (dec.), 2012); *Vladimirov v. Bulgaria* (dec.), 2018, § 34; *Atasagün v. Turkey* (déc.), 2024, § 53).

227. The positive obligations set out in Article 1 of Protocol No. 1 require the State to regulate private industry in such a way as to control any pollution or disturbances produced (as regards environmental hazards, the regulations must include a preventive aspect; see below). The State's responsibility under this provision may therefore derive from the lack of appropriate regulations governing private industry. The Court emphasised this fact in the case of *Zapletal v. Czech Republic* (dec.), 2010, concerning noise pollution from a metal-plate compression factory.

228. Furthermore, in environmental as in other contexts, the positive obligations to protect the right to respect for property include the requirement to provide for judicial proceedings covered by the relevant procedural guarantees enabling the domestic courts effectively and fairly to determine disputes concerning property issues (*Bistrović v. Croatia*, 2007, § 33; *Couturon v. France*, 2015, § 33).

In ascertaining whether this condition has been satisfied, the Court will take a comprehensive view (*Petar Matas v. Croatia*, 2016, § 44). The Court applied that principle in *Couturon v. France*, 2015, § 42-43, concerning a failure to provide compensation for the loss of value of a property owing to the construction of a motorway on a section of that property. It concluded that there had been no violation of Article 1 of Protocol No. 1 because nothing had transpired from the domestic proceedings concerning the applicant's claim for compensation to suggest that he had not benefited from a fair judicial examination of his case.

1. Destruction of or damage to property

a. Destruction of or damage to property as a result of environmental disasters

i. Industrial-type environmental disasters

229. In the case of *Öneryıldız v. Turkey* [GC], 2004, §§ 134-136, which had involved an industrial-type environmental disaster, the Court ruled that the State officials and authorities had not done everything within their power to protect the applicant's proprietary interests. It found that the positive obligation under Article 1 of Protocol No. 1 required the national authorities to take the same practical steps to avoid the destruction of the applicant's house as those imposed by the positive obligation under Article 2 of the Convention (see above).

The Court adopted the same reasoning in *Kolyadenko and Others v. Russia,* 2012, § 216, in which a sudden large-scale evacuation of water from a reservoir in order to prevent it from bursting its banks had caused flooding in a residential district, damaging the applicants' houses.

ii. Foreseeable natural environmental disasters

230. The Court adopts a more qualified approach where the damage to property was due to a natural disaster.

In the case of *Budayeva and Others v. Russia,* 2008, §§ 174-175, concerning a mudslide which had buried an urban area and damaged houses, the Court pointed out that natural disasters, which were as such beyond human control, did not call for the same extent of State involvement. Accordingly, its positive obligations as regards the protection of property from weather hazards did not necessarily extend as far as in the sphere of dangerous activities of a man-made nature. The Court pointed out that a distinction should be drawn between the positive obligations under Article 2 of the Convention and those under Article 1 of Protocol No. 1 to the Convention. While the fundamental importance of the right to life required that the scope of the positive obligations under Article 2 include a duty to do everything within the authorities' power in the sphere of disaster relief for the protection of that right, the obligation to protect the right to the peaceful enjoyment of possessions, which was not absolute, could not extend further than what was reasonable in the circumstances. Accordingly, the authorities enjoyed a wider margin of appreciation in deciding what measures to take in order to protect individuals' possessions from weather hazards than in deciding on the measures needed to protect lives. Moreover, the procedural duty of independent inquiry and judicial response did not have the same significance with regard to destroyed property as in the event of loss of life. Again, the positive obligation on the State to protect private property from natural disasters could not be construed as binding the State to compensate the full market value of destroyed property.

The Court confirmed that distinction in *Hadzhiyska v. Bulgaria* (dec.), 2012, §§ 15-16, concerning the flooding of the applicant's house by a river bursting its banks following heavy rainfall. It particularly emphasised that Article 1 of Protocol No. 1 did not go as far as to require the Contracting States to take preventive measures to protect private possessions in all situations and all areas prone to flooding or other natural disasters. In view of the operational choices to be made in terms of priorities

and resources, any obligations arising under this provision should be interpreted in a way which did not impose an impossible or disproportionate burden on the authorities.

To the same effect, in *Vladimirov v. Bulgaria* (dec.), 2018, § 35, concerning material damage caused by a natural landslide, the Court added that natural disasters, which were by their very nature beyond human control, did not call for the same extent of State involvement as dangerous activities of a man-made nature, and deduced that the State's positive obligations to protect property against the former did not necessarily extend as far as those in the sphere of the latter. In the case of *Atasagün v. Türkiye* (dec.), 2024, which also concerned the damage caused by a landslide, it added that, with regard to natural disasters, the scope of the obligation of prevention consisted essentially in putting in place an effectives legislative and regulatory framework and adopting measures to reinforce the State's capacity to deal with the unexpected and violent nature of such natural phenomena. It specified that, in such a context, prevention included, in particular, appropriate spatial planning and controlled urban development.

b. Destruction of or damage to property caused by environmental deterioration due to private activities

231. The Court examined a situation of this sort in *Tishkina v. Bulgaria**, 2026, §§ 73-99, concerning structural damage caused to a house by galleries, dug under it illegally by private individuals engaged in coal mining for sale on the black market. The Court verified whether the authorities had taken adequate measures to prevent this damage. In so doing, it examined whether they had: (a) conducted a comprehensive assessment of the phenomenon, identifying affected areas and the nature and extent of the damage; (b) taken meaningful steps to mitigate identified risks, especially in the district in which the applicant's house was located; and (c) implemented effective measures to combat the conduct underlying the illegal mining phenomenon.

The Court clarified in the context of its assessment that a distinction had to be drawn between the authorities' positive obligations under Article 2 of the Convention and those under Article 1 of Protocol No. 1: the fundamental importance of the right to life required that the scope of the positive obligations under Article 2 included a duty to do everything within the authorities' power in the sphere of disaster relief for the protection of that right; the obligation to protect the right to the peaceful enjoyment of one's possessions could not extend further than "what [was] reasonable under the circumstances".

In concluding that the authorities had failed in their positive obligation to take reasonable measures to protect the applicant's property, the Court noted, in particular, the lack of clarity regarding the bodies whose responsibility it was to take action; the fragmented information regarding the illegal mining phenomenon and the lack of clarity as to what countermeasures might be taken; and the inadequacy of the responses to the underlying conduct, both in terms of domestic legal provisions and of the actions actually undertaken by the authorities.

2. Loss of value of property on account of damage to the surrounding environment

232. Activities liable to cause environmental problems or severe disturbances may affect the value of real estate and thus amount to a partial expropriation (*Taşkin and Others v. Turkey* (dec.), 2004; *Cokarić and Others v. Croatia* (dec.), 2006; *Galev and Others v. Bulgaria* (dec.), 2009; *Ivan Atanasov v. Bulgaria*, 2010, § 83; *Vecbaštika and Others v. Latvia* (dec.), 2019); they can even render property unsaleable (*Taşkin and Others v. Turkey* (dec.), 2004).

This can apply, for example, to "considerable noise nuisance" (*Cokarić and Others v. Croatia* (dec.), 2006), caused, for instance, by an airport (*Ashworth and Others v. United Kingdom* (dec.), 2004).

233. However, complaints of this kind lodged with the Court have been rejected on the grounds that the applicants failed to provide evidence of the loss of value of their property (*Ashworth and Others*

v. United Kingdom (dec.), 2004; *Galev and Others v. Bulgaria* (dec.), 2009; *Zapletal v. Czech Republic* (dec.), 2010; *Marchiş and Others v. Romania* (dec.), 2011, §§ 45-46).

The Court concluded for the first time, in *Đorđević v. Serbia*, 2025, §§ 85-94, that there had been a violation of Article 1 of Protocol No. 1 on account of the decrease in a property's value on account of deterioration in its environment. The case concerned the construction of a building in such close proximity to the applicant's flat that it blocked natural light and ventilation. This decrease in value had been established in expert reports, commissioned by the domestic courts.

Article 34 of the Convention (individual applications)

Article 34 of the Convention

> "The Court may receive applications from any person, nongovernmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right."

I. *Actio popularis* / victim status

A. General principles

1. Direct victim – issue of *locus standi* of environmental conservation associations

234. In environmental as in other cases, in order to claim the status of victim of a violation of the Convention within the meaning of Article 34, in principle, one has to have been "directly affected" in person by the violation in question (see, for example, *Lambert and Others v. France* [GC], 2015, § 89). In other words, for the purposes of Article 34 the word "victim" means the person directly affected by the act or omission in issue (*Balmer-Schafroth and Others v. Switzerland*, 1997, § 26).

The criteria on which the Court has relied to establish victim status includes, most notably, issues such as the minimum level of severity of the harm in question, its duration and the existence of a sufficient link with the applicant or applicants, including, in some instances, the geographical proximity between the applicant and the impugned environmental harm (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 472).

235. Pursuant to the general case-law on Article 34, the next-of kin of a person who has died in an environmental context can nevertheless claim to be (indirect) victims of a violation of Article 2 (*Brincat and Others v. Malta*, 2014, § 87).

236. In the framework of ascertaining the victim status of applicants complaining of a violation of Article 8 on account of an environmental infringement, the Court will have regard to the fact that the crucial factor in determining whether there has been a violation of Article 8 is whether there has been a negative effect on a person's private or family life, and not merely any general damage to the environment (*Di Sarno and Others v. Italy*, 2012, § 80; *Cordella and Others v. Italy*, 2019, § 101; *Locascia and Others v. Italy*, 2023, § 91).

In the case of *Cordella and Others v. Italy*, 2019, §§ 100-109, in which a number of individuals complained about harmful emissions from a steelworks in Taranto, the Court considered that the applicants, who had not lived in the municipalities which had been identified as exposed to a risk by

the Italian Council of Ministers and who had not provided evidence such as to cast doubt on the extent of the exposure zone identified, had failed to demonstrate that they had been personally affected by the impugned situation and could not therefore have claimed to be victims of a violation of Article 8. Conversely, it granted victim status to those who had lived in the said municipalities, emphasising that there had been a (rebuttable) presumption that pollution in one specific area was potentially dangerous to the health and well-being of persons exposed to it. Observing that the case file contained numerous scientific reports and studies pointing to a causal link between the activities of the steelworks and the worsening public-health situation in the exposed municipalities, the Court concluded that the pollution in question had undoubtedly had a negative impact on the well-being of the applicants who had lived in the affected area.

In the case of *Di Sarno and Others v. Italy*, 2012, §§ 80-81, (see also *Locascia and Others v. Italy*, 2023, §§ 92-94), the applicants complained of pollution and disturbances caused by the poor management of the waste collection, treatment and disposal services in the Campania region of Italy. The Court noted that the applicants had complained about a situation which had affected the whole population of Campania. However, observing that one of the effects of the mismanagement in the municipality in which they had lived had been that waste had piled up in the streets for several months, it ruled that the environmental damage complained of by the applicants had been such as to directly affect their personal well-being. In the case of *Cannavacciuolo and Others v. Italy*, 2025, §§ 246-250, concerning the pollution generated in that same region by the illegal dumping, burying and incineration of waste on private land ("*Terra del Fuochi*"), the Court held that persons who were not resident in a locality included in the official lists of affected municipalities could not claim to be victims of the alleged violation of Articles 2 and 8 of the Convention.

237. One consequence of this approach is that legal persons, including environmental conservation associations, cannot claim to be victims of a violation of the Convention stemming from environmental disturbances or nuisance which can only be felt by natural persons. The NGO *Greenpeace* was thus deemed unable to claim victim status *vis-à-vis* its right to respect for its home on account of the exposure of its registered office to pollution from a steelworks (*Asselbourg and Others v. Luxembourg* (dec.), 1999; *Aly Bernard et 47 autres personnes physiques ainsi que l'association Greenpeace-Luxembourg, v. Luxembourg* (dec.), 1999). See also *Association des Résidents du Quartier Pont Royal, la commune de Lambersart and Others v. France* (dec.), 1992, in which the Commission concluded that an environmental protection NGO could not claim to be a victim of a violation of Article 8 on account of the noise pollution from a high-speed railway line; *Maatschap Smits and Others v. Netherlands* (dec.), 2001; and *Yusufeli İlçesini Güzelleştirme Yaşatma Kültür Varlıklarını Koruma Derneği v. Turkey* (dec.), 2021, §§ 38, 41 and 43, a case brought before the Court by a local NGO campaigning against a planned hydroelectric power plant and dam whose construction would entail the submersion of a town and a number of villages. Similarly, the Court has pointed out that in principle, an association cannot rely on health considerations to claim a violation of Article 8 (*Greenpeace E.V. and Others v. Germany* (dec.), 2009) or of Article 2 (*Cannavacciuolo and Others v. Italy*, 2025, § 216). Nor can it claim to be the victim of a violation of those provisions as a result of an alleged failure by the authorities to comply with their obligation to provide, *proprio motu*, information concerning the risks to their members' health on account of exposure to pollution (*ibid*., §§ 217-218).

238. Nor can an NGO claim to be the victim of measures which, on account of environmental pollution or disturbances, have allegedly infringed rights granted by the Convention to the NGO's members (see *Besseau and Others v. France* (dec.), 2006, concerning an association endeavouring to protect persons living in the vicinity of a quarry from disturbances caused by the operation of the latter, and *Yusufeli İlçesini Güzelleştirme Yaşatma Kültür Varlıklarını Koruma Derneği v. Turkey* (dec.), 2021, §§ 38 and 42, concerning a local NGO campaigning against a planned hydroelectric power plant and dam, and *Cannavacciuolo and Others v. Italy*, 2025, § 218, with regard to associations set up to defend the rights

of persons exposed to the pollution generated in the Campania region by the illegal dumping, burying and incineration of waste ("*Terra del Fuochi"*).

Similarly, the Court held that the NGO Greenpeace could not claim to be a victim of a violation of Article 3, taken alone or in conjunction with Article 14, on account of an attack against several of its members who had volunteered to help fight forest fires, an attack motivated or at least influenced by their membership of the NGO (*Kreyndlin and Others v. Russia*, 2023, §§ 46-47).

239. On the other hand, an environmental conservation NGO which was a party to domestic proceedings concerning an environmental issue can, in principle, claim to be the victim of a violation of Article 6 § 1 of the Convention allegedly occurring in the framework of such proceedings (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 590), even where the proceedings were geared to ensuring the protection of its members' interests (*Gorraiz Lizarraga and Others v. Spain*, 2004, § 36; see also *Yusufeli İlçesini Güzelleştirme Yaşatma Kültür Varlıklarını Koruma Derneği v. Turkey* (dec.), 2021, § 43; *cf. Bursa Barosu Başkanlığı and Others v. Turkey*, 2018, §§ 114-116, in which the Court held that an environmental protection association whose domestic appeal had been declared inadmissible for lack of *locus standi* could not claim the status of victim of a violation of Article 6 § 1 in respect of the proceedings in question).

In its judgment in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC] (2024, §§ 593 and 623), the Court concluded that the applicant association had victim status on the basis of the applicability of Article 6 § 1 to its complaint.

240. Concurrently, where an NGO with the statutory aim of defending its members' interests brings an action before the domestic courts, its members can claim victim status in respect of violations of Article 6 § 1 allegedly occurring in the framework of those proceedings, even if they were not themselves parties thereto. The Court made this ruling in the case of proceedings to set aside a decision to build a dam brought by an NGO whose statutory aim was to coordinate its members' efforts to combat the dam-building project. It considered that the inhabitants of the villages which were to be flooded could claim to be victims of violations of that provision, noting that although they had not been parties to the proceedings in their own names, they had been involved through the intermediary of the association of which they were members and which they had set up with a view to defending their interests. The Court pointed out the following: "... like the other provisions of the Convention, the term 'victim' in Article 34 must also be interpreted in an evolutive manner in the light of conditions in contemporary society. And indeed, in modern-day societies, when citizens are confronted with particularly complex administrative decisions, recourse to collective bodies such as associations is one of the accessible means, sometimes the only means, available to them whereby they can defend their particular interests effectively. Moreover, the standing of associations to bring legal proceedings in defence of their members' interests is recognised by the legislation of most European countries. That is precisely the situation that obtained in the present case. The Court cannot disregard that fact when interpreting the concept of 'victim'. Any other, excessively formalistic, interpretation of that concept would make protection of the rights guaranteed by the Convention ineffectual and illusory" (*Gorraiz Lizarraga and Others v. Spain*, 2004, §§ 38-39).

2. Potential victim: exposure to a risk of environmental damage

241. Article 34 of the Convention does not allow applicants to complain *in abstracto* of violations of the Convention. That applies in particular to allegations of violations of Convention stemming from environmental damage (*Caron and Others v. France* (dec.), 2010; *Cordella and Others v. Italy*, 2019, § 100).

242. However, the Court does to some extent accept the concept of a "potential victim". Thus an applicant can claim to be a victim within the meaning of Article 34 of the Convention if he presents plausible and cogent evidence of the probable materialisation of a violation which will personally affect him (see the Practical Guide on Admissibility Criteria, §§ 30-31).

The Court applied those criteria in the cases of *Asselbourg and Others v. Luxembourg* (dec.), 1999, and *Aly Bernard et 47 autres personnes physiques ainsi que l'association Greenpeace-Luxembourg, v. Luxembourg* (dec.), 1999, which concerned authorisation to operate a steelworks using scrap metal. The applicants complained that the steelworks project would result in environmental damage, which would affect their quality of life and deprive them of the peaceful enjoyment of their homes such as to infringe their right to respect for their private and family lives. The Court considered that the mere mention of the pollution risks inherent in the production of steel from scrap iron was not enough to justify the applicants' assertion that they were the victims of a violation of the Convention. They had to be able to assert, in an arguable and detailed manner, that for lack of adequate precautions taken by the authorities the degree of probability of the occurrence of damage was such that it could be considered to constitute a violation, on condition that the consequences of the act complained of were not too remote. The Court concluded that it was not evident from the file that the conditions of operation imposed by the Luxembourg authorities, and in particular the norms dealing with the discharge of air-polluting wastes, had been so inadequate as to constitute a serious infringement of the principle of precaution.

The Court reached a similar finding in the case of *Vecbaštika and Others v. Latvia* (dec.), 2019, §§ 79-84, where individuals had complained under Article 8 that the State had permitted the construction of wind farms in the area where their properties or residences had been located, claiming that the turbines had generated high noise levels and caused other nuisance (vibrations, low-frequency sound, shade and shadow flicker) affecting their health and well-being. The Court first of all noted that the project had been postponed, or even possibly abandoned. It also noted that the applicants had been unable to produce evidence to the effect that the operation of wind turbines near their properties or homes in Dunika parish would directly and seriously affect them, with the necessary degree of probability; the mere mention of certain adverse effects arising from the operation of wind turbines in general was insufficient in that regard. The Court concluded that it did not have reasonable and convincing evidence that there would be a risk in the present case of endangering the applicants' private and family life.

In *Maatschap Smits and Others v. Netherlands* (dec.), 2001, and *Thibaut v. France* (dec.), 2022, concerning plans for a railway line and an extra-high-voltage power line, respectively, the Court accepted that the persons living along the projected routes, who had complained of the pollution, nuisance and health risks which that infrastructure would generate, could claim victim status.

B. Applicable principles in the context of climate change

1. Individuals

243. In order to claim victim status under Article 34 of the Convention in the context of complaints concerning harm or risk of harm resulting from alleged failures by the State to combat climate change, an applicant needs to show that he or she was personally and directly affected by the impugned failures. It would then be for the Court to establish the following circumstances concerning the applicant's situation: (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 (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 487; *Greenpeace Nordic and Others v. Norway,* 2025, § 287; *Fliegenschnee and Others v. Austria* (dec.), 2025, § 25).

The Court has specified that the threshold for fulfilling these criteria is especially high (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 488; *Greenpeace Nordic and Others v. Norway,* 2025, § 287). In view of the exclusion of *actio popularis* under the Convention, whether an applicant meets that threshold will depend on a careful assessment of the concrete circumstances of

the case. In this connection, the Court will have due regard to circumstances such as the prevailing local conditions and individual specificities and vulnerabilities. Its assessment will also 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 (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 488).

244. In the case of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, an association of older women, established to promote and implement effective climate protection on behalf of its members, and four of its members, complained, *inter alia* under Article 8, about the inadequacy of the measures taken by the Swiss authorities to mitigate the effects of climate change. Relying on Article 6 § 1, they also alleged that they had not had access to a court in order to raise the same complaint.

The Court held that the individual applicants could not claim to be victims of the alleged violation of Article 8. It noted that it was clear from the findings of the Intergovernmental Panel on Climate Change and of the Federal Office for the Environment that, as older women, the applicants belonged to a group which wis particularly susceptible to the effects of climate change. It stated, however, that in order for them to be granted victim status, it was necessary to establish, in each applicant's individual case, that the requirement of a particular level and severity of the adverse consequences affecting the applicant concerned was satisfied, including the applicants' individual vulnerabilities which could give rise to a pressing need to ensure their individual protection.

245. In the case of *Carême v. France* (dec.) [GC], 2024, an individual who had lived in Grande-Synthe, a coastal municipality located, according to the *Conseil d'État*'s findings, in a sector that had been assessed as being at "a very high level of exposure to climate change", particularly to high and increased risks of flooding, complained under Articles 2 and 8 of the inadequacy of the measures taken by France. The Court held that the applicant could not claim to be a victim within the meaning of Article 34, and that it found no reason to question the hypothetical nature of the risk relating to climate change affecting the applicant, as stated by the domestic court, as there was no indication as to where the applicant's residence would be in the years to come. It also noted that he had demonstrated no relevant links with Grande-Synthe: he no longer lived or rented property in the municipality, and he did not own property there; the only link was the fact that his brother lived there.

246. In the case of *Fliegenschnee and Others v. Austria* (dec.), 2025, §§ 31 and 36-37, concerning the Austrian Federal Minister for Economic and Digital Affairs' refusal to ban the sale of fossil fuels to mitigate the impact of climate change, the individual applicants alleged under Article 8 that the adverse effects of this change endangered their life and their general health, specifically on account to their health issues and age. One of them, a farmer, relying on Article 1 of Protocol No. 1, added that her financial existence was at risk as a result of crop shortfalls and a decrease in agricultural productivity. The Court considered that the applicants had not shown that they were victims of the alleged violations. With regard to the complaint under Article 8, it noted that they had not provided any details as to whether and how they had been affected personally, nor any evidence to substantiate their alleged vulnerability. With regard to the complaint under Article 1 of Protocol No. 1, it considered, even if that provision were applicable in the context of climate change, the applicant had not shown that she was directly or indirectly affected by the alleged violation, or that she ran the risk of being directly affected, by producing reasonable and convincing evidence of the likelihood that a violation affecting her personally would occur.

2. Associations: victim status/ standing to lodge an application with the Court

247. The general principle that an association cannot claim to be a victim of a violation of the Convention caused by environmental nuisance that can only be encountered by natural persons

(paragraph 237 above) also applies in the context of climate change. Thus, the Court pointed out in the case of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC] (2024, § 796) that an association cannot rely on health considerations or nuisances and problems associated with climate change which can only be encountered by natural persons in claiming victim status.

248. In the same case, however, the Court held that the specific considerations relating to climate change weigh in favour of recognising the possibility for associations, subject to certain conditions, to have standing before the Court as representatives of the individuals whose rights are or will allegedly be affected (it subsequently confirmed that this was valid only in the area of climate change; see *Cannavacciuolo and Others v. Italy*, 2025, §§ 220-221).

It specified that, in order to be recognised as having *locus standi* to lodge an application under Article 34 of the Convention on account of the alleged failure of a Contracting State to take adequate measures to protect individuals against the adverse effects of climate change on human lives and health, the association in question must be: (a) lawfully established in the jurisdiction concerned or have standing to act there; (b) able to demonstrate that it pursues a dedicated purpose in accordance with its statutory objectives in the defence of the human rights of its 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 it 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 (see also *Greenpeace Nordic and Others v. Norway,* 2025, § 288, and *Fliegenschnee and Others v. Austria* (dec.), 2025, § 25).

In this connection, the Court has regard to such factors as the purpose for which the association was established, that it is of non-profit character, the nature and extent of its activities within the relevant jurisdiction, its membership and representativeness, its principles and transparency of governance and whether on the whole, in the particular circumstances of a case, the grant of such standing is in the interests of the proper administration of justice (see also *Greenpeace Nordic and Others v. Norway,* 2025, § 288).

Having regard to the specific features of recourse to legal action by associations in this context, the standing of an association to act on behalf of the members or other affected individuals within the jurisdiction concerned will not be subject to a separate requirement of showing that those on whose behalf the case has been brought before the Court would themselves have met the victim-status requirements for individuals in the climate-change context (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, §§ 496-502; *Greenpeace Nordic and Others v. Norway,* 2025, § 288).

In the event of existing limitations regarding the standing before the domestic courts of associations meeting the above Convention requirements, the Court may also, in the interests of the proper administration of justice, take into account whether, and to what extent, its individual members or other affected individuals may have enjoyed access to a court in the same or related domestic proceedings (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC] (2024, § 503).

249. In the case of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC] (2024, §§ 521-526), in assessing the applicant association's victim status in the context of Article 8, and applying the above criteria, the Court noted as follows: according to its Statute, the applicant association was a non-profit association established under Swiss law to promote and implement effective climate protection on behalf of its members; it had more than 2,000 female members who lived in Switzerland and whose average age was 73; 650 of its members were 75 or older; its Statute provided that it was committed to engaging in various activities aimed at reducing greenhouse gas emissions in Switzerland and addressing their effects on global warming; it acted not only in the interest of its members, but also in the interest of the general public and future generations, with the aim of ensuring effective climate protection; it pursued its aims through various actions, including by

taking legal action to address the effects of climate change in the interests of its members. The Court then found that the grant of standing to the applicant association before it was in the interests of the proper administration of justice. In this connection, it held, on the one hand, given the membership basis and representativeness of the applicant association, as well as the purpose of its establishment, it represented a vehicle of collective recourse aimed at defending the rights and interests of individuals against the threats of climate change in the respondent State and, on the other hand, that the individual applicants had not had access to a court in the respondent State.

The Court concluded that the applicant association had been lawfully established, it had demonstrated that it pursued a dedicated purpose in accordance with its statutory objectives in the defence of the human rights of its members and other affected individuals against the threats arising from climate change in the respondent State and that it was genuinely qualified and representative to act on behalf of those individuals who could arguably claim to be subject to specific threats or adverse effects of climate change on their life, health, well-being and quality of life as protected under the Convention. Accordingly, the complaints pursued by the applicant association on behalf of its members fell within the scope of Article 8, with the consequence that the applicant association had standing before it and that Article 8 was applicable to its complaint.

250. In the case of *Greenpeace Nordic and Others v. Norway,* 2025, §§ 293-300, the associations *Greenpeace Nordic* and *Young Friends of the Earth* complained under Article 8 about, in particular, a ministerial decision of 2016 granting private companies exploration licences with a view to gas and petroleum production. After noting that those NGOs were lawfully established in Norway and that they had standing there to act in the courts, the Court noted that conditions (b) and (c) as set out in paragraph 248 above had also been met. It noted, first, that *Greenpeace Nordic* was acting on behalf of its supporters and donors, and on behalf of other affected individuals in Norway, that *Young Friends of the Earth* had several thousand individual members, aged 13 to 25, who lived in Norway, that both were committed to engaging in various activities aimed at reducing GHG emissions in Norway and addressing the effects of fossil fuel emissions on global warming. They acted, including by taking legal action, in the interest of the general public and of future generations – and, in the case of Young Friends of the Earth, also in the interest of its members – with the aim of ensuring effective climate protection. Secondly, given the membership basis of the Young Friends of the Earth and the wide range of people represented by the two applicant organisations, as well as the purposes for which they had been established, the Court considered that they constituted a collective means of defending the rights and interests of individuals against the threats of climate change in the respondent State, and that, taking an overall view, granting them *locus standi* before the Court was in the interests of the proper administration of justice.

251. In the case of *Fliegenschnee and Others v. Austria* (dec.), 2025, § 32, concerning the Austrian Federal Minister for Economic and Digital Affairs' refusal to ban the sale of fossil fuels to mitigate the impact of climate change, the Court noted that the applicant association – *Umweltschutzorganisation Global 2000* – was registered in Austria and recognised as an environmental organisation within the meaning of Austrian law. It concluded that conditions (a) and (b) as set out in paragraph 248 had been met. In the absence of detailed information on its membership or its statutes, however, it expressed doubts as to condition (c). In any event, it did not consider it necessary to decide whether it had standing to bring the complaint at issue, since it was inadmissible for other reasons.

II. Loss of victim status

252. The mere fact of putting an end to a case of pollution or an environmental disturbance is insufficient to deprive persons exposed to it of their victim status (*López Ostra v. Spain*, 1994, § 42; *Martínez and Pino Manzano v. Spain*, 2012, § 28).

Similarly, the fact that a local resident had moved house to escape the pollution or environmental disturbance to which he had been exposed was insufficient to deprive him of his victim status (*López Ostra v. Spain*, 1994, § 42; *Yevgeniy Dmitriyev v. Russia*, 2020, § 37).

253. For someone to lose his or her victim status, the domestic authorities must have found a violation and given a decision which constitutes adequate and sufficient redress for that violation (see Admissibility Guide, §§ 36-39). An applicant's status as a victim may depend on compensation being awarded at domestic level on the basis of the facts about which he or she complains before the Court and on whether the domestic authorities have acknowledged, either expressly or in substance, the breach of the Convention. The Court reiterated that fact in *Murillo-Saldias and Others v. Spain* (dec.), 2006, (see also *Durdaj and Others v. Albania*, 2023, §§ 148-279), where a relative of victims of a mudslide had complained of a violation of Articles 2, 6 § 1 and 13 of the Convention. It ruled that the applicant could no longer claim to be a victim of those violations given that the domestic court had awarded him a reasonable sum in compensation for the deaths of his relatives, having held the authorities responsible for the accident.

It should be noted, however, that where death results from gross negligence, as in cases of wilful ill-treatment resulting in death, an award of compensation to the relatives of the victim is not sufficient to remedy the breach of Article 2 in its substantive aspect; there must also be an effective investigation. The Court held in the case of *Durdaj and Others v. Albania*, 2023, §§ 252-255, concerning an explosion at a weapons decommissioning facility which had led to the death of several persons that, in contrast, where the authorities have carried out an adequate investigation in which all the relevant facts were established and those responsible were identified and punished, the payment of adequate compensation and the acknowledgment of the State's responsibility for the death of the applicants' close relatives would, in principle, be sufficient to deprive the applicants of their victim status.

Examples:

In *López Ostra v. Spain*, 1994, § 42 (see also *Yevgeniy Dmitriyev v. Russia*, 2020, § 37), in which a person living in the vicinity of a waste-treatment plant had complained of the smells, noise and pollution fumes from the plant, she had been rehoused at the municipality's expense, before moving to a house purchased by her family, and the waste-treatment plant had been closed down. The Court considered that she had retained her victim status, pointing out that neither the house move nor the closure of the site had altered the fact that the applicant and her family had lived for years only twelve metres away from a source of smells, noise and fumes. It pointed out that if the applicant could now return to her former home following the decision to close the plant, this would be a factor to be taken into account in assessing the damage she had sustained, but would not mean that she had ceased to be a victim.

In the case of *Moe and Others v. Norway* (dec.), 1999, the applicants complained about the disturbances caused by the activities of a waste-treatment plant close to their home. The Court noted that the Norwegian High Court had ruled that before the applicants had applied to the domestic courts the pollution levels had exceeded the legal limits of tolerable inconvenience. It deduced that the High Court had basically accepted that there had been a violation of their right to respect for private life and the home, and observed that while the applicants had not received any financial compensation, the proceedings had resulted in an adaptation to the activities of the plant with a view to reducing the disturbances. The Court further noted that as found by the High Court, the nuisance level had no longer exceeded the legal limits following the application to the domestic court, that the applicants had not presented it with any evidence to disprove that finding or to show that it had been based on standards incompatible with Article 8, and that the pollution level had been was significantly less than that at issue in *López Ostra v. Spain*, 1994. Further having regard to the closeness in time of the institution of proceedings and the remedial measures bringing the nuisance within the legal limits, the Court concluded that the applicants had obtained adequate redress for the matter alleged to

constitute a violation of Article 8, and that they therefore could no longer claim victim status for the purposes of Article 34.

In *Öneryıldız v. Turkey* [GC], 2004, § 137, where the applicant had complained, in particular, about the destruction of his property during an industrial disaster, the Government had contended that he could no longer claim to be a victim since he had been awarded substantial compensation for pecuniary damage and had been able to acquire subsidised housing on very favourable terms. The Court rejected that argument, considering that even supposing that the advantageous terms on which the flat in question had been sold might to a certain extent have redressed the effects of the omissions observed in the instant case, they nonetheless could not be regarded as proper compensation for the damage sustained by the applicant. Accordingly, whatever advantages may have been conferred, they could not have caused the applicant to lose his status as a "victim", particularly as there was nothing in the deed of sale and the other related documents in the file to indicate any acknowledgment by the authorities of a violation of his right to the peaceful enjoyment of his possessions. The Court also noted that it was sufficient to observe that the compensation awarded for pecuniary damage had still not been paid even though a final judgment had been delivered.

In the case of *Ledyayeva and Others v. Russia*, 2006, § 106, where persons living near a steelworks had complained about the pollution to which they had been exposed, two years after the beginning of the period examined by the Court one of the applicants had been rehoused by the authorities outside the factory's "sanitary security zone". The Court nevertheless concluded that the applicant in question had retained her victim status since, even though her rehousing might have solved the issue of her exposure to pollution from the steel plant, it had not put right the alleged breach of her rights during the preceding period, nor had the authorities acknowledged the alleged breach of her rights under the Convention, either expressly or in substance.

In *Kolyadenko and Others v. Russia,* 2012, §§ 208-210, concerning a sudden large-scale evacuation of water from a reservoir in order to prevent it from bursting its banks, the applicants had received extrajudicial compensation. However, observing that there was nothing to suggest that the authorities had acknowledged the violation of Article 8 of the Convention and Article 1 of Protocol No. 1 on account of the damage to their homes, the Court held that they could still claim to be victims.

In *M. Özel and Others v. Turkey,* 2015, §§ 157-158, concerning the deaths of members of the applicants' families following the collapse of buildings during an earthquake, the Court concluded that the criminal conviction of the developers responsible for the buildings in question had been insufficient to deprive the applicant of his victim status, "having regard to the nature of the procedural requirements of Article 2 and the fact that the developers' conviction cannot be construed as providing any kind of compensation".

In the case of *Otgon v. Republic of Moldova*, 2016, §§ 16-20, in which an individual complained of a violation of Article 8 on account of the fact that she had contracted dysentery from drinking tap water supplied by a public utility, the Court ruled that the applicant had retained her victim status even though the domestic court had acknowledged the violation in substance, on the grounds that the sum awarded by the domestic courts had been "considerably below" the minimum generally awarded by the Court in cases in which it had found a violation of Article 8 in respect of the Republic of Moldova.

In the case of *Durdaj and Others v. Albania*, 2023, §§ 248-279, an explosion in 2008 in a weapons decommissioning facility had caused the death of twenty-six people and injured more than three hundred others. The parents of a child who had died in this disaster and a surviving victim had brought proceedings for compensation before the administrative court, which had recognised in substance the State's responsibility in the death of those applicants' child and the life-threatening danger to the surviving victim, and had awarded them amounts in compensation that were similar to the sums awarded by the Court in comparable cases. Having also noted that the investigation had been adequate, the Court found in consequence that they had lost their victim status.

In the case of *Besseau v. France* (dec.), 2023, §§ 12-17, an individual complained under Article 8 of the Convention and Article 1 of Protocol No. 1 about nuisance caused by the noise, vibrations and dust generated by the operations of an open microgranite quarry close to his home. In the context of another set of proceedings from those which had ended in his application to the Court, the civil court had noted that the applicant and his wife were experiencing excessive neighbourhood disturbance on account of the cracks caused to the structure of their house by the vibrations and had ordered the operator to pay them, in this connection, compensation in respect of pecuniary damage and loss of enjoyment of their property. In contrast, it had rejected their claims in so far as they concerned the other alleged neighbourhood disturbance. The Court noted that in the proceedings before it the applicant had not provided any explanation about the level of disturbance that he was personally experiencing and its impact on his quality of life and ability to enjoy his home, and that he had submitted no evidence on a loss in his house's market value on account of its location near the quarry. Having regard to the general nature of his argument, and in the absence of evidence that could distinguish, in an individual manner, the alleged breaches of the Convention, the Court considered that, in the circumstances of the case, the establishment, by the ordinary courts, of excessive neighbourhood disturbance resulting in both pecuniary damage and a loss of enjoyment, ought to be regarded as an acknowledgement, in substance of a violation of the provisions relied on. Further holding that the amounts awarded represented appropriate and sufficient redress, the Court concluded that the applicant could not claim to be a victim for the purposes of Article 34.

Article 35 (admissibility criteria)

Article 35 of the Convention

"1. The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law, and within a period of four months from the date on which the final decision was taken.

2. The Court shall not deal with any application submitted under Article 34 that

(a) is anonymous; or

(b) is substantially the same as a matter that has already been examined by the Court or has already been submitted to another procedure of international investigation or settlement and contains no relevant new information.

3. The Court shall declare inadmissible any individual application submitted under Article 34 if it considers that:

(a) the application is incompatible with the provisions of the Convention or the Protocols thereto, manifestly ill-founded, or an abuse of the right of individual application; or

(b) the applicant has not suffered a significant disadvantage, unless respect for human rights as defined in the Convention and the Protocols thereto requires an examination of the application on the merits and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal.

4. The Court shall reject any application which it considers inadmissible under this Article. It may do so at any stage of the proceeding."

A. Exhaustion of domestic remedies

254. Where, in environmental cases in particular, the domestic proceedings were brought by an association, the fact that an individual applicant to the Court was not personally a party to those proceedings does not necessarily mean that his or her domestic remedies have not been duly exhausted. What matters in relation to the requirement of exhaustion of domestic remedies is that the complaint or complaints which the applicant intends to put to the Court, regarding a violation of his or her Convention rights, have first been raised in the domestic courts. The Court has emphasised in this connection that it is duty-bound to have regard to the nature of contemporary civil society, wherein associations play a significant role, particularly in the sphere of environmental protection. Part of what that role entails is advocating, before the courts and other domestic authorities, for the individual interests and rights of their members as well as for public-interest causes. The Court has observed that, especially in environmental matters, in which individuals may face complex sets of issues which they are unequipped to tackle on their own, a collective vehicle such as an association may be the only means available to them to press their case effectively (*Thibaut v. France* (dec.), 2022, §§ 26-31; *L.F. and Others v. Italy*, 2025, §§ 142-143,).

255. In the case of *Locascia and Others v. Italy*, 2023, § 107, concerning the waste management crisis in Campania, the applicants complained under Article 8 of shortcomings, over several years, in the provision of waste collection, treatment and disposal services and the pollution caused by a landfill. The Cour rejected the Government's objection that the applicants had not exhausted the domestic remedies, especially a compensatory remedy, noting in particular that, while this might have resulted in compensation for the people concerned, it would not have led to removal of the waste from public roads or remediation of the landfill site, and would therefore have provided only partial redress for the "environmental damage" complained of by the applicants.

Similarly, in the case of *Cannavacciuolo and Others v. Italy*, 2025, § 273, concerning the pollution generated in the same region by the illegal dumping, burying and incineration of waste on private land ("*Terra del Fuochi*"), the Court held that a remedy whose purpose was to grant economic reparation could not be considered adequate in respect of complaints under Articles 2 and 8, which related to an ongoing situation of diffuse pollution and the State's long-standing failure to take action not only to prevent this pollution but also to mitigate its consequences, such as decontamination of polluted areas and the removal of waste.

B. Four-month time limit - continuing situation of pollution

256. Ongoing environmental pollution may constitute a "continuing situation". Consequently, in the absence of a domestic remedy meeting the requirements of Article 35 § 1, the starting point of the four-month[1] time-limit on lodging complaints under the Convention with the Court will be deferred until the date on which the situation has ceased (*Cordella and Others v. Italy*, 2019, §§ 131-132; *Cannavacciuolo and Others v. Italy*, 2025, §§ 282-296). The time-limit may therefore run only from the time when the pollution complained of under the Convention has come to an end.

C. *Ratione personae* – involvement in environmental damage by enterprises governed by the laws of other member States

257. In the case of *Zeynep Ahunbay and Others v. Turkey, Austria and Germany* (dec.), 2016, persons opposing the planned Ilısu dam, whose construction would have submerged the Hasankeyf archaeological and cultural site in Turkey had lodged an application relying, in particular, on a violation of Articles 8 and 10 in which they complained of the devastating effects which such an infrastructure would have on the environment, and the destruction of whole swathes of the cultural heritage. The Court noted that German and Austrian companies had been included in the consortium responsible for carrying out the project. However, it noted that all the impugned measures had been taken by the Turkish authorities and that all the judicial proceedings had been conducted under the Turkish judicial system, with the Turkish judicial authorities holding exclusive jurisdiction to determine the issues raised by the applicants. Referring to its case-law on the territorial and extraterritorial jurisdiction of the Contracting States, the Court declared the application inadmissible *ratione personae* inasmuch as it had been directed against Austria and Germany.

D. *Ratione materiae* – no universal individual right to protection of a specific cultural heritage

258. In *Zeynep Ahunbay and Others v. Turkey* (dec.), 2019, §§ 21-26, the Court stated its readiness, in the light of the relevant international instruments and the common denominators of international legal standards, to consider that common ground existed in Europe and internationally on the need to protect the right of access to the cultural heritage. However, it noted that this generally referred to the right of minorities freely to enjoy their own culture and the right of indigenous peoples to preserve, control and protect their cultural heritage. It further noted that there was currently no European consensus, or even a common tendency in Council of Europe member States, on inferring from the provisions of the Convention a universal individual right to the protection of a given cultural heritage. The Court therefore declared the application incompatible *ratione materiae* with the provisions of the Convention.

[1] Following the entry into force on 1 August 2021 of Protocol No. 15 to the Convention, the time-limit was reduced from six months to four months with effect from 1 February 2022.

E. Abuse of the right of application

259. An application motivated by publicity or propaganda does not, by that very fact alone, constitute an abuse of the right of application within the meaning of Article 35 § 3 (a) of the Convention (for an example relating to an application lodged in a context of environmental activism, see *Friedrich and Others v. Poland*, 2024).

F. No significant damage – minimum threshold of severity of an alleged violation and the environmental and public-health impact of the impugned situation

260. In *Cordella and Others v. Italy*, 2019, §§ 133-139, where residents had complained of the State's failure to adopt measures to protect their health and the environment from harmful emissions from a steelworks, the Government had accused the applicants of merely referring in very broad terms to the pollution and its impact on their health without providing any factual data in support of their arguments. The Government had submitted that that had been insufficient for the alleged damage to be described as "significant" within the meaning of Article 35 § 3 (b). The Court pointed out that for the purposes of that provision it had to ascertain whether the alleged violation had reached the severity threshold, and therefore to have regard to the following aspects: the nature of the right alleged to have been breached, the severity of the impact of the alleged violation on the exercise of a right and/or the possible consequences of the violation for the applicant's personal situation. It held that in view of the nature of the complaints raised – under Article 8, taken alone and in conjunction with Article 13 – and the numerous scientific reports noting the impact of pollution from the steelworks on the environment and human health, the criterion of lack of significant damage had not been fulfilled. It therefore rejected the Government's objection.

Article 46 (binding force and execution of judgments)

Article 46 of the Convention

"1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.

2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution.

3. If the Committee of Ministers considers that the supervision of the execution of a final judgment is hindered by a problem of interpretation of the judgment, it may refer the matter to the Court for a ruling on the question of interpretation. A referral decision shall require a majority vote of two-thirds of the representatives entitled to sit on the committee.

4. If the Committee of Ministers considers that a High Contracting Party refuses to abide by a final judgment in a case to which it is a party, it may, after serving formal notice on that Party and by decision adopted by a majority vote of two-thirds of the representatives entitled to sit on the committee, refer to the Court the question whether that Party has failed to fulfil its obligation under paragraph1.

5. If the Court finds a violation of paragraph 1, it shall refer the case to the Committee of Ministers for consideration of the measures to be taken. If the Court finds no violation of paragraph1, it shall refer the case to the Committee of Ministers, which shall close its examination of the case."

261. In the case of *Cordella and Others v. Italy* 2019, §§ 179-182, in which, *inter alia,* it found a violation of Article 8 of the Convention on the grounds of the applicants' exposure to a high level of

pollution from a steelworks, the Court decided not to initiate a pilot-judgment procedure. It did, however, emphasise that the execution of the judgment would require an emergency clean-up operation in the steelworks and the area affected by the environmental pollution in question. It added that the environmental strategy (listing the requisite measures and actions to guarantee protection of the environment and the health of the population), which had been approved by the national authorities in 2014 but implementation of which had been postponed until 2023, should be enforced as soon as possible.

262. The Court followed the same approach in the case of *L.F. and Others v. Italy*, 2025, §§ 180-183, in which it found a violation of Article 8 on account of the inadequacy of the measures taken by the respondent State to protect the right of persons living near a foundry to respect for their private life. It dismissed the applicants' request that it indicate detailed measures for execution of the judgment and that it apply the pilot-judgment procedure, but noted that the situation could be remedied not only by addressing the environmental hazards so that the environmental impact of the foundry became fully compatible with its location in a residential area, but also by relocating the plant, as had been originally planned and was still possible. It further noted that, in order to attain those objectives, the national authorities remained free to use any coercive powers available under domestic law or to negotiate a mutually agreed solution with the company.

263. In the case of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland,* 2024, § 655-657, in which the Court concluded, among other findings, that there had been a violation of Article 8 on account of the inadequacy of the respondent State's action to tackle climate change, it held that, having regard to the complexity and the nature of the issues involved, it was unable to be detailed or prescriptive in indicating any measures to be implemented in order to comply effectively with its judgment. Given the differentiated margin of appreciation accorded to the State in this area (entailing a distinction between, on the one hand, the State's commitment to the necessity of combating climate change and its adverse effects, and the setting of the requisite aims and objectives in this respect, and, on the other, the choice of means designed to achieve those objectives) the Court considered that the respondent State, with the assistance of the Committee of Ministers, was better placed than the Court to assess the specific measures to be taken.

264. In the case of *Cannavacciuolo and Others v. Italy*, 2025, §§ 487-503, the Court found that there had been a violation of Article 2 on the grounds that the Italian State had failed in its obligation to react with diligence to the phenomenon of generalised large-scale systematic pollution, for at least a decade, in the Campania region, as a result of the dumping, burying and incineration of waste on private land, frequently by organised criminal groups ("*Terra del Fuochi*"). Under Article 46, it considered it appropriate to apply the pilot-judgment procedure, taking into account the persistent nature of the problem and the systemic shortcomings that had characterised the State's response to it, coupled with the large number of people it had affected and was capable of affecting, and the urgent need to grant them speedy and appropriate redress. It considered that Italy was required to develop a comprehensive strategy to address the situation, to put in place an independent monitoring mechanism and to establish a public information platform. It gave Italy a two-year deadline to adopt those measures, during which the Court would adjourn the examination of the thirty-six pending applications, lodged by about four thousand seven hundred applicants, that concerned the same subject matter.

Judgments mentioning an individual right to environment:

- *Tătar v. Romania*, 2009, § 107, and *Di Sarno and Others v. Italy*, 2012, § 110: "right to live in a safe and healthy environment";
- *Băcilă v. Romania*, 2010, § 71: "right to enjoy a balanced environment respecting human health".

Judgments and decisions mentioning the precautionary principle:

- in the framework of Article 6: *Folkman and Others v. Czech Republic* (dec.), 2006;
- in the framework of Article 8: *Asselbourg and Others v. Luxembourg* (dec.), 1999; *Aly Bernard et 47 autres personnes physiques ainsi que l'association Greenpeace-Luxembourg, v. Luxembourg* (dec.), 1999; *Sdružení Jihočeské Matky v. Czech Republic* (dec.), 2006; *Tătar v. Romania*, 2009, § 120.

Judgments and decisions referring in their reasoning to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters:

- *Collectif national d'information et d'opposition à l'usine Melox – Collectif Stop Melox and Mox v. France* (dec.), 2006;
- *Tătar v. Romania*, 2009, § 118;
- *Grimkovskaya v. Ukraine*, 2011, §§ 69 and 72;
- *Di Sarno and Others v. Italy*, 2012, § 107;
- *Locascia and Others v. Italy*, 2023, § 125;
- *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, §§ 490-492, 501, 539, 609.

List of cited cases

The case-law cited in this Guide refers to judgments or decisions delivered by the Court and to decisions or reports of the European Commission of Human Rights ("the Commission").

Unless otherwise indicated, all references are to a judgment on the merits delivered by a Chamber of the Court. The abbreviation "(dec.)" indicates that the citation is of a decision of the Court and "[GC]" that the case was heard by the Grand Chamber.

The hyperlinks to the cases cited in the electronic version of the Guide are directed to the HUDOC database (http://hudoc.echr.coe.int) which provides access to the case-law of the Court (Grand Chamber, Chamber and Committee judgments and decisions, communicated cases, advisory opinions and legal summaries from the Case-Law Information Note) and of the Commission (decisions and reports), and to the resolutions of the Committee of Ministers.

The Court delivers its judgments and decisions in English and/or French, its two official languages. HUDOC also contains translations of many important cases into more than thirty non-official languages, and links to around one hundred online case-law collections produced by third parties.

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