

First climate change case at the European Court of Human rights: Justice Must Not Stop at Borders

6 May 2021

A group of human rights organizations and academics have intervened in the first climate change case before the European Court of Human Rights to show that justice must not stop at borders and to emphasise the need for special protection of children. They have provided legal arguments to the Court to show that international law requires states to not harm, and to not allow companies within their jurisdiction to harm, the human rights of people outside their borders.

The group argues that the European Court should rule on cases brought by people facing drought, heatwaves, fires and other climate-related harms against foreign states who are party to the European Convention of Human Rights and who have failed to take adequate steps to phase out greenhouse gas emissions. Those affected by climate change should not be prevented from making claims against governments other than their own.

The group has also provided legal arguments to the Court to show that states must design climate policies in a way that protects the best interests of children, including by taking account of the greater climate risks they face compared to adults. To protect their survival and development, states must take ambitious measures to minimize the negative impacts of climate change on children.

The case, *Duarte Agostinho and others v. Portugal and others*, in which the group is intervening, has been brought by six Portuguese youth who are accusing 33 European countries of violating their human rights, including their right to life, by not taking adequate steps to limit greenhouse gas emissions. The 33 states include all EU members as well as Norway, Russia, Turkey, Switzerland, UK and Ukraine.

To allow people to bring claims against states other than the one in which they live for climate-related human rights violations, the group argues that:

- This step is essential to live up to the objective and purpose of the European Convention Human Rights, otherwise there would be a vacuum in human rights protection and a denial of justice.
- The Court should be able to address the obligations of several states together rather than individually so as hold each of them to account for their contribution to the harms caused.
- The European Court should take into account that eight UN human rights treaty bodies, the Inter-American Court of Human Rights and the African Commission on Human and Peoples Rights have each clarified that states must not harm, nor permit corporations under their jurisdiction, to harm the human rights of people outside their

borders. Several of them have applied this obligation specifically to the impacts of climate change on human rights.

The members of the group intervening are:

- The Extraterritorial Obligations Consortium (under whose auspices this group has organised)
- Amnesty International
- Center for Legal and Social Studies (CELS)
- Center for Transnational Environmental Accountability (CTEA)
- Economic and Social Rights Centre (Hakijamii)
- FIAN International
- Great Lakes Initiative for Human Rights and Development (GLIHD)
- University of Antwerp Law and Development Research Group
- Prof. Dr. Mark Gibney
- Dr. Gamze Erdem Türkelli
- Dr. Sara Seck
- Prof. Dr. Sigrun Skogly
- Dr. Nicolas Carrillo-Santarelli
- Prof. Dr. Jernej Letnar Cernic
- Tom Mulisa
- Dr. Nicholas Orago
- Prof. Dr. Wouter Vandenhole
- Jingjing Zhang

The brief is available [here](#). For more information on the case, see <http://hudoc.echr.coe.int/eng?i=001-206535> and <https://youth4climatejustice.org/the-case/>.

For more information, please contact:

- Ashfaq Khalfan, Ashfaq.khalfan@amnesty.org, +4475355587391, Twitter: @ashfaqkhalfan
- Gamze Erdem Türkelli, Gamze.ErdemTurkelli@uantwerpen.be, Twitter: @GamzeErdmTrkli
- Mark Gibney, mgibney@unca.edu, +18282803153