

THE APPLICATION OF THE LEGAL PRINCIPLES AND METHODS OF INTERPRETATION OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS IN CLIMATE CHANGE-RELATED CASES BEFORE THE EUROPEAN COURT OF HUMAN RIGHTS

Maja Proso, PhD, Associate Professor

University of Split, Faculty of Law
Domovinskog rata 8, 21000 Split, Croatia
maja.proso@pravst.hr

Vedran Zlatić, PhD, Assistant Professor

University of Split, Faculty of Law
Domovinskog rata 8, 21000 Split, Croatia
vedran.zlatic@pravst.hr

ABSTRACT

Climate change, a long-term shift in global, regional, and local weather patterns, is primarily driven by human activities, especially the burning of fossil fuels since the 1800s. This has led to a 1.2°C increase in Earth's average surface temperature since the pre-industrial era, a level unprecedented in 100,000 years. The consequences are widespread, including intensified droughts, water shortages, severe fires, rising sea levels, flooding, melting ice, extreme storms, and biodiversity loss. These impacts threaten our health, food production, housing, safety, and livelihoods. While the right to a healthy environment is recognized and protected by the European Court of Human Rights (ECtHR) through its jurisprudence, it isn't explicitly stated in the European Convention on Human Rights. However, the UN Human Rights Council and General Assembly have affirmed this right, recognizing a clean, healthy, and sustainable environment as a universal human right. Climate change, along with unsustainable resource management, pollution, and improper waste disposal, degrades the environment, hindering this right and negatively impacting all human rights. In 2024, the ECtHR made a landmark ruling, establishing that insufficient climate action constitutes a violation of human rights. The paper examines recent ECtHR decisions related to climate change and its impact on the right to a healthy environment (protected by Article 8 of the European Convention on Human Rights). The ECtHR has previously developed criteria for member states to adhere to, particularly regarding Article 8 of the Convention (right to respect for private and family life), in environmental pollution cases. The authors are particularly interested in examining how the Court has used established legal tools and approaches in climate change cases. This includes the principle

*of effectiveness, which has been key in defining the positive duties of Convention signatories, and the doctrine of the margin of appreciation. This latter concept is vital for determining the extent of these positive duties under Article 8 of the Convention in the context of climate change. The aim of the present research is, therefore, to examine how the ECtHR's deployment of the doctrines and methods of interpretation- the method of causation and the doctrines of positive state obligations and the margin of appreciation are applied in recent climate change judgements, particularly in *Klima Seniorinnen v. Switzerland* case, and to answer the main research question- does the interpretation of applied doctrines and methods of interpretation by the ECtHR in cases concerning climate change differ from existing environmental case law?*

Keywords: *Article 8. of the European Convention on Human Rights, climate change-related cases, The European Court of Human Rights, the right to a healthy environment, the margin of appreciation doctrine*

1. INTRODUCTION

Long-term changes in global temperatures and weather, known as climate change, are driven by an enhanced greenhouse effect. Although natural phenomena can play a role, the primary driver since the Industrial Revolution is the release of greenhouse gases from human activities. Burning fossil fuels, like coal, oil, and natural gas, generates carbon dioxide and methane, which act as a thermal blanket, trapping solar heat. Land clearing and agricultural practices also contribute to these emissions, with energy, industry, transport, and building sectors being major sources.¹ The European Union has set a legally binding target for its member states to reach net-zero greenhouse gas emissions by 2050, effectively establishing a climate-neutral economy. This objective, was agreed upon by EU leaders in 2019 and detailed in the European Green Deal.² The European Climate Law³ is the cornerstone of the Green Deal, as it legally mandates that all EU member states achieve climate neutrality by 2050. April 2024 saw the European Court of Human Rights (hereinafter: ECtHR) Grand Chamber deliver its verdicts on three much-awaited climate change lawsuits, a major development in international climate action. The court's decisions confirmed that the European Convention on Human Rights⁴ (hereinaf-

¹ United Nations, Climate Action, *What is Climate change?* Available at: [<https://www.un.org/en/climatechange/what-is-climate-change>], Accessed 8 March 2025.

² The European Green Deal, *Striving to be the first climate neutral continent* Available at: [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_en], Accessed 8 March 2025.

³ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (European Climate Law), OJ L 243, 9 July 2021.

⁴ European Convention on Human Rights, text available at: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:eu_human_rights_convention], Accessed 8 March 2025.

ter: ECHR) safeguards individuals from the harms of climate change, and mandates that states actively work to reduce those harms. Although the ECHR doesn't explicitly recognize a right to a clean environment, the ECtHR has addressed environmental issues by examining violations of existing human rights under ECHR by employing particular and adaptable method of interpreting the ECHR, known as the "living instrument" principle. This ensures that the rights within the Convention are interpreted in a dynamic way, which has, in effect, led to the "greening" of the Convention. By merging the idea of the Convention as a "living instrument" with the understanding that it safeguards rights that are real and impactful, not just abstract, the principle of effectiveness is applied. This principle proved particularly crucial in shaping the notion of positive duties for the signatories of the ECHR and the doctrine of the margin of appreciation. The aim of the present research is, therefore, to examine how the ECtHR's deployment of the doctrines and methods of interpretation- the method of causation and the doctrines of positive state obligations and the margin of appreciation are applied in recent climate change judgements, particularly in *Klima Seniorinnen v. Switzerland* case⁵ and to answer the main research question- does the interpretation of applied doctrines and methods of interpretation by the ECtHR in cases concerning climate change differ from existing environmental case law? Following the introduction, the second part of the paper explores the development of the right to a healthy environment within the process called the greening of the ECHR, by employing the causation method and the doctrines of positive state obligations and the margin of appreciation as established in existing ECtHR environmental case law. The third section is dedicated to the analysis of the application of the existing legal principles and interpretative methods in *Klima Seniorinnen v. Switzerland* case. The authors will specifically analyse how the ECtHR has interpreted the question of causation and the doctrine of the State's positive obligation in the context of climate change threats to the human rights protected by ECHR's Article 8 in the *Klima Seniorinnen v. Switzerland* judgement. Since the doctrine of the margin of appreciation is indispensable for evaluating how well Member States fulfill their positive obligations, the authors will examine does the ECtHR assess the margin of appreciation differently compared to its earlier environmental case-law? In the concluding section of the paper, we will integrate the conclusions of all the discussed topics and synthesize the findings addressed in this research.

⁵ *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, Application no. 53600/20, Judgement of 9 April 2024.

2. THE DEVELOPMENT OF LEGAL RECOGNITION OF THE RIGHT TO A HEALTHY ENVIRONMENT - THE GREENING OF THE ECHR (BY APPLYING THE METHOD OF CAUSATION AND THE DOCTRINES OF POSITIVE STATE'S OBLIGATIONS AND THE MARGIN OF APPRECIATION IN EXISTING ECTHR ENVIRONMENTAL CASE-LAW)

Emerging as a “third-generation” right, the right to a healthy environment saw its legal recognition surge in the 1970s, driven by the growing realization of the severe consequences of climate change. This awareness, highlighting the existential threat to human civilization, prompted international action, notably the 1972 Stockholm UN Conference. Its declaration established the principle that humans possess a fundamental right to a life of dignity and well-being within a quality environment, while also bearing a duty to safeguard it for future generations.⁶ The Stockholm Conference represents a pivotal moment in the historical development of the relationship between human civilization and the natural environment. Since then, both at the international and national levels, the necessity of protecting the natural environment has been increasingly emphasized, as it has become more than clear that the survival of humanity itself depends on the protection of the natural environment. In this regard, increasing attention is being paid to the issue of environmental protection at the international level. In 1983, again under the auspices of the UN, the World Commission on Environment and Development (WCED) was established, with the primary goal of finding solutions to growing environmental problems such as global warming and damage to the ozone layer. The World Commission on Environment and Development's 1987 report, “Our Common Future,” established the concept of sustainable development, defining it as development that balances current needs with future generations' capabilities.⁷ This report further outlined methods for implementing this principle. Building upon this, the 1990s saw the United Nations Conference on Environment and Development (UNCED), or Earth Summit, which aimed to reinforce international environmental protection. Marking two decades since the Stockholm Conference, the Earth Summit resulted in the adoption of significant agreements, such as the Rio Declaration, Agenda 21, and conventions addressing

⁶ Declaration on the Human Environment, available at: <https://documents.un.org/doc/undoc/gen/nl7/300/05/pdf/nl730005.pdf> Accessed 26 February 2025.

⁷ UN World Commission on Environment and Development, *Report of the World Commission on Environment and Development: Our Common Future*, <https://www.environmentandsociety.org/mml/un-world-commission-environment-and-development-ed-report-world-commission-environment-and>, Accessed 21 February 2025.

climate change, biodiversity, and forest management.⁸ These documents intended to build the initial structure for sustainable development across local, national, regional, and global scales for the 21st century. The right to a healthy environment today enjoys wider legal recognition, both in national and international frameworks, for example, the African Charter on Human and Peoples' Rights, the San Salvador Protocol, the Aarhus Convention, as well as the Arab Charter on Human Rights. In total, the mentioned regional documents have been ratified by 120 countries worldwide.⁹ In October 2021, the UN Human Rights Council adopted Resolution 48/13 (hereinafter: the Resolution), recognizing a clean, healthy, and sustainable environment as a human right. The Resolution was further strengthened by the UN General Assembly in 2022, declaring access to a clean, healthy, and sustainable environment as a universal human right. The Resolution states that the right to a healthy environment is linked to existing international laws and affirms that its promotion requires the full implementation of multilateral environmental agreements. It also explicitly recognizes that the impact of climate change, unsustainable management and use of natural resources, air, soil, and water pollution, improper management of chemicals and waste, resulting in biodiversity loss, hinder the realization of the right to live in a healthy environment, and that environmental damage has direct and indirect negative implications for the effective enjoyment of all human rights. The Resolution, finally, reaffirms that the right to live in a healthy environment is 'a human right belonging to everyone, and not just a privilege for some.'¹⁰ When it comes to national legal systems, the right to a healthy environment and legal protection of the environment began to appear in constitutional documents only after the 1972 Stockholm Conference. According to D. R. Boyd, the first countries to include the right to a healthy environment as one of the fundamental rights in their constitutional documents were Portugal in 1976 and Spain in 1978.¹¹ According to the UN's "Environmental Rule of Law: First Global Report" from 2019, more than 150 countries include provisions on environmental protection or the right to a healthy environment as a

⁸ United Nations Conference on Environment and Development, Rio de Janeiro, Brazil, 3-14 June 1992, [<https://www.un.org/en/conferences/environment/rio1992>] Accessed 28 February 2025.

⁹ Boyd, R. D., *Evaluating 40 years of experience in implementing the right to a healthy environment* in: Knox, H. J.; Pejan, R., (eds.), *Human right to a healthy environment*, Cambridge University Press, 2018, p. 17.

¹⁰ Schoukens, H.; Bouquelle, F., *Introduction: the right to a healthy environment revisited as a necessary leverage point in times of climate crisis in Europe and beyond?* in: Schoukens, H.; Bouquelle, F., (eds.), *The Right to a Healthy Environment in and Beyond the Anthropocene*, Edward Elgar Publishing, 2024, p. 2.

¹¹ Boyd, R.D., *The Status of Constitutional Protection for the Environment in Other Nations*, David Suzuki Foundation, 2013, p.6., Available at: [<https://david Suzuki.org/science-learning-centre-article/status-constitutional-protection-environment-nations>] Accessed 8 March 2025.

fundamental human right in their constitutions.¹² These are certainly encouraging figures, although it is concerning that some of the wealthiest and most developed countries still do not have provisions on environmental protection or the right to a healthy environment as a separate human right at the national constitutional level. The growing global trend towards constitutional environmental protection was joined by the Republic of Croatia with the adoption of its Constitution in 1990. This is most clearly seen in the provisions of Article 3 of the Constitution of the Republic of Croatia¹³, which states that the principle of nature conservation and human environment protection represents one of the highest values of the Croatian constitutional order. Furthermore, Article 52 of the Constitution of the Republic of Croatia stipulates that “..the sea, the coastline and islands, waters, airspace, mineral resources, and other natural wealth, as well as land, forests, plant and animal life, other parts of nature, real estate, and objects of particular cultural, historical, economic, and ecological significance, which are designated by law as being of interest to the Republic of Croatia, are under its special protection.” Moreover, the original text of the 1990 Constitution¹⁴ explicitly stipulated the right to a healthy environment as one of the fundamental human rights in its Article 69. However, this provision was altered by constitutional amendments in 2001. Article 70 of the Constitution stipulates that “the state ensures conditions for a healthy environment.”¹⁵ Nevertheless, it is important to note that this change did not eliminate the right to a healthy environment from the Croatian constitutional system, as confirmed by the Decision of the Constitutional Court of the Republic of Croatia on April 18, 2023.¹⁶ This is also consistent with the expressed stance of the Constitutional Court that certain constitutional provisions cannot be interpreted mechanically and separately but only as part of the organically connected whole of the Constitution.¹⁷ Therefore, it can be said that, through a

¹² Environmental Rule of Law: First Global Report, (United Nations Environment Programme, 2019, Available at: [<https://www.unep.org/resources/assessment/environmental-rule-law-first-global-report>], Accessed 28 February 2025.

¹³ The Constitution of the Republic of Croatia, Official Gazette, no. 85/10, 5/14.

¹⁴ Paragraph 2, Article 69 of the 1990 constitutional text reads: “The Republic ensures the right of citizens to a healthy environment. Citizens, state, public, and economic bodies, and associations are obliged, within the scope of their powers and activities, to pay special attention to the protection of human health, nature, and the human environment.” See The Constitution of the Republic of Croatia, Official Gazette, no. 56/90.

¹⁵ Furthermore, paragraph 2, Article 70 reads: “The state ensures conditions for a healthy environment“, and paragraph 3 of Article 70 of the Constitution reads: „Everyone is obliged, within the scope of their powers and activities, to pay special attention to the protection of human health, nature, and the human environment.”

¹⁶ The Decision and the Ruling of the Constitutional Court No. U-II-845/2019 i U-II-2160/2019, 18. April 2023., paras. 20.2., 21.1., 21.9.

¹⁷ The Ruling of the Constitutional Court No. U-I-3789/2003, 8. December 2010., para. 8.2.

teleological and systematic interpretation of the Constitution as a whole, it can be concluded that there is a constitutional right to a healthy environment in the Croatian constitutional order, especially considering the provisions of Articles 3, 52, and 70 of the Constitution of the Republic of Croatia.

The ECtHR interprets conventional human rights in a way that the circle of legally protected goods under the Convention articles includes those violated by negative human impact on the environment. This process is theoretically called the “greening” of explicitly established human rights. Instead of recognizing an independent right to live in a healthy environment, the “greening” of human rights process emphasizes the ecological dimension of already existing rights and protects the environment as a prerequisite for the enjoyment of human rights such as, for example, the right to life, health, privacy of personal and family life, home, and correspondence. Over the past decades, UN bodies, national courts, and other human rights mechanisms have interpreted the human right to a healthy environment in a similar way, but authors argue that the ECtHR has been the most advanced in “greening” their rights.¹⁸ In the Case *Olujić v. Croatia*¹⁹, the ECtHR held that although the ECHR does not contain an explicit right to a clean and quiet environment, noise or other pollution that directly and seriously affects an individual may constitute a violation of the right to respect for private and family life, guaranteed by Article 8 of the ECHR. In other words, although the ECHR does not explicitly protect the right to a healthy environment, pollution that seriously impairs a person’s quality of life may be the basis for a lawsuit before the Court. The ECtHR safeguards the right to a healthy environment by using specific interpretive, evolving methods for the ECHR which include; the “living instrument” principle - ensuring dynamic interpretation of the convention rights, which, in turn, facilitated the “greening” of the ECHR a limited scope for national governments to interpret and apply the ECHR („the margin of appreciation“) and a focus on ensuring ECHR rights are practically enforceable („the principle of effectiveness“). The principle of evolutionary and dynamic interpretation of conventional principles is one of the foundations that enabled the ‘greening’ of the ECHR.²⁰ Drawing on the principle of the “living instrument” emerging in the 1970s in Strasbourg jurisprudence²¹ — the idea that the ECHR should be interpreted dynamically in

¹⁸ Pedersen, W. O., *The Ties That Bind: The Environment, the European Convention on Human Rights and the Rule of Law*, Vol. 16 (4), European Public Law, 2010, p. 594.

¹⁹ *Olujić v. Croatia*, Application no. 22330/05, Judgement of 5. February, 2009, para. 45.

²⁰ Müllerová, H., *Environment Playing Short-Handed: Margin of Appreciation in Environmental Jurisprudence of the European Court of Human Rights*, Review of European, Comparative & International Environmental Law, 24, 2014, p. 84.

²¹ van Dijk, P.; Godefridus J.H.; van Hoof, G. J.H., *Theory and Practice of the European Convention on Human Rights*, The Hague-Boston-London: Kluwer Law International, 1998, p. 74.

light of present-day conditions, meaning conventional rights evolve with societal progress. This principle, central to ECtHR environmental case-law, allows the ECtHR flexibility to ensure protected rights are adapted to social changes.²² This approach, which involves an evolutive interpretation of ECHR rights, was notably applied by the ECtHR in its judgment in *Marckx v. Belgium*.²³ The principle of effectiveness is applied because rights guaranteed by ECHR require real, effective protection, not just teoretical. The ECtHR demands evidence of a causal connection to link environmental dangers with possible violations of human rights, and its emphasis on a State's role highlights this developing perspective. This, in turn, imposes positive duties on States, to address environmental pollution that harms individuals' private lives and homes. The margin of appreciation doctrine is a judicial tool giving States leeway in limiting rights. This assumes national bodies are best placed to judge necessary restrictions. Therefore, in the continuation of this research, we will analyze the use of aforementioned methodes and doctrines of interpretation in existing ECtHR environmental case-law.

2.1. Application of the method of causation and the doctrines of positive State's obligations and the margin of appreciation in existing ECtHR environmental case-law

The ECtHR began to acknowledge the connection between environmental conditions and human rights in the 1990s. According to the ECtHR, the ability to enjoy the majority of human rights is dependent upon the existence of an undamaged environment.²⁴ Through cases *Powell and Rayner v. UK*²⁵ and *López Ostra v. Spain*²⁶, ECtHR started to explore how detrimental environmental factors could affect individuals' quality of life. Even though the *Powell and Rayner* case didn't find a rights violation, it established the crucial point of balancing individual and community interests.²⁷ It's important to note that for a case to be valid, it must fall within the scope of Article 8 of the ECHR, which protects rights related to private life, family,

²² Mihelčić, G.; Marochini Zrinski, M., *Suživot negatorijske zaštite od imisija i prava na život u zdravoj životnoj sredini*, Zbornik Pravnog fakulteta Sveučilišta u Rijeci, Vol. 39, No. 1, 2018, p. 250.

²³ *Marckx v. Belgium*, Application no. 6833/74, judgment of 13 June 1979.

²⁴ Braig, K. F.; Panov, S., *The Doctrine of Positive Obligations as a Starting Point for Climate Litigation in Strasbourg: The European Court of Human Rights as a Hilfsheriff in Combating Climate Change?* Journal of Environmental Law and Litigation, Vol. 35, 261, 2020, p. 270.

²⁵ *Powell and Rayner v. the United Kingdom*, Application no. 9310/8121, Judgment of 21. February 1990.

²⁶ *López Ostra v. Spain*, Application no. 16798/90, Judgment of 9 December 1994.

²⁷ Raisz, A.; Krajnyák, E., *Protection of the environment in the european human rights framework: a central european perspective*, in: Constitutional Protection of the Environment and Future Generations. Studies of the Central European Professors' Network . Central European Academic Publishing, Miskolc, Budapest, 2022, p. 77.

home, and correspondence. For various environmental disturbances to be deemed a violation of Article 8 rights a ECHR causal link is needed to connect environmental harm to a breach of Convention rights and the state's actions or inactions. This determination, made on a case-by-case basis, rests on two key criteria. First, the environmental pollution must be severe enough to significantly impair an individual's enjoyment of their private and family life,²⁸ and second, the State must have either failed to implement necessary measures to mitigate the pollution or have taken inappropriate actions.²⁹ Essentially, the ECtHR assesses if the State's actions or inactions contributed to the environment pollution reaching a level that violates Article 8. The *Fadeyeva v. Russia*³⁰ case clearly underscores the necessary preconditions, specifying that for an environmental pollution complaint to fall under Article 8 of the ECHR, it must demonstrate an infringement on an individual's private and family life and home, reaching a certain threshold of seriousness. The minimum threshold of severity required for the application of Article 8 is „inherently relative“ and depends on the data set of the case, in particular the intensity and duration of the nuisances, their physical and psychological effects, as well as the determination of whether the damage caused in the specific case is comparable to that which could arise in connection with environmental risks.³¹ What is key regarding the question of the causation, as interpreted by the ECtHR, is that the link and the category of protection of the right to life in a healthy environment are directly related to the State's responsibility for violation of individual rights through the State's failure to fulfill a specific positive obligation. For instance, in the *Öneryıldız* case ECtHR found the State breaching its positive duty to protect property due to officials' inaction, which directly led to the applicant's house being engulfed³². In aforementioned *Lopez Ostra* case, ECtHR found the State failed to protect the applicant from pollution, upsetting the fair balance and exceeding its discretion. Though the obligation type wasn't specified, and it was noted that distinguishing between the State's positive obligation to ensure a right and its negative obligation not to interfere is difficult, the ECtHR concluded that the applicable principles are very similar for both (para. 51). Later cases (*Moreno Gomez*³³, *Cuenca Zarzoso*³⁴) explicitly deemed the State's failure to protect against environmental pollution a breach of its positive obligations

²⁸ Jurić, A.; Mijatović, M., *Protection from Noise in the Context of Article 8 of the European Convention with Special Reference to Civil Law Protection*, Proceedings of the Conference Current Issues of Civil and Commercial Legislation and Legal Practice, no. 19, Mostar, 2022, p. 215.

²⁹ *Ibid.*

³⁰ *Fadeyeva v. Russia*, Application no. 55723/00, Judgment of 9. June 2005, paras. 68-70.

³¹ *Chiş v. Romania*, Application no. 36129/15, Judgment of April 27. 2017, paras. 31-32.

³² *Öneryıldız v. Turkey* Application no. 48939/99, Judgment of 30.11.2004.

³³ *Moreno Gómez v. Spain*, Application no. 4143/02, Judgment of 16.11.2004.

³⁴ *Cuenca Zarzoso v. Spain*, Application no. 23383/12, Judgment of 16.01.2018.

under Article 8 (Moreno Gomez para. 62; Cuenca Zarzoso, para. 54.) In *Cordella and Others v. Italy*,³⁵ the ECtHR found that the Italian government had failed to protect its citizens from the harmful effects of industrial pollution, emphasizing once again the State's positive obligation of effective protection from environmental hazards. The ECtHR clarified that State needs to balance environmental protection with broader societal interests, a balance the Italian authorities, in this particular case, had failed to achieve, thus broadening the scope of State's positive obligations. The ECtHR determined that the government's lack of action, including the failure to provide information about cleanup efforts to mitigate harmful effect of the pollution, constituted a violation of Article 8. In *Pavlov and Others v. Russia*³⁶ case the ECtHR went further clarifying that not only a State's inaction in the face of environmental threats, but also its inappropriate actions constitute a breach of the State's positive obligation and should be taken in consideration. The ECtHR, finding an Article 8 violation, notably stressed the ECHR aim to ensure rights are practical and effective, thereby applying the principle of effectiveness. The *Taskin and others* case³⁷ illustrates the variety of State's positive obligations, constituting domestic authorities' failure to implement court decisions a breach of the State's positive obligation. Existing environmental jurisprudence under the Convention shows that violations of ECHR rights are firmly based on States' actions or omissions under the doctrine of positive State's obligations. In the aforementioned *Powell and Rayner* case, it was also emphasized that States enjoy a wide margin of appreciation in achieving a fair balance between the economic interests of the community and individual interests. The *Fadeyeva* case³⁸ proved that the State had a positive duty to lessen environmental harm, potentially through enforcing its own rules or offering relocation. Despite the State's usual broad margin of appreciation, the ECtHR in this particular case found that the government failed to fairly balance community interests against the applicants' rights to private life and home.

In existing environmental based case-law, according to the legal doctrine, the ECtHR seemed to strike a balance by recognizing environmental concerns as important within existing human rights frameworks, thus aligning with current international agreement, without needing to create a new, potentially contentious, environmental right³⁹ because a healthy environment is indispensable for the full

³⁵ *Cordella and Others v. Italy*, Applications nos. 54414/13 and 54264/15, Judgment of 24. January 2019.

³⁶ *Pavlov and Others v. Russia*, Application no. 31612/09, Judgment of 11. October 2022.

³⁷ *Taskin and Others v. Turkey*, Application no. 46117/99, Judgment of 10 November 2004.

³⁸ *Fadeyeva v. Russia*, Application no. 55723/00, judgment of 9 June 2005.

³⁹ Morrow, K., *The ECHR, Environment-Based Human Rights Claims and the Search for Standards*, in: Turner, J. S., et al. (eds.), *Environmental Rights, The Development of Standards*, Cambridge University Press, 2019, p. 59.

enjoyment of a wide array of human rights.⁴⁰ The ECtHR has progressively engaged with this nexus, as evidenced by the growing body of its environmental jurisprudence.⁴¹ Despite the ECtHR's increasing engagement, a central point of scholarly critique⁴² revolves around the absence of an explicit right to a healthy environment within the ECHR. Also, some doctrinal views, which the authors of this research find convincing, voice concerns about this approach to environmental protection, considering it too instrumental and anthropocentric. If environmental protection is treated merely as a tool to achieve other aims, including protecting rights and freedoms, its practical effectiveness will suffer. This perspective doesn't seem to value the environment per se, but, rather, sees it, purely, as a mechanism for achieving other goals. According to some authors, this is an approach that treats nature protection merely as an "ancillary" right, which is typically tied to the protection of other fundamental individual rights and freedoms (such as the right to life, the right to health, the right to privacy, etc.), rather than as a value in itself.⁴³ As some argue⁴⁴, this view on environmental protection, which suggests its legal protection is always dependent on another right rather than having independent standing, fosters an individualistic approach to protecting environmental rights. The United Nations General Assembly recognized the human right to a healthy environment, and in 2021, the Parliamentary Assembly of the Council of Europe called upon the Council of Europe's Committee of Ministers to create a new addition to the European Convention of Human Rights.⁴⁵ The aim of this addition, known as an "additional protocol," would be to legally recognize and enforce the right to a healthy environment. Establishing a new human right to a

⁴⁰ Human Rights Law and Climate Change, [<https://climatehughes.org/law-and-climate-atlas/human-rights-law-and-climate-change/>], Accessed 10 May 2025.

⁴¹ Stancin, V., *The Echr and the Iccpr: A Human Rights-Based Approach to the Protection of the Environment and the Climate System*, European Convention on human rights Law Review, 5, 2024, p. 192.

⁴² See: Kobylarz, N., *A World of Difference: Overcoming Normative Limits of the ECHR Framework through a Legally Binding Recognition of the Human Right to a Healthy Environment*, Journal of Environmental Law, Volume 37, Issue 1, 2025, pp. 23–43, [<https://doi.org/10.1093/jel/eqae031>] Accessed 10 May 2025.

⁴³ Peters, B., *The European Court of Human Rights and the Environment*, in: Sobenes, E., Mead, S., Samson, B. (eds.) *The Environment Through the Lens of International Courts and Tribunals*, Springer, 2022, p. 192.

⁴⁴ Francioni, F., *International Human Rights in an Environmental Horizon*, The European Journal of International Law, Volume 21, Issue 1, 2010, p. 43–44.

⁴⁵ The right to a healthy environment: PACE proposes draft of a new protocol to the European Convention on Human Rights, [<https://pace.coe.int/en/news/8452/the-right-to-a-healthy-environment-pace-proposes-draft-of-a-new-protocol-to-the-european-convention-on-human-rights->], Accessed 17 May 2025.

healthy environment under ECHR would, as doctrine argue⁴⁶, make the existing collection of the ECtHR cases related to environmental issues more consistent and easier to understand. It would, also, create a fundamental requirement for signatories legislators to not only think about how new laws might affect the environment but also to proactively create laws that support and align with this right. Ultimately, we can concur with the idea that the ECtHR existing environmental jurisprudence provides a favorable setting for the development and formal recognition of a specific human right to a healthy environment.⁴⁷ While environmental human rights could, as we have discussed in this section, evolve without a legally binding instrument, such a document would strengthen the ECHR framework, enabling more proactive environmental justice and resolving a wider array of human rights and environmental issues in the context of the threat of accelerating climate change, while also guiding judicial interpretation.

The ECtHR established environmental jurisprudence, or, as ECtHR calls them-classic environmental cases, generally deals with situations where environmental damage originates from a distinct source. In these instances, the people affected by the specific harm can be pinpointed with relative ease, and the link between the identified source and the resulting harm to groups of individuals is generally clear. Additionally, the actions taken or not taken to lessen the damage from that source, whether through regulations or practical steps, can also be clearly identified. Essentially, there's a direct connection between the origin of the harm and those impacted, and the necessary steps to reduce the harm can be identified and applied at its source. Unlike existing case law, focused on specific environment pollution sources, climate change involves broader, systemic issues. Consequently, the ECtHR has determined that existing environmental jurisprudence cannot be directly applied to climate change cases, necessitating the development of a new, tailored legal framework that will be analysed in the next section.

3. THE APPLICATION OF THE LEGAL PRINCIPLES AND METHODS OF INTERPRETATION OF ECHR IN CLIMATE CHANGE-RELATED CASES BEFORE THE ECTHR

The UN's landmark resolutions in 2021 and 2022 established a clean, healthy, and sustainable environment as a universal human right, reinforcing its connection

⁴⁶ Willman, S.; Balfour-Lynn, H., *The Right to a Healthy Environment: The Case for a New Protocol to the European Convention on Human Rights*, SSRN Working Paper Series. 2022, p. 4. [<https://doi.org/dx.doi.org/10.2139>], Accessed 17 May 2025.

⁴⁷ Omerović, E., *et al.*, *The European Convention for the Protection of Human Rights and Fundamental Freedoms: A Fertile Ground for the Protection of the Environment?*, *Zeitschrift für Europarechtliche Studien*, Nomos, Baden Baden, 2024, p. 451.

to existing international law. This recognition directly addresses the reality that climate change, pollution, and the destruction of natural resources impede the exercise of this fundamental right. Climate change can negatively affect many rights protected by the ECHR. These include the prohibition of torture and inhuman or degrading treatment (Article 3), the prohibition of discrimination (Article 14), the rights to a fair trial and an effective remedy (Articles 6 and 13 ECHR), the right to life (Article 2) and the right to respect for private and family life, home and correspondence (Article 8 ECHR). The ECtHR has recently broadened its approach concerning the method of causation and the doctrines of State's positive obligations and the margin of appreciation, notably through the Grand Chamber's decision in aforementioned *Klima Seniorinnen v. Switzerland*. The ECtHR dismissed two of the claims *Carême v. France*⁴⁸, and *Duarte Agostinho v. Portugal and 32 Others*^{49, 50}. Further in the paper we will analyse the complexities of the principle of causation ECtHR has used interpreting the connection between climate change and its adverse impact on ECHR based human rights, particularly the right to respect for private and family life, home and correspondence protected by Article 8 ECHR, as laid down in *Klima Seniorinnen v. Switzerland*.

3.1. The principle of causation in *Klima Seniorinnen v. Switzerland*

The ECtHR acknowledged that *Klima Seniorinnen* claim marks a new departure in its environmental case law, shifting from cases involving specific harm sources to the broader, diffuse issue of climate change. Nevertheless, as the ECtHR states

⁴⁸ *Carême v. France*, Application no. 7189/21, Decision of 9 April 2024.

⁴⁹ *Duarte Agostinho and Others v. Portugal and 32 Other States*, Application no. 39371/20, Decision of 9 April 2024.

⁵⁰ In *Duarte Agostinho and Others v. Portugal and 32 Other States* six young Portuguese people in 2020 sued 33 countries at the ECtHR, arguing that their inadequate response to climate change violates their fundamental rights to life under Article 2 ECHR, privacy under Article 8 ECHR, and freedom from discrimination under Article 14 ECHR. The case centers on the applicants' claim that 33 nations are responsible for climate change through their greenhouse gas emissions, which in turn are causing heatwaves that threaten their health and living conditions. The ECtHR ruled the climate change application inadmissible. The court declined to recognize the requested extraterritorial jurisdiction, thus dismissing the case against most of the respondent countries. The case against Portugal was also dismissed, as the applicants had not utilized all available legal avenues within Portugal before bringing their case to the European Court. In *Carême v. France* A former French mayor, sued France for insufficient climate action, challenging the government's refusal to meet 2030 emissions targets. The applicant argued the Council of State wrongly dismissed his case, claiming he was directly affected by inadequate climate action, thus violating his right to privacy (Article 8 ECHR). The application was declared inadmissible by the European Court on April 9, 2024, because the applicant's change of residence meant they could no longer claim to be a victim as required by the Convention. See: Climate Change Litigation Databases, [<https://climatecasechart.com/>], Accessed 28 February 2025.

in para. 455 “failure by the Court to maintain a dynamic and evolutive approach of interpretation would risk rendering it a bar to reform or improvement.” Unlike the more predictable consequences of specific toxins, greenhouse gas emissions aren’t confined to a few distinct, hazardous practices; they arise from numerous common activities. Climate change, according to the ECtHR is a polycentric problem, meaning that effective solutions necessitate a broad, interconnected set of actions, rather than just localized or single-sector efforts (paras. 416-419). Climate change negative effects complicate the process of establishing direct causation between a nation’s actions and specific harms due to the global nature of greenhouse gas emissions. Therefore, in *Klima Seniorinnen* case, the ECtHR has dedicated considerable attention to the concept of causation, which represents a departure from its previous approach in environmental cases. As the Court itself recognized in paragraph 422, it is “neither adequate nor appropriate” to simply transfer the principles from its established environmental case law to the context of climate change, a point that is highly relevant given the focus on causation in this new judgment. In *Klima Seniorinnen* ECtHR considered it appropriate to adopt an approach which both acknowledges and takes into account the particularities of climate change and is tailored to addressing its specific characteristics.⁵¹ These complexities of causation in climate change disputes should, according to the ECtHR, involve: establishing the scientific link between emissions and climate change⁵², the legal link between climate impacts and human rights, the causal link between state actions and individual harm, and the attribution of responsibility among multiple emitters (para.425).⁵³ The ECtHR considered the impact of climate change effects on the enjoyment of Convention rights as the second part of the causation question (paras. 431-435). In short, the ECtHR expanded the concept of harm to include also the risk of harm in climate change cases. This required “sufficiently severe risks”, as defined in paras. 487-488, by a high intensity of exposure or significant consequences and a pressing need for individual protec-

⁵¹ „In the present case, therefore, while drawing some inspiration from the principles set out in the Court’s existing case-law, the Court will seek to develop a more appropriate and tailored approach as regards the various Convention issues which may arise in the context of climate change.“ *Klima Seniorinnen v. Switzerland*, para. 422.

⁵² But the proof linking greenhouse gas emissions to climate change phenomena in human rights law isn’t solely a scientific matter. The ECtHR, in the process of assessing State’s positive obligation (as explained in section 3.2.) has relied on domestic and international legal standards of Paris Agreement, Aarhus convention, Intergovernmental Panel on Climate Change etc. as substitutes for scientific proof, also: Stoyanova, V., *KlimaSeniorinnen and the Question(s) of Causation*, [<https://verfassungsblog.de/klimaseniorinnen-and-the-questions-of-causation/>], Accessed 10 May 2025.

⁵³ ECtHR further explained that the fourth dimension of causation in climate change cases should concern attributing responsibility for climate change effects to a specific State, given the fact that multiple actors contribute to overall emissions.

tion, which determines victim status.⁵⁴ This second dimension, is not considered alone, but is linked to States' obligations and their scope, merging the questions of whether a positive obligation exists, its extent, and if it has been breached. Paras. 437-440 clarified three points about this third dimension: assessing sufficiently close risk to the applicant, applying a severity threshold for risks to lives, health, and well-being (para. 440)⁵⁵, and linking this risk to State obligations and their scope (which we discuss in the section 3.2). The *Klima Seniorinnen* judgment is notable for extensively addressing causation up front, marking the first time the ECtHR dedicated whole sections to it. However, we found the Court's reasoning on causation somewhat confusing and unclear, particularly regarding the application of the 'real prospect' test⁵⁶ for finding a breach due to State's omissions. To establish a direct link between the State's omissions in mitigating adverse effects of environmental pollution and its harmful impact on personal life, the ECtHR uses the doctrine of the margin of appreciation, which allows the ECtHR to navigate between deferring to national governments and exercising its judicial oversight. In response to the effects of climate change on rights protected by the ECHR, the ECtHR has evolved this doctrine, used in environmental case-law, only to create a differentiated margin of appreciation, appropriate to assess the State's positive obligations related to climate change, as explained in section below.

3.2. Specificities in the application of the doctrines of State's positive obligations and the margin of appreciation in *Klima Seniorinnen v. Switzerland*

In *KlimaSeniorinnen v. Switzerland*, the ECtHR stressed States' duty to establish effective environmental protections, especially risk-specific regulations, drawing on its existing environmental law.⁵⁷ The ECtHR held that although climate change is a global issue, the significance of different emission sources and the appropriate mitigation and adaptation strategies can differ between countries, influenced by factors like economic structure, geography, demographics, and societal condi-

⁵⁴ Comparatively, in *Carême v. France* the ECtHR explained the application of Article 8, requiring a "direct and immediate link" between the issue and the applicant's home/private/family life. Environmental damage only triggers Article 8 if it has a direct impact or repercussions on these aspects, not just a general environmental decline (paras. 83-87).

⁵⁵ Further guidance on the severity threshold is provided in paras. 513 and 519, where the ECtHR defines the scope of Articles 2 and 8 respectively. Under Article 8, the severity threshold is defined as "serious adverse effects of climate change" on the applicants' "life, health, well-being and quality of life."

⁵⁶ This test for breaching a positive obligation requires demonstrating that the measure the State should have taken had „a real prospect of altering the outcome or mitigating the harm.“(para. 444)

⁵⁷ *Klima Seniorinnen v. Switzerland*, para. 538.

tions.⁵⁸ The ECHR requires states to actively uphold its rights and, as it has been discussed above, in section 2.1. the ECtHR has often found states responsible for failing these positive obligations. In *Klima Seniorinnen* ECtHR for the first time, found a state (Switzerland) in violation of Articles 8 for failing to adequately address climate change because no specific limits for national greenhouse gas emissions were established or calculated. The ECtHR held that the State's positive obligations were not met because the Swiss government did not act in a timely, appropriate, and consistent manner in creating and implementing the necessary legal and administrative framework.⁵⁹ Countries are obligated to establish plans for greenhouse gas reduction and to define their path towards achieving climate neutrality within thirty years.⁶⁰

Regarding the margin of appreciation, in contrast to previously analyzed environmental cases, the ECtHR used a somewhat nuanced approach to the question of margin of appreciation.⁶¹ The Court, building from existing environmental case law, emphasized, once again, the principle of effectiveness, meaning that states have a primary duty to enact and effectively implement regulations and measures to mitigate climate change's present and potential irreversible future effects, ensuring Convention rights are practical, not just theoretical. This requires States to implement necessary actions to limit increases in atmospheric greenhouse gas concentrations and global temperature rises, to prevent serious harm to human rights, particularly the right to private and family life and home under Article 8. In other words, the ECtHR in *Klima Seniorinnen* granted State a wide margin of appreciation in selecting climate policy and implementation. As to the content of climate-related obligations under Article 8, ECHR the ECtHR outlined the specific criteria used to review how countries set their climate change mitigation goals.⁶² Concerning what states are required to do, the ECtHR emphasized that

⁵⁸ *Ibid.*, para. 421.

⁵⁹ *Ibid.*, para. 573.

⁶⁰ Wiśniewski, A., *The European Court of Human Rights and Climate Change*, Law & Social bonds no. 6 (53), 2021, p. 1373.

⁶¹ While states have a margin of appreciation, their commitment to climate action is separate from the means they select. para. 543

⁶² *Klima Seniorinnen v. Switzerland*, para. 550: „When assessing whether a State has remained within its margin of appreciation the Court will examine whether the competent domestic authorities, be it at the legislative, executive or judicial level, have had due regard to the need to:(a) adopt general measures specifying a target timeline for achieving carbon neutrality and the overall remaining carbon budget for the same time frame, or another equivalent method of quantification of future GHG emissions, in line with the overarching goal for national and/or global climate-change mitigation commitments; (b) set out intermediate GHG emissions reduction targets and pathways (by sector or other relevant methodologies) that are deemed capable, in principle, of meeting the overall national GHG reduction goals within the relevant time frames undertaken in national policies; (c) provide evidence showing whether they have duly complied, or are in the process of complying, with the relevant GHG reduction targets;(d) keep the relevant GHG reduction targets updated with due diligence, and based on the

States must implement effective regulations to mitigate climate change's current and future impacts, ensuring practical human rights protections, not merely theoretical ones. In doing so, the ECtHR stressed the importance of State's duty to cut gass emissions significantly and reach net neutrality within 30 years to uphold Article 8 rights, acting, even more importantly- promptly and consistently.⁶³ To ensure states properly use their discretion in climate policy, the ECtHR considered public access to relevant studies and meaningful participation in decision-making as essential procedural safeguards.⁶⁴ The ECtHR in *Klima Seniorinnen v. Switzerland*, we can conclude, gently balances state discretion against the imperative of effective climate action for human rights protection, emphasizing that states must act effectively within their capabilities and international commitments, notably The Paris Agreement⁶⁵ and UNFCCC⁶⁶ as guided by the doctrine of the margin of appreciation. The ECtHR also particularly noted the neccessity to consider international pollution standards and the need to rely on international reports, particularly from the Intergovernmental Panel on Climate Change (IPCC)⁶⁷, for scientific guidance on climate change impacts on individuals when assessing affected rights in the context of climate change. In the context of climate change, the *Klima Seniorinnen v. Switzerland* judgment, therefore, signifies a considerable extension of what Article 8 require national governments to actively do.

4. CONCLUSION

Human activities, particularly the widespread combustion of fossil fuels, are understood by climate scientists to cause atmospheric alterations that trap more heat,

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."

⁶³ *Klima Seniorinnen v. Switzerland*, paras. 547-548.

⁶⁴ *Ibid.*, para. 554.

⁶⁵ The Paris Agreement, a legally binding climate treaty adopted by 196 nations in 2015 and effective since 2016, aims to limit global temperature rise. Originally targeting "well below 2°C," recent scientific consensus, particularly from the IPCC, has emphasized the critical need to cap warming at 1.5°C to avoid catastrophic climate impacts. This necessitates peaking greenhouse gas emissions before 2025 and achieving a 43% reduction by 2030.

[<https://unfccc.int/process-and-meetings/the-paris-agreement>], Accessed 11 May 2025.

⁶⁶ Established in 1992 and operational since 1994, the United Nations Framework Convention on Climate Change (UNFCCC) aims to stabilize greenhouse gas concentrations in the atmosphere, thereby mitigating human-induced climate change. As one of the key outcomes of the 1992 Rio Earth Summit, it has achieved almost global participation, with 198 member countries. More at: [<https://www.eesc.europa.eu/pt/initiatives/un-framework-convention-climate-change>], Accessed 7 March 2025.

⁶⁷ The United Nations body for assessing the science related to climate change, more at: [<https://www.ipcc.ch/>], Accessed 12 May 2025.

ultimately warming the Earth's surface significantly.⁶⁸ Since a specific “right to a healthy environment” is still not universally recognized, legal efforts to mitigate climate change's damage must rely on established human rights. This research aimed, therefore, to analyze how and to what extent the ECtHR applies its existing doctrines and interpretative methods developed in earlier environmental case-law in recent climate change rulings, specifically in the *KlimaSeniorinnen v. Switzerland* case. The authors wanted to answer the question of whether judicial methods and principles of interpretation in cases regarding climate change differ from earlier judicial practice. The research's key conclusion is that the ECtHR's approach to legal principles and interpretation methods regarding climate change diverges from its established environmental case law. Current environmental case law typically addresses specific pollution sources, whereas climate change involves wider, systemic problems. Consequently, the ECtHR in *KlimaSeniorinnen v. Switzerland* has determined that existing environmental jurisprudence cannot and should not be directly applied to climate change cases, necessitating the development of a new, tailored legal framework⁶⁹, as we have discussed in the paper. The *KlimaSeniorinnen v. Switzerland* case was the first instance where the ECtHR directly linked a State's climate policy to its positive duties under the ECHR. The ECtHR in interpreting the doctrine of the state's positive obligations established a State's duty to protect citizens from climate change under ECHR's Article 8 and limited State discretion in setting ambitious climate policies, requiring carbon budget consideration. Our research proved that the most significant shift from prior environmental case-law, is the narrowing of the margin of appreciation afforded to States, which was typically wide in environmental cases. One of the judgment's crucial points is the ECtHR's requirement for signatory States to implement significant and continuous reductions in their GHG emissions to achieve net neutrality within roughly the next thirty years, outlining a five-step test to evaluate State discretion. In our research, we also found that the *KlimaSeniorinnen* judgment stands out for its extensive examination of causation, a first for the ECtHR in dedicating entire sections to this issue and broadening the definition of harm to encompass the risk of harm, unlike previous case law in environmental cases.

Assessing the significance of the judgment, doctrine highlights that the ECtHR faced the difficult task of balancing a critical social issue with the need to maintain a controlled interpretation of the Convention, thus, making *Klima Seniorinnen v. Switzerland* judgement a major legal advancement, prompting questions about

⁶⁸ Mayer, B., *The International Law on Climate Change*, Cambridge University Press, 2018, p.5.

⁶⁹ *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC] 53600/20, Résumé juridique, 09/04/2024, [<https://hudoc.echr.coe.int/fre?i=002-14304>], Accessed 28 February 2025.

its future impact.⁷⁰ While the ECtHR's decision was grounded in its existing environmental jurisprudence, as we have discussed previously in the paper, we have concluded that it has also broadened its scope to encompass climate change. The judgement fits the ever changing understanding of the ECHR, channelling the living instrument doctrine, international climate agreements, and the science. This consistency reflects how legal advice is likely to develop, strengthening the connection between laws, human rights issues, and scientific needs when tackling climate change.⁷¹

As legal scholarship has adequately pointed out, the ruling is expected to have a broad impact on European and potentially international law with climate litigators and other stakeholders likely to use its findings on causality and state responsibility as a precedent.⁷² It is, therefore, expected that more disputes related to climate change will appear before the ECtHR and that climate change issues will be considered in the context of violations of Articles 2 and 8, which do not directly address climate change, but from whose content this right is derived and in the Court's practice is created as a novelty.⁷³ The instrumental perspective on a right to a healthy environment (which we have analysed in section 2.1.), even after the first climate judgments, is still prevalent. Environmental protection is, thus, often relegated to being just a means to secure other fundamental ECHR rights and freedoms protected most often by Article 8. While protecting the environment to support these other rights is not undesirable, it is vital to understand that environmental protection is a truly worthy goal intrinsically, which we should strive to achieve directly. Although environmental human rights can develop without a binding document, we believe such an instrument would fortify the ECHR, address more environmental concerns amid accelerating climate change, and guide judicial interpretation.

⁷⁰ Žatková, S.; Paľuchová, P., *ECtHR: Verein KlimaSeniorinnen Schweiz and Others v. Switzerland (Application No. 53600/20, 9 April 2024): Insufficient Measures to Combat Climate Change Resulting in Violation of Human Rights*, Bratislava Law Review, 8 (1), 2024, p. 239. [<https://doi.org/10.46282/blr.2024.8.1.874>]

⁷¹ Bönnemann, M.; Tigre, M.A., *The Transformation of European Climate Change Litigation: Introduction to the Blog Symposium*, VerfBlog, 2024/4/09, [<https://verfassungsblog.de/the-transformation-of-european-climate-change-litigation/>], DOI: 10.59704/6e82d5aac53531fb. Accessed 16 May 2025.

⁷² Hösli, A.; Rehmann, M., *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland: the European Court of Human Rights' Answer to Climate Change*, Climate Law 14 (3-4), 2024, p. 284. [DOI:10.1163/18786561-bja10055].

⁷³ Maganić, A., *Sporovi o klimatskim promjenama pred Europskim sudom za ljudska prava*, Zbornik radova s X. međunarodnog savjetovanja „Aktualnosti građanskog procesnog prava- nacionalna i usporedna pravno teorijska i praktična dostignuća“, Split, 2024, p. 81.

REFERENCES

BOOKS AND ARTICLES

1. Boyd, R. D., *Evaluating 40 years of experience in implementing the right to a healthy environment* in: Knox, H. J.; Pejan, R., (eds.), *Human right to a healthy environment*, Cambridge University Press, 2018
2. Boyd, R.D., *The Status of Constitutional Protection for the Environment in Other Nations*, David Suzuki Foundation, 2013, pp. 6-39, Available at: [<https://davidsuzuki.org/science-learning-centre-article/status-constitutional-protection-environment-nations>], Accessed 8 March 2025
3. Braig, K. F.; Panov, S., *The Doctrine of Positive Obligations as a Starting Point for Climate Litigation in Strasbourg: The European Court of Human Rights as a Hilfssheriff in Combating Climate Change?*, *Journal of Environmental Law and Litigation*, Vol. 35, 261, 2020, pp. 262-296
4. Francioni, F., *International Human Rights in an Environmental Horizon*, *The European Journal of International Law*, Volume 21, Issue 1, 2010. pp. 41-55
5. Hösli, A; Rehmann, M., *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland: the European Court of Human Rights' Answer to Climate Change*, *Climate Law* 14 (3-4), 2024, pp.1-22
6. Jurić, A.; Mijatović, M., *Protection from Noise in the Context of Article 8 of the European Convention with Special Reference to Civil Law Protection*, *Proceedings of the Conference Current Issues of Civil and Commercial Legislation and Legal Practice*, no. 19, Mostar, 2022, pp. 208-227
7. Kobylarz, N., *A World of Difference: Overcoming Normative Limits of the ECHR Framework through a Legally Binding Recognition of the Human Right to a Healthy Environment*, *Journal of Environmental Law*, Vol. 37, Issue 1, 2025, pp. 23–43, [<https://doi.org/10.1093/jell/eqae031>]
8. Maganić, A., *Sporovi o klimatskim promjenama pred Europskim sudom za ljudska prava*, *Zbornik radova s X. međunarodnog savjetovanja „Aktualnosti građanskog procesnog prava-nacionalna i usporedna pravno teorijska i praktična dostignuća“*, Split, 2024, p. 61-84
9. Mayer, B., *The International Law on Climate Change*, Cambridge University Press, 2018
10. Mihelčić, G.; Marochini Zrinski, M., *Suživot negatorijske zaštite od imisija i prava na život u zdravoj životnoj sredini*, *Zbornik Pravnog fakulteta Sveučilišta u Rijeci*, Vol. 39, No. 1, 2018, pp. 253-261
11. Morrow, K., *The ECHR, Environment-Based Human Rights Claims and the Search for Standards*, in: Turner, J. S. et al. (eds.), *Environmental Rights, The Development of Standards*, Cambridge University Press, 2019, pp. 41-59
12. Omerović, E., et al., *The European Convention for the Protection of Human Rights and Fundamental Freedoms: A Fertile Ground for the Protection of the Environment?*, *Zeitschrift für Europarechtliche Studien, Nomos*, Baden Baden, 2024, pp. 430–457
13. Pedersen, W. O., *The Ties That Bind: The Environment, the European Convention on Human Rights and the Rule of Law*, Vol. 16 (4), *European Public Law*, 2010, p. 571-595

14. Peters, B., *The European Court of Human Rights and the Environment* in: Sobenes, E.; Mead, S.; Samson, B., (eds.), *The Environment Through the Lens of International Courts and Tribunals*, T.M.C. Asser Press, 2022
15. Raisz, A.; Krajnyák, E., *Protection of the environment in the european human rights framework: a central european perspective*, in: Constitutional Protection of the Environment and Future Generations. Studies of the Central European Professors' Network, Central European Academic Publishing, Miskolc, Budapest, 2022, pp. 73-125
16. Schoukens, H.; Bouquelle, F., *Introduction: the right to a healthy environment revisited as a necessary leverage point in times of climate crisis in Europe and beyond?* in: Schoukens, H.; Bouquelle, F., (eds), *The Right to a Healthy Environment in and Beyond the Anthropocene*, Edward Elgar Publishing, 2024
17. Stancin, V., *The Echr and the Iccpr: A Human Rights-Based Approach to the Protection of the Environment and the Climate System*, European Convention on human rights Law Review, 5, 2024, pp. 190–197
18. Stoyanova, V., *KlimaSeniorinnen and the Question(s) of Causation*, [<https://verfassungsblog.de/klimaseniorinnen-and-the-questions-of-causation/>]
19. van Dijk, P.; Godefridus J.H.; van Hoof, G. J.H., *Theory and Practice of the European Convention on Human Rights*, The Hague-Boston-London: Kluwer Law International, 1998
20. Willman, S.; Balfour-Lynn, H., *The Right to a Healthy Environment: The Case for a New Protocol to the European Convention on Human Rights*, SSRN Working Paper Series, 2022, <https://doi.org/dx.doi.org/10.2139>
21. Wiśniewski, A., *The European Court of Human Rights and Climate Change*, Law & Social bonds no. 6 (53), 2021, pp.1356-1374
22. Žatková, S.; Paluchová, P., *ECtHR: Verein KlimaSeniorinnen Schweiz and Others v. Switzerland (Application No. 53600/20, 9 April 2024): Insufficient Measures to Combat Climate Change Resulting in Violation of Human Rights*, Bratislava Law Review, 8 (1), 2024, pp. 227-244

EU LAW

1. European Convention on Human Rights, Text available at: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:eu_human_rights_convention], Accessed 8 March 2025
2. Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (European Climate Law), OJ L 243, 9.7.2021
3. The European Green Deal, Striving to be the first climate neutral continent, available at: [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_en], Accessed 8 March 2025

LIST OF NATIONAL REGULATIONS

1. The Constitution of the Republic of Croatia, Official Gazette no. 85/10, 5/14
2. The Decision and the Ruling of the Constitutional Court No. U-II-845/2019 i U-II-2160/2019, 18 April 2023

3. The Ruling of the Constitutional Court No. U-I-3789/2003, 8 December 2010

THE EUROPEAN COURT OF HUMAN RIGHTS

1. *Cordella and Others v. Italy*, Applications nos. 54414/13 and 54264/15, Judgment of 24. January 2019
2. *Cuenca Zarzoso v. Spain*, Application no. 23383/12, Judgment of 16.01.2018
3. *Duarte Agostinho and Others v. Portugal and 32 Other States*, Application no. 39371/20, Decision of 9. April 2024
4. *López Ostra v. Spain*, Application no. 16798/90, Judgment of 9. December 1994
5. *Pavlov and Others v. Russia*, Application no. 31612/09, Judgment of 11. October 2022
6. *Powell and Rayner v. the United Kingdom*, Application no. 9310/8121, Judgment of 21. February 1990
7. *Taşkın and Others v. Turkey*, Application no. 46117/99, Judgment of 10 November 2004
8. *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, Application no. 53600/20, Judgement of 9. April 2024
9. *Marckx v. Belgium*, application no. 6833/74, judgment of 13 June 1979
10. *Carême v. France*, Application no. 7189/21, Decision of 9. April 2024
11. *Moreno Gómez v. Spain*, Application no. 4143/02, Judgment of 16.11.2004
12. *Olujić v. Croatia*, Application no. 22330/05, Judgement of 5. February, 2009
13. *Chiş v. Romania*, Application no. 36129/15, Judgment of 27. April 2017
14. *Fadeyeva v. Russia*, Application no. 55723/00, Judgment of 9. June 2005

WEB REFERENCES

1. Bönnemann, M.; Tigre, M.A., *The Transformation of European Climate Change Litigation: Introduction to the Blog Symposium*, VerfBlog, 2024/4/09, [<https://verfassungsblog.de/the-transformation-of-european-climate-change-litigation/>], Accessed 16 May 2025
2. Climate Change Litigation Databases, [<https://climatecasechart.com/>], Accessed: 28 February 2025
3. Declaration on the Human Environment, available at: [<https://documents.un.org/doc/undoc/gen/nl7/300/05/pdf/nl730005.pdf>], Accessed 26 February 2025
4. Environmental Rule of Law: First Global Report, (United Nations Environment Programme 2019), available at: [<https://www.unep.org/resources/assessment/environmental-rule-law-first-global-report>], Accessed 28 February 2025
5. Human Rights Law and Climate Change, [<https://climatehughes.org/law-and-climate-atlas/human-rights-law-and-climate-change/>], Accessed 10 May 2025
6. The Paris Agreement, [<https://unfccc.int/process-and-meetings/the-paris-agreement>], Accessed 11 May 2025

7. The United Nations Framework Convention on Climate Change (UNFCCC),
[<https://www.eesc.europa.eu/pt/initiatives/un-framework-convention-climate-change>], Accessed 7 March 2025
8. UN World Commission on Environment and Development, ed., Report of the World Commission on Environment and Development: Our Common Future,
[<https://www.environmentandsociety.org/mml/un-world-commission-environment-and-development-ed-report-world-commission-environment-and>], Accessed 21 February 2025
9. United Nations Conference on Environment and Development, Rio de Janeiro, Brazil, 3-14 June 1992,
[<https://www.un.org/en/conferences/environment/rio1992>], Accessed 28 February 2025
10. Verein KlimaSeniorinnen Schweiz and Others v. Switzerland [GC] 53600/20, Résumé juridique, 09/04/2024,
[<https://hudoc.echr.coe.int/fre?i=002-14304>], Accessed 28 February 2025