



# **CLIMATE STRATEGIC LITIGATION IN ITALY**

## **DEVELOPMENTS AND CHALLENGES**

Edited by Sara Gherardi



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## Definition of climate litigation

Climate strategic litigation is legal action aimed at both the core issue raised within the litigation and raising awareness of the risks of climate change, with the additional objective of stimulating public opinion, states, and businesses to undertake cultural, social, and legislative changes aimed at adopting climate protection measures.<sup>1</sup> This type of litigation spans multiple jurisdictions and forms of protection: administrative to civil and criminal processes, the protection of objective interests, and the protection of subjective rights, understood as fundamental rights, property rights, and patrimonial rights. More generally, through climate litigation, the “human right to a stable and safe climate” is being asserted.<sup>2</sup>

## Climate and environmental litigation

While both climate and environmental litigation address issues related to environmental protection, they differ in several substantial aspects, such as the nature of the damage and the type of standing to pursue it. Climate litigation involves individual subjective situations, where individuals or associations may be involved, and is generally handled by a regular judge. Climate cases focus on the direct effects of climate change, such as damage to health, fundamental rights, or specific assets, and aim to define the liability of parties contributing to greenhouse gas emissions. In contrast, environmental litigation is more focused on the protection of the environment in a stricter sense, as established by Article 311 of the Italian Environmental Code.

<sup>1</sup> Tiscini, Roberta, Contenzioso climatico e processo civile. Considerazioni a margine di alcune recenti pronunce, 3 dicembre 2024, <https://www.judicium.it/contenzioso-climatico-e-processo-civile-considerazioni-a-margine-di-alcune-recenti-pronunce/>.

<sup>2</sup> Vincre, Simonetta, Henke, Albert, Il contenzioso “climatico”: problemi e prospettive, in BioLaw Journal. Rivista di Biodiritto, 2023, 137 e seg., <https://teseo.unitn.it/biolaw/article/view/2704>.

In this case, standing to sue for compensation related to environmental damage generally primarily resides with the Ministry of the Environment, while private individuals and local entities can only act for consequential damage, i.e., indirect damage arising from environmental harm, framed in terms of the right to health and/or property rights. Legal actions in environmental matters can be brought in civil or criminal courts and may include executive orders to restore the state of the environment.<sup>3</sup>

## National and international legal basis

The legal basis for climate litigation in Italy is grounded in both national law (civil, administrative, environmental law) and European and international law.<sup>4</sup>

In particular, states’ climate obligations arise from various normative sources related to climate change. Primarily, these include the United Nations Framework Convention on Climate Change (UNFCCC), ratified by Italy in 1994, and the Paris Agreement,<sup>5</sup> ratified in 2016, all supported by scientific evidence provided by the Intergovernmental Panel on Climate Change (IPCC).

Additionally, EU primary and secondary norms include Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action; Regulation (EU) 2018/842 on the Effort Sharing; Regulation (EU) 2019/2088 and 2020/852 on Sustainable Investments; and Regulation (EU) 2021/241 on the Recovery and Resilience Facility. Finally, the EU Climate Law

<sup>3</sup> Ghinelli, Gianni, Le condizioni dell’azione nel contenzioso climatico: c’è un giudice per il clima?, Rivista Trimestrale di diritto e procedura civile, n. 4/2021, <https://storage.e.jimdo.com/file/018b7a4e-6af9-4021-b270-a0ec9c628381/Ghinelli%20Contenzioso%20climatico.pdf>.

<sup>4</sup> Testo Unico Ambientale, D.lgs. N. 152/2006 - <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2006-04-03;152>; Disposizioni in materia di delitti contro l’ambiente, Legge n. 68/2015 - <https://www.gazzettaufficiale.it/eli/id/2015/05/28/15G00082/sg>.

<sup>5</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=LEGISSUM:paris\\_agreement](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=LEGISSUM:paris_agreement).

(Regulation 2021/1119/EU), adopted on June 30, 2021.<sup>6</sup> Furthermore, cases brought before the European Court of Human Rights (ECtHR) primarily claim violations of Article 2 (right to life) and Article 8 (right to private life) of the European Convention on Human Rights (ECHR).

In 2022, the reform of Article 9 of the Italian Constitution introduced the responsibility of the state for environmental protection. Paragraph 3 of this article states: *"The Republic protects the environment, biodiversity, and ecosystems, also in the interest of future generations..."*<sup>7</sup> along with reformed Article 41, which states that *"economic initiative cannot cause harm to the environment and health."*<sup>8</sup>

## Types of climate litigation

### DEFENDANT'S IDENTITY

Climate litigation can be directed against the state (public climate litigation) or private companies (private climate litigation).

### PETITUM

Generally, strategic litigation is considered in terms of injunctions, aiming to induce states or businesses to reduce emissions and their climate impact, with a preventive function; whereas compensatory litigation is aimed at compensating the damages caused by climate change.<sup>9</sup>

### STANDING TO SUE

In the field of strategic litigation, **class actions** are common, involving groups of individuals and

organizations representing broad interests acting collectively in cases of damage caused by CO<sub>2</sub> emissions responsible for climate change.<sup>10</sup>

However, before the **law No. 31 of April 12, 2019**,<sup>11</sup> class actions were tools designed to protect consumer rights, making their application in climate contexts impractical.<sup>12</sup>

This law expanded the scope of class actions to include all areas of civil liability. **Article 840-bis of the Civil Procedure Code** establishes that groups of individuals with homogeneous protectable rights, as well as organisations and associations registered in a public list maintained by the Ministry of Justice, are entitled to sue. Additionally, collective compensation actions are legitimized by **Articles 840-bis et seq. of the Civil Procedure Code**, while collective injunction actions are addressed in **Article 840-sexiesdecies** of the Civil Procedure Code.

However, the current law restricts collective actions to private climate litigation, i.e., against companies or public utility service providers for acts or behaviors carried out in the course of their respective activities (Article 840-bis c.p.c.).<sup>13</sup> It remains possible to sue the state outside of this procedural vehicle, for example, through administrative actions promoted by associations with statutory standing.

### CASUAL LINK

Establishing relevant causal links is more stringently required in compensatory actions based on a tort causing damage, often requiring an investigation (e.g., in environmental cases for violations of the right to health). In contrast, in climate-related injunction actions, the focus is on the "risk of harm" and the

<sup>6</sup> Fermeglia, Matteo, Luporini, Riccardo, 'Urgenda-Style' Strategic Climate Change Litigation in Italy: A Tale of Human Rights and Torts?, in Chinese Journal of Environmental Law, 2023, 345 e seg. <https://iris.santannapisa.it/retrieve/7a3254a8-92e8-41a5-8135-36f25d5584ba/cjel-article-Fermeglia%20Luporini.pdf>.

<sup>7</sup> Art 9 Constitution - <https://www.senato.it/istituzione/la-costituzione/principi-fondamentali/articolo-9>.

<sup>8</sup> Art 41 Constitution - <https://www.senato.it/istituzione/la-costituzione/parte-i/titolo-iii/articolo-41>.

<sup>9</sup> Tiscini, Roberta, Contenzioso climatico e processo civile. Considerazioni a margine di alcune recenti pronunce, 3 dicembre 2024, <https://www.judicium.it/contenzioso-climatico-e-processo-civile-considerazioni-a-margine-di-alcune-recenti-pronunce/>.

<sup>10</sup> Ibidem.

<sup>11</sup> Legge N. 31 del 12 aprile 2019, <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2019-04-12:31>.

<sup>12</sup> Gabellini, Elena, Note sul contenzioso climatico e le azioni di classe, 1 luglio 2024, <https://jus.vitaepensiero.it/news-papers-note-sul-contenzioso-climatico-e-le-aZIONI-di-classe-6555.html>.

<sup>13</sup> Ibidem.

subject's exposure to such risk.

The use of **climate attribution science** allows for identifying the link between specific climate-related damage and the greenhouse gas emissions caused by a polluter, as well as defining the defendant's liability in proportion to their contribution to the total harm suffered by the plaintiff (based on probabilistic calculations).

In this context, **class actions have an advantage**, as they allow for greater resource allocation to expert contributions, thus enhancing their effectiveness in establishing the defendant's responsibility.

A **disadvantage** of class actions, however, lies in the fact that Article 7 of Law 31/2019 restricts the application of this regulation to unlawful acts occurring after its enactment, which diverges from the ongoing and progressive temporal nature of climate change effects.<sup>14</sup>

## JUSTICIABILITY

The issue of justiciability is central to climate litigation in Italy. In the Italian pilot case *Giudizio Universale* (2024), the Civil Court of Rome ruled the case inadmissible for lack of relative and absolute jurisdiction.<sup>15</sup>

By declaring a **lack of absolute jurisdiction**, the Court indicates that this is an area non-justiciable in ordinary court, as it stems from the political direction of the legislator. Directly from the ruling, we read that the Court states that the plaintiffs' claims do not fall within the protectable rights *"since decisions regarding the modalities and timing of addressing anthropogenic climate change [...] fall within the realm of political organs and cannot be adjudicated in the present judgment."*<sup>16</sup>

However, this approach is contrary to the indirect objective of strategic litigation to reduce the discretion of legislative power in climate matters, in

light of quantifiable damages and dangers resulting from insufficient policies.<sup>17</sup>

Instead, declaring a **relative lack of jurisdiction**, the Court indicates that jurisdiction would belong to an administrative judge, as the case seeks a modification of provisions within the National Integrated Energy and Climate Plan (PNIEC), an act of the Ministry of Infrastructure, Economic Development, Environment, and Land and Sea Protection.

## PROBLEM OF ENFORCEABILITY

For the enforcement of the injunction under Article 840-sexiesdecies c.p.c., the rule applies that *"with the judgment ordering the cessation of the unlawful or non-performance conduct, the court may, at the request of the public prosecutor or the parties, order the losing party to adopt the necessary measures to eliminate or reduce the effects of the violations determined"* (paragraph 7).<sup>18</sup>

This provision fits well in the context of climate disputes, although with two limitations: if directed at a private company, the limit imposed by Article 41 of the Constitution, which safeguards the freedom of private economic initiative; if against the state, the alleged interference with the separation of powers, as mentioned by the Court in its reasoning in the *Giudizio Universale* ruling.

<sup>14</sup> Ibidem.

<sup>15</sup> Tribunale di Roma, sentenza n. 3552/2024, 26 febbraio 2024, [https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2024/20240226\\_14016\\_judgment.pdf](https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2024/20240226_14016_judgment.pdf).

<sup>16</sup> Ivi, p. 12.

<sup>17</sup> Tiscini, Roberta, *Contenzioso climatico e processo civile. Considerazioni a margine di alcune recenti pronunce*, 3 dicembre 2024, <https://www.judicium.it/contenzioso-climatico-e-processo-civile-considerazioni-a-margine-di-alcune-recenti-pronunce/>.

<sup>18</sup> Tiscini, Roberta, *Contenzioso climatico e processo civile. Considerazioni a margine di alcune recenti pronunce*, 3 dicembre 2024, <https://www.judicium.it/contenzioso-climatico-e-processo-civile-considerazioni-a-margine-di-alcune-recenti-pronunce/>.



## Italian Cases

In Italy, case law regarding climate litigation is very recent and pertains to two cases: *Giudizio Universale* and *La Giusta Causa*, and an important environmental ruling also emerged in 2024.

### ***A Sud and Others v. Italy - “Giudizio Universale”*** (case against the State, inadmissible)

On June 5, 2021, the association [A Sud Ecologia e Cooperazione ODV](#), along with over 200 citizens, filed a lawsuit in the Civil Court of Rome, marking an important milestone for climate litigation in Italy. The objective was to establish civil responsibility of the Italian state for the inadequacy of its climate policies; deemed lax and inconsistent with the obligations to protect fundamental rights.

The plaintiffs sought a ruling against the state under Articles 2043, 2051, 1173, and 1218 of the Civil Code, requesting measures to drastically reduce national greenhouse gas emissions by 92% by 2030 compared to 1990 levels, or as deemed necessary during the case. The lawsuit was supported by a team of lawyers from the network “*Legalità per il clima*”.

After a first hearing on December 14, 2021 and a complex investigative phase, the final hearing took place on September 13, 2023. On February 26, 2024, the Civil Court of Rome’s Second Section issued [ruling No. 3552/2024](#).

The decision was a **declaration of inadmissibility** of the lawsuit, both absolute and relative. The Court found it lacked jurisdiction in the matter, stating that climate change management involves discretionary political choices of a socio-economic and cost-benefit nature, and thus cannot be adjudicated by a civil court. While acknowledging the gravity of the climate crisis as an “*existential planetary emergency*,” the Court determined that it is for the legislature and ministries to decide the timing and methods of combating it.

The Court also ruled to compensate the court costs between the parties, recognising the absence of specific precedents and the complexity of the matter.

The case, however, is ongoing.. An appeal has been announced, to the Court of Appeal of Rome, with a hearing scheduled for October 21, 2026.

*Giudizio Universale* represents the first attempt in Italy to initiate a climate class action against the state. Despite the Court’s declaration of lack of jurisdiction, the case brought for the first time the issue of the state’s responsibility for climate inaction before an Italian court, raising the issue of balancing political powers and protecting fundamental rights.

### ***Greenpeace, ReCommon, and 12 citizens v. ENI, CDP, and MEF - “La Giusta Causa”*** (case against a private company, pending)

In May 2023, Greenpeace Italy, ReCommon, and twelve Italian citizens sued ENI, Cassa Depositi e Prestiti (CDP), and the Ministry of Economy and Finance (MEF). The plaintiffs argued that ENI, along with its main public shareholders, continued pursuing industrial and financial strategies incompatible with international emissions reduction goals, thus contributing to climate change and its associated harm to people and the environment.

The lawsuit is based on several legal grounds: civil code provisions on liability for damage (2043, 2050, 2051, 2058), constitutional norms on environmental protection (Article 9) and limitations on economic initiative (Article 41), and articles of the ECHR guaranteeing the right to life (Article 2) and private and family life (Article 8).

The plaintiffs sought not only compensation for existing and potential damages but also for the companies and institutions to be compelled to change their policies to align with climate standards and the Paris Agreement.

On January 10, 2024, the Civil Court of Rome issued a highly significant ruling: it rejected the preliminary objection raised by ENI, which argued the inadmissibility of the case, and

declared the claim admissible. This marked the first time in Italy that a climate lawsuit against a private company and public entities had passed the preliminary examination, paving the way for a possible judgment on the merits.

However, the trial was suspended pending a [ruling](#) from the Court of Cassation, which was issued in July 2025. The United Sections ruled the case admissible and justiciable, "referring to the April 9, 2024, ECtHR ruling in *Verein KlimaSeniorinnen Schweiz v. Switzerland*, which declared admissible the claim of a Swiss association and several citizens challenging state omissions in climate change policies, recognizing the complementary role of judicial intervention to democratic processes, and affirming that while not replacing legislative and executive actions, the judiciary's role is to ensure compliance with legal requirements".<sup>19</sup>

Furthermore, with this ordinance, the Court of Cassation removed any doubt regarding the separation of powers, stating that **"the justiciability of acts of public power is a founding principle of the Constitution**, which must apply even when, as in this case, a public or private activity, though not bound by specific regulations, is contested through a request for a civil liability assessment for illegal acts infringing on fundamental rights".<sup>20</sup>

The case, also built upon the landmark Dutch ruling *Milieudefensie v. Shell* (2021), represents **the first climate strategic litigation case in Italy against businesses**. Based on this very recent ruling by the Court of Cassation, the process will continue, and the judge in Rome will be called to address the merits of this class action against a private company and its shareholders.

***Cannavacciuolo and Others v. Italy - Terra dei Fuochi*** (environmental case brought before the ECtHR)

The *Cannavacciuolo v. Italy* case is set in the context of the so-called *Terra dei Fuochi*, the

area between Naples and Caserta devastated by decades of illegal toxic waste dumping, illegal landfills, and fires of harmful materials. This environmental disaster, also linked to illicit trafficking managed by organised crime, has had devastating effects on the health of the population, with an increase in cancer and respiratory diseases, severely affecting the quality of life and violating fundamental rights such as the right to health and a healthy environment. Among the most exposed and damaged citizens, a group of plaintiffs, led by Luigi Cannavacciuolo, initiated a lawsuit against the Italian state, accusing it of inaction and severe negligence in preventing, managing, and remediating the environmental emergency. According to the plaintiffs, the state failed to take the necessary measures to prevent the degradation of the territory and public health, despite the known risks of the phenomenon for years.

The case reached the European Court of Human Rights (ECtHR) in 2019, and a significant [ruling](#) was issued in January 2025. The Court finally determined that Italy had violated Article 8 of the ECHR (right to respect for private and family life) and Article 2 (right to life) by failing to adequately protect the population from the effects of pollution in *Terra dei Fuochi*. According to the Strasbourg judges, the Italian authorities were fully aware of the situation and the serious health risks but acted with delays and inefficiencies incompatible with the positive obligations arising from the Convention.

This environmental ruling is particularly significant for two reasons: the identification of **multiple pollution sources**, spread in a complex and geographically extensive manner, and involving various modes of human exposure; and the fact that the polluting activities in question were carried out **illegally** by businesses, industries, and individuals.<sup>21</sup>

<sup>19</sup> Corte di Cassazione, Ruling No.13085/2025, p. 10

<sup>20</sup> Ivi, p.11.

<sup>21</sup> Zirulia, Stefano, *Terra dei Fuochi: violato il diritto alla vita degli abitanti*. Prime osservazioni in ordine alle possibili ripercussioni sul diritto penale ambientale di una storica sentenza, 14 febbraio 2025, <https://www.sistemapenale.it/it/scheda/zirulia-terra-dei-fuochi-violato-il-diritto-alla-vita-degli-abitanti-prime-osservazio->



Moreover, the ECtHR considered it unnecessary to reexamine the causal link, as the danger to life (in violation of Article 2 ECHR) had already been demonstrated by epistemological studies and various parliamentary commission reports.<sup>22</sup>

The decision had **dual significance**: on one hand, it represented a legal **confirmation of the state's responsibility** in managing the Campania environmental disaster; on the other, it created an important precedent at the European level, strengthening the case law linking environmental disasters to the protection of fundamental human rights.

The Court, recognizing the gravity of the crisis, also condemned Italy to compensate the plaintiffs, emphasizing the **direct link between environmental degradation, quality of life, and human dignity**.

## European Cases and the ECtHR

At the European level, a historic Dutch ruling and three twin rulings delivered in 2024 have laid the foundations for climate litigation.

### ***Urgenda Foundation v. Netherlands (Ministry of Infrastructure and Environment)***

In 2013, the Urgenda Foundation, together with about 900 Dutch citizens, initiated legal action against the Netherlands, accusing the state of failing to adopt sufficient measures to combat climate change. The plaintiffs argued that the government's inaction constituted a violation of positive obligations under Articles 2 and 8 of the ECHR. Therefore, the plaintiffs sought to compel the state to reduce its greenhouse gas emissions by at least 25% by the end of 2020, compared to 1990 levels, in line with the target set by the United Nations Framework Convention on Climate Change (UNFCCC).

[ni-in-ordine-alle-possibili-ripercussioni-sul-diritto-penale-ambientale-di-una-storica-sentenza.](#)

<sup>22</sup> Ibidem.

In June 2015, the District Court of The Hague accepted the claim, recognizing the state's legal responsibility and ordering it to meet the 25% target. The decision was based on both national civil law (Article 3:296(1) of the Dutch Civil Code), which allows class actions, and the ECtHR case law, which obligates states to protect citizens from serious and foreseeable risks.

The Dutch government appealed to the Court of Appeal of The Hague, and in 2018, the conviction was upheld, reiterating that national emissions contribute to global climate change, and the state cannot avoid its responsibilities by arguing that other countries are not taking equivalent measures.

The case concluded in 2019 with the historic [ruling](#) of the Dutch Supreme Court. The state's appeal was definitively rejected, and the government was ordered to reduce emissions by at least 25% by 2020, as the Court recognised that climate change posed an immediate and concrete threat to fundamental rights protected by the ECHR. The judges emphasized that the protection of the rights to life and private life also includes protection from the impact of foreseeable environmental disasters.

[In the Urgenda case](#), for the first time, a court imposed a **binding obligation on a state to reduce greenhouse gas emissions, motivated by the protection of citizens' human rights**. Following this sentence, the Dutch government adopted two major measures to comply with the court's ruling. Firstly, the National Climate Agreement was implemented, setting binding emissions reduction targets across key sectors, including energy, transport, and industry, aiming for a 49% reduction by 2030.<sup>23</sup> Secondly, the government committed to transitioning away from fossil fuels, with a specific plan to phase out coal-fired power plants by 2030, reinforcing the push towards renewable energy sources.<sup>24</sup>

<sup>23</sup> Climate Agreement, The Netherlands, 28 June 2019, <https://www.klimaatkoord.nl/documenten/publicaties/2019/06/28/national-climate-agreement-the-netherlands>.

<sup>24</sup> International Energy Agency, The Netherlands -



These steps were pivotal in aligning national policies with the court's mandate to protect citizens' human rights in the face of climate change.

### **Verein KlimaSeniorinnen Schweiz and Others v. Switzerland (application no. 53600/20)**

On November 26, 2020, four elderly women, along with the association Verein KlimaSeniorinnen Schweiz, filed a complaint with the ECtHR against Switzerland. The plaintiffs argued that the insufficiency of the climate policies adopted by the Swiss government violated their fundamental rights, as elderly people, and especially women, are more vulnerable to the effects of heatwaves and the risks associated with climate change.

On April 9, 2024, the ECtHR's Grand Chamber issued a [historic ruling](#), stating that Switzerland had indeed violated Articles 8 (right to respect for private and family life) and 6 §1 (right to a fair trial) of the ECHR. The Court affirmed that Article 8 imposes a positive obligation on the state to establish and implement an effective, transparent regulatory framework based on scientific evidence, capable of protecting life, health, and the well-being of citizens from the risks posed by climate change. In this case, the existing laws and policies were deemed insufficient: there was no national carbon budget, emission reduction targets were not legally binding, and the implementation of measures was inadequate.

The violation of Article 6 was recognized concerning the fact that Swiss courts had dismissed the association's claim without considering its merits, thus denying the plaintiffs effective access to justice and preventing them from having their climate claims examined substantively. No violation of Article 2 (right to life) or Article 13 (right to an effective remedy) was found, as these had not been specifically examined, although they were raised in the legal debate.

Energy Policy Review 2020, 2020. [https://www.connaissancesenergies.org/sites/connaisancesenergies.org/files/pdf-actualites/The\\_Netherlands\\_2020\\_Energy\\_Policy\\_Review.pdf](https://www.connaissancesenergies.org/sites/connaisancesenergies.org/files/pdf-actualites/The_Netherlands_2020_Energy_Policy_Review.pdf).

The Court condemned Switzerland to pay €80,000 in legal fees to the applicant association and subjected the state to monitoring by the Council of Europe's Committee of Ministers. In January 2025, the same Committee [noted](#) that Switzerland had still failed to demonstrate that it had adopted a concrete "carbon budget" and fully compliant measures as required by the judgment.

The *KlimaSeniorinnen* ruling has systemic implications, as for the first time, the ECtHR affirmed that **member states of the ECHR have an obligation to adopt adequate and scientifically grounded climate policies, under penalty of violating citizens' fundamental rights**. In this ruling, the ECtHR also acknowledged that Article 8 could be violated even when climate policies are weak or inconsistent, and their effects on fundamental rights are not immediate but affect the collective rather than individual citizens.

Furthermore, deviating from the usual interpretation of Article 34 ECHR, in this case, the ECtHR recognized the standing of the Verein KlimaSeniorinnen association to bring the case on behalf of the collective interests of the affected individuals. This ruling, therefore, applied a less rigid criterion in determining the status of victims of violations, expanding the standing to bring collective actions.<sup>25</sup>

### **Carême v. France (Application No. 7189/21)**

In 2021, Damien Carême, former mayor of Grande-Synthe and climate activist, filed a complaint with the ECtHR, accusing France of failing to adopt sufficient measures to address climate change. Carême argued that this inaction violated his rights under Articles 2 (right to life) and 8 (right to respect for private and family life) of the ECHR, particularly referring to the flood risks induced by climate change that threatened his former community.

<sup>25</sup> De Sadeleer, Nicolas, Il contenzioso climatico innanzi alla Corte Europea dei Diritti dell'Uomo: fra ortodossia e progressi giurisprudenziali, 1 ottobre 2024, <https://rgaonline.it/articoli/il-contenzioso-climatico-innanzitutto-alla-corte-europea-dei-diritti-delluomo-sentenze-klimasenioren-duarte-agostinho-e-careme-fra-ortodossia-e-progressi-giurisprudenziali1/>.

However, the Court declared the case [inadmissible](#). The decision was based on the fact that Carême did not have “victim status” under Article 34 of the Convention, as he no longer resided in Grande-Synthe or France and did not have sufficiently relevant ties to the city to support a direct violation of his rights.

In this case, as well as in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* and *Duarte Agostinho and Others v. Portugal and 32 Others*, the ECtHR emphasized the **need for a direct and personal link between the individual and the alleged rights violation** in order to access the Court, thus limiting the possibility of collective legal actions on climate change.

### ***Duarte Agostinho and Others v. Portugal and 32 Others (Application no. 39371/20)***

In September 2020, six young Portuguese citizens filed a complaint with the ECtHR against Portugal and 32 other Council of Europe states. The activists accused these states of failing to take adequate measures to combat climate change, arguing that such inaction violated their rights under Articles 2 (right to life), 3 (prohibition of torture and inhuman or degrading treatment), 8 (right to respect for private and family life), and 14 (prohibition of discrimination) of the ECtHR. The plaintiffs referred to the serious risks climate change posed to their health, mental well-being, and quality of life, particularly due to events like heatwaves, wildfires, and air pollution from fires.

However, on April 9, 2024, the Grand Chamber of the Court declared the case [inadmissible](#) for two main reasons. The first reason was that **the plaintiffs had not exhausted the legal remedies** available in Portugal before turning to the ECtHR. Although the plaintiffs argued that pursuing legal actions at the national level was burdensome and unlikely to succeed, the Court emphasized that they should have explored other domestic legal avenues before seeking intervention from the European Court. This refers to Article 35 of the ECHR, which requires the exhaustion of domestic legal remedies before bringing a case before the ECtHR.

The second reason concerned the extraterritorial jurisdiction of the defendant states. The Court ruled that there was no basis in the Convention to extend the jurisdiction of states to global issues like climate change, especially when these involve effects impacting multiple countries and requiring international cooperation. The plaintiffs had argued that the “interests” in the Convention should serve as a criterion for extending jurisdiction, but the Court found that such an approach would lead to excessive legal uncertainty. The Court therefore excluded the possibility of applying the ECtHR’s jurisdiction to situations that transcend the borders of member states and require coordinated international efforts.

This case aligns with the legal reasoning in the previous rulings. The Court argues that while climate change is an urgent issue, its legal management requires the exhaustion of national legal remedies.

## **Database**

The CILD team has collected various cases of strategic climate litigation across Europe in a [freely accessible and easily navigable database](#). This tool can be useful for those seeking to explore climate litigation cases raised in other European countries and their implications on case law in this field.







**STRIVE** is CILD's new project to strengthen the climate justice frontlines in Italy and across Europe.

Our goal is to bring climate justice where it is most needed: into courtrooms, across affected territories, and among those speaking out for change.

The project is funded by the Civil Liberties Union for Europe as part of the STRIVE initiative – Strengthening the Rule of Law through Innovative Voices in Europe.

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