



## Event Report

### Title: Climate change: what duties do governments owe us?

- **Date:** 6 February 2025
- **Type of Event:** Webinar
- **Organizers:** Organized by the Institute of International Relations in Prague
- **Number of participants:** 37
- **Number of speakers:** 1 – Dr Martin Abel
- **Link to the Intersect Observatory:** <https://hrjust-intersect-observatory.eu/events/climate-change-what-duties-do-governments-owe-use/> + **Institute of International Relations in Prague website:** <https://www.iir.cz/en/climate-change-what-duties-do-governments-owe-us-1>

### Detailed Report from the Webinar:

Dr. Abel delivered a presentation on the evolving recognition and legal implications of a right to a healthy environment. The webinar explored how environmental protection is increasingly framed through a human rights lens, both at the international and domestic levels. It also critically examined the role of courts in advancing climate litigation and the legal obstacles that persist in this area.

Dr. Abel began by situating climate change within the broader context of environmental protection. While some legal systems now recognize the rights of nature, the dominant paradigm continues to treat environmental protection as instrumental to safeguarding human wellbeing. The presentation traced the development of the right to a healthy environment, beginning with the 1972 Stockholm Declaration,





which marked the first international recognition of such a right. As a non-binding document, however, it did not create enforceable obligations for states.

The adoption of UN General Assembly Resolution 76/300 (2022) reaffirmed the right to a healthy environment but similarly lacked binding legal force. Dr. Abel emphasized that to establish concrete obligations, such a right would need to be anchored in treaty law, customary international law, or other sources of binding norms.

Recent developments were also highlighted, including the UN General Assembly's request for an advisory opinion from the International Court of Justice (UNGA Res 276, 2023) and the 2024 advisory opinion of the International Tribunal for the Law of the Sea (ITLOS). The latter affirmed that states must take all necessary measures to reduce greenhouse gas emissions in order to protect marine environments from climate change-related impacts.

### The Greening of Human Rights

The webinar then turned to the concept of the “greening of rights,” which involves interpreting established human rights—such as the rights to health and property—in light of environmental degradation. Dr. Abel noted that courts around the world are increasingly integrating environmental considerations into the interpretation of human rights obligations. A notable example is the European Court of Human Rights (ECtHR) ruling in *Öneryıldız v. Turkey* (2004), which linked environmental harm to violations of Article 2 (right to life) of the European Convention.

### National Constitutional Approaches

At the domestic level, over 180 constitutions around the world explicitly recognize the right to a healthy environment. The degree of enforceability, however, varies considerably. In some jurisdictions, this right imposes a duty on states to regulate private actors rather than refrain from polluting directly.

Germany was presented as a key example. Article 20a of the German Basic Law enshrines an obligation to protect the natural foundations of life for future generations. The *Neubauer v. Germany* (2021) case confirmed that any state action affecting fundamental rights must also comply with environmental protection duties, reinforcing intergenerational justice.

### Obstacles in Climate Litigation

- Dr. Abel discussed key legal challenges in climate litigation, emphasizing three main barriers:  
Causality: Establishing a direct link between a specific state's actions and an individual's harm remains difficult due to the cumulative nature of global emissions.
- Access to Justice: Plaintiffs must demonstrate a sufficient and specific connection between state inaction and personal harm (*locus standi*), which is difficult given the universal impacts of climate change.
- Separation of Powers: Courts may hesitate to interfere with decisions viewed as falling within the political domain, especially in matters of national climate policy.





Despite these hurdles, courts in various jurisdictions have adopted more flexible interpretations of standing. The Czech "Klimatická žaloba" case (Municipal Court in Prague, 15 June 2022) accepted claims from individuals suffering from climate anxiety and from sectors like agriculture and forestry without demanding concrete proof of harm. Similarly, in Neubauer, even foreign residents were granted standing under German climate legislation.

The recent ECtHR decision in Verein KlimaSeniorinnen Schweiz and Others v. Switzerland (2024) was also analyzed. While the Court accepted the standing of the association, it denied the same to four elderly women, citing insufficient proof of direct, personal exposure to climate harms. The judgment introduced a two-pronged test: plaintiffs must (1) be highly exposed to climate impacts and (2) demonstrate an urgent need for protection in light of state inaction.

#### Comparative Perspectives and Jurisdictional Trends

The Juliana v. United States case was cited to illustrate similar difficulties under U.S. law, particularly in proving causation and redressability. Although the court recognized the urgency of climate change, it concluded that the matter exceeded the judiciary's remedial authority.

In contrast, both Neubauer and the Czech Klimatická žaloba underscore that national obligations persist even when a single state cannot resolve climate change alone. These cases reinforce the principle that individual states must still act within their jurisdiction to uphold human rights in the context of climate change.

#### Separation of Powers and Accountability

Dr. Abel concluded the webinar by addressing the institutional constraints faced by courts in climate litigation. The doctrine of the political question often leads courts to refrain from adjudicating climate issues. Nonetheless, in landmark decisions such as the Dutch Urgenda case (Supreme Court, 2019), courts have stepped in to mandate state compliance with international climate commitments.

A further challenge concerns vertical separation of powers within federated or multi-level governance systems. For example, Article 4(16) of the Paris Agreement permits entities like the European Union to adopt joint targets. While the EU has committed to a 55% reduction in emissions by 2030, questions remain about the individual responsibilities of member states. In the Czech Republic, the Supreme Administrative Court ruled that target-setting is an EU responsibility, not a national one, raising concerns about accountability in states lacking specific national climate targets.

A constitutional complaint filed before the Czech Constitutional Court (February 2025) argues that this interpretation neglects the human rights dimensions of climate change and risks undermining enforceability.





## Summary of Major Takeaways:

**Recognition of the Right to a Healthy Environment:** The right has been acknowledged in soft law instruments such as the Stockholm Declaration (1972) and UNGA Resolution 76/300 (2022), but these lack binding force. Concrete obligations require anchoring in treaty law, customary international law, or other binding sources.

**Recent International Developments:** Advisory opinions from the ICJ (requested in 2023) and ITLOS (2024) mark a shift toward enforceable duties, affirming that states must take necessary measures to mitigate greenhouse gas emissions to protect human and environmental rights.

**The “Greening of Rights”:** Courts increasingly interpret existing rights, such as the rights to life, health, and property, through an environmental lens. Landmark examples include the ECtHR’s *Öneryıldız v. Turkey* and Germany’s *Neubauer v. Germany*, which strengthened the principle of intergenerational justice.

**National Constitutional Approaches:** Over 180 constitutions now recognize the right to a healthy environment, though enforceability varies. Germany’s Basic Law illustrates how such provisions can shape state obligations toward environmental protection.

**Obstacles in Climate Litigation:** Key barriers include proving causality, restrictive access to justice, and judicial hesitance due to separation of powers. Still, some courts (e.g., in the Czech *Klimatická žaloba* and *Neubauer*) have adopted more flexible approaches to standing.

**Comparative Jurisprudence:** Cases like *Juliana v. United States* highlight limitations under certain legal systems, while the Dutch *Urgenda* case and recent German and Czech rulings demonstrate courts’ willingness to hold states accountable despite global collective action problems.

**Separation of Powers and Multi-Level Governance Challenges:** Courts often hesitate to intrude into political domains, but landmark rulings have shown judicial authority to enforce compliance with international climate commitments. Within the EU, the allocation of responsibility between the Union and its member states remains contested, raising accountability concerns, as seen in ongoing Czech litigation.

## Grant Agreement Questions

### 1) How do States defend and legitimise its actions through human rights?

#### Compare the general and the particular.

Generally, states defend their climate policies by invoking the broad recognition of a right to a healthy environment while framing environmental protection as instrumental to safeguarding human wellbeing rather than as an autonomous right. By aligning environmental measures with existing human rights (such as the right to life or health), states can legitimize their actions as fulfilling obligations already embedded in human rights law. This process of the “greening of rights” allows governments to show that their climate efforts are not merely policy choices but part of their duty to uphold fundamental rights.





In particular cases, states also point to national constitutional provisions and judicial rulings to justify their climate strategies. For instance, Germany's Basic Law (Article 20a) explicitly imposes obligations of environmental protection for future generations, and the *Neubauer v. Germany* ruling reinforced that state action must comply with intergenerational justice. Similarly, in Czech litigation (*Klimatická žaloba*), courts recognized climate anxiety and sectoral harm as legitimate grounds for standing, suggesting that state policies could be defended as respecting citizens' rights. Yet, states also rely on the obstacles of causality, standing, and separation of powers to argue that courts should not overstep their role, effectively defending state discretion in climate matters while presenting human rights concerns as addressed within political processes.

## 2) What role does geopolitics play in strategy, resources and reach.

Geopolitics shapes both the scope of obligations and the capacity of states to act. Climate change, by its cumulative and transboundary nature, enables states to argue that no single jurisdiction can resolve the crisis alone, thereby legitimizing limited or incremental national action. This framing highlights the distribution of resources and responsibility between states: while some pursue ambitious targets, others justify slower action by pointing to global inequities or the need for collective solutions.

The request for advisory opinions from international courts (ICJ, ITLOS) also reflects geopolitical strategies: by seeking authoritative guidance, states can bolster the legitimacy of their policies and distribute accountability across the international system rather than facing unilateral responsibility. In litigation, courts have recognized that even where a state's emissions are relatively small, obligations persist within its jurisdiction—illustrating the tension between geopolitical arguments of limited reach and legal reasoning that insists on domestic responsibility.

## 3) What role has EU in comparison between internal to EU and external to EU?

Internally, the EU operates under a collective framework established by Article 4(16) of the Paris Agreement, allowing it to set joint targets. The EU has committed to reducing emissions by 55% by 2030, presenting itself as a regional leader in climate action. However, this collective approach also creates accountability gaps at the member state level. The Czech Supreme Administrative Court's ruling that target-setting is an EU rather than a national responsibility illustrates how individual states may deflect direct accountability, raising concerns about enforceability and the protection of human rights within EU states. The pending Czech constitutional complaint highlights how this interpretation risks neglecting the human rights dimensions of climate change.

Externally, the EU projects itself as a normative power, presenting its collective targets and climate commitments as global leadership. Its unified stance allows it to negotiate effectively in international fora and to demand higher standards from other actors. Yet, the internal complexity of burden-sharing among member states complicates this external image, since weak national implementation could undermine the credibility of EU commitments abroad. The EU thus functions simultaneously as an enabler of ambitious collective climate action and as a potential shield for member states to avoid individual accountability.

