



WP6 Preliminary Working Paper on the National Climate Litigation Case Reviews: State Accountability For Its Use of Human Rights Justifications

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Executive Summary

This WP6 Preliminary Working Paper outlines the work-in-progress related to the review of national climate litigation cases, as designated to Work Package 6 (WP6) under the Grant Agreement. This draft work is subject to change based on new information that may emerge from the current data collection efforts.

Initially, WP6 identified priority core cases for review, subsequently broadened the scope of targeted cases to pursue a more insightful evaluation of the interactions between states and human rights justifications.

So far, the case review has explored how states use human rights justifications before domestic courts within the context of climate litigation, and how state accountability is ensured in these instances.

Furthermore, the other types of justifications that states resort to have been identified, in situations where states do not utilize human rights justifications. This includes a range of categories such as public interest, competence-based, policy-based, development, social impact/equity, inadmissibility, procedural, lack of standing, and lack of causality justifications. By this way, the different arguments based on which states tend to justify their decisions and actions have also been observed.

Table of Content

1.	<i>Introduction</i>	4
2.	<i>General Overview of the Collected Data</i>	5
3.	<i>State Accountability: Scrutinizing Human Rights Justifications in Legal Systems</i>	6
4.	<i>Exploring Alternative Justifications Used by the States</i>	11
5.	<i>Additional Notes & Findings Concerning the Case Review</i>	14
	<i>Annex 1. Codebook</i>	15
	<i>Annex 2. Excerpts from the data collection – core cases</i>	20
	<i>References</i>	28

1. Introduction

In climate litigation, disputes often emerge when claimants assert that a state has not met its obligations under international agreements like the Paris Agreement or national legislation aimed at climate change mitigation. In some of these cases, claims against states involve human rights claims, while in others, states themselves invoke human rights justifications in defense or in their claims. Therefore, the review of climate litigation cases carried out within the activities of WP6 provides valuable insights into how states use human rights justifications.

This WP6 Preliminary Working Paper discusses the data gathered by Work Package 6 (WP6) from databases on national climate litigation cases, examining two main issues. The first issue explores the extent and manner in which national legal systems can hold states accountable for using human rights to justify their actions and decisions. The second issue investigates the forms of justification states turn to when they do not use human rights justifications in their actions or decisions.

This draft Working Paper shares information and findings based on the national climate litigation cases that have been reviewed so far, and lastly includes additional notes that may be relevant.

It's important to note that the data collection work underlying this Working Paper is ongoing, and the assessments made within this preliminary Working Paper may change as the project progresses.

2. General Overview of the Collected Data

Under the Grant Agreement for Project 101094346, Work Package 6 (WP6) is tasked with assessing the use of Human Rights Justifications (HRJs) in Climate Change Litigation. This involves exploring the main HRJs employed by States in climate litigation through the collection and analysis of cases. In this context, the WP6 team initially selected jurisdictions such as **Switzerland, Sweden, the Czech Republic, Finland, India, Taiwan, and Ukraine** as **core cases**, conducting an initial scan through climate litigation cases in these countries. Following this initial phase to gain further insights, the analysis was expanded to include the examination of cases from other countries as well.

The numerical data related to the case reviews conducted so far (until mid-April 2024) are as follows:

Category	Jurisdictions	Total Number of Analyzed Climate Litigation Cases
Core Project Cases	Switzerland, Sweden, Czech Republic, Finland, India, Taiwan, Ukraine	33
European Cases	Austria, Bulgaria, Denmark, Cyprus, Estonia, Netherlands, Norway, Portugal	48
Non-European Cases	Turkiye, Thailand, Papua New Guinea, Peru, Russia, Uganda, Australia, Argentina, Brazil	201
Total	-	282

3. State Accountability: Scrutinizing Human Rights Justifications in Legal Systems

This study begins, as mentioned in the Grant Agreement, with an initial analysis particularly focusing on identifying the types of arguments, the rights that are claimed or allegedly breached, and the groups affected. In this context, it has been aimed to determine instances where states use human rights justifications. Furthermore, the study closely examines how states get position, especially when a human rights claim is brought forward.

In climate litigation, disputes often arise when claimants argue that a State has failed to fulfill its obligations under international conventions, such as the Paris Agreement, or national laws aimed at mitigating climate change. Courts in certain jurisdictions have taken on the role of overseeing the legality of political decisions.¹ They ensure, particularly on appeal, that political decisions comply with the law and do not hinder the protection of fundamental rights. In this capacity, courts act as a control mechanism on the State, holding it accountable for decisions that may impede human rights.

Legal systems that allow civil society to initiate lawsuits contribute to overseeing state actions in the climate change arena. The scrutiny of climate related lawsuits reveals they are often launched by environmental organizations and environmental lawyers, highlighting the increasing role of civil society in climate litigation. When analyzing the cases from the perspective of why civil society organizations decide to challenge states, it is generally observed that civil society acts as a claimant, positioning itself as a mechanism of control against the state with the demand for the respect of individuals' human rights.² This underscores the role of civil society in holding states accountable for climate action.

A relevant example is the case of *Society for Protection of Environment & Biodiversity v. Union*³ of India. In this case, an environmental group challenged a notification that exempted certain building projects from environmental clearance requirements, arguing that this could adversely affect climate change. This exemption, they contended, conflicted with India's commitments under the Rio Declaration of 1992 and the Paris Agreement of 2015. The Government of India framed its defense with a human rights justification and argued that such decisions serve to the purpose of providing affordable housing to less privileged sections of society. The tribunal in India upheld claimant organizations' claims, applying the principle of non-regression in environmental law in its decision.

¹ Laura Burgers, 'Should Judges Make Climate Change Law?', *Transnational Environmental Law* 9, no. 1 (March 2020): 55–75, <https://doi.org/10.1017/S2047102519000360>.

² Joana Setzer and Lisa C. Vanhala, 'Climate Change Litigation: A Review of Research on Courts and Litigants in Climate Governance', *WIREs Climate Change* 10, no. 3 (2019): e580, <https://doi.org/10.1002/wcc.580>.

³ Access to full text of the decision available at https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2017/20171208_Application-No.-677of-2016-M.A.-No.-148-of-2017_decision.pdf.

Climate change is sometimes used as a contextual supportive reason concerning human rights justifications adopted directly by states. For example, in the context of approval processes of development projects, state authorities' permit decisions may bring human rights justifications to the forefront and legal proceedings against these decisions allow for the assessment of state accountability in courts. An instance of this is the *Gloucester Resources Limited v. Minister for Planning*⁴ case in Australia, where Gloucester Resources Limited challenged the Minister of Planning's denial of its coal project proposal. The respondent Ministry's arguments were anchored on the project's negative social impacts, including those caused by noise, dust, and visual disturbances from the mine, particularly affecting disadvantaged groups within the community such as elderly people and children with asthma. They contended that this would result in distributive inequity.⁵ Taking all these into consideration, the Land and Environment Court dismissed the claimant's objection, finding that the project was contrary to public interests due to its significant climate change impacts, which outweighed any potential economic or public benefit.

When examining climate litigation cases, it's evident that such litigation often intersects closely with principles as intergenerational equity⁶, providing a practical application for human rights related justifications. In this context, there are cases where states justify their decisions and actions by considering these concerns, and courts again have an important role in testing their accountability in this regard. An illustrative example is the case of *Dual Gas Pty. Ltd. and Others v. Environment Protection Authority*⁷ in Australia. The Environment Protection Authority, in this case argued that allowing a power generation facility to proceed would contravene the State Environment Protection Policy and conflict with the principle of intergenerational equity. However, when the matter was brought before the court by the concerned company, the court did not accept the Authority's objections. It ruled that the project aligned with best practice standards.⁸

It's evident that within the climate context, the analysis should not be limited to cases initiated by civil society alone; examining arguments in legal processes started by other private actors is also beneficial. This broader examination can offer a more insightful approach to understand the argumentations states use to justify their decisions and actions in various areas. For example, in Australia, a climate litigation case arose when KEPCO Bylong Australia applied to construct a coal mine, but the Independent Planning Commission (IPC) of New South Wales rejected the application. The rejection was based on a failure to develop a plan to manage the GHG emissions of the project

⁴ Access to full text of the decision available at https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2019/20190208_2019-NSWLEC-7-234-LEGRA-257_decision.pdf

⁵ Julia Dehm, 'Coal Mines, Carbon Budgets and Human Rights in Australian Climate Litigation: Reflections on Gloucester Resources Limited v Minister for Planning and Environment', *Australian Journal of Human Rights* 26, no. 2 (3 May 2020): 244–73, <https://doi.org/10.1080/1323238X.2020.1813380>.

⁶ Access to full text of the decision available at https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2012/20120329_2012-VCAT-308-Australia_decision-1.pdf

⁷ Access to full text of the decision available at https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2012/20120329_2012-VCAT-308-Australia_decision-1.pdf

⁸ Hari Osofsky and Jacqueline Peel, 'Litigation's Regulatory Pathways and the Administrative State: Lessons from U.S. and Australian Climate Change Governance', *GEO. INT'L ENVTL. L. REV* 25 (2013).

and an imbalance between the mine's costs and benefits, considering the environmental, agricultural, and heritage costs that future generations would bear.⁹ KEPCO sought judicial review of this decision, but the Court rejected KEPCO's claim and upheld the Independent Planning Commission's findings. The IPC specifically addressed the economic impacts of the proposed project, noting uncertainties in estimating economic benefits. Furthermore, the IPC concluded that the project was not in the public interest, as it was inconsistent with the objectives of promoting social and economic welfare, ecologically sustainable development, and sustainable management of intergenerational equity.¹⁰

As illustrated above, not only private actors but also public actors play a crucial role in the operation of accountability mechanisms related to the justifications used by states. State agencies often take on a protective role to ensure that individuals or entities respect the human rights of other individuals or communities. In such cases, state agencies do not use human rights justifications not by merely advocating them as a defendant but by actively integrating these considerations in the accountability mechanisms. For instance, in the case of *the Public Defender's Office of the State of Pará vs. Associação dos Ribeirinhos e Moradores and others*¹¹, the Public Defender's Office of Pará initiated legal action against several entities concerning the Ribeirinho REDD+ Project. In this lawsuit it is claimed that the project generated illegal carbon credits and encroached upon lands belonging to traditional communities without their consent, involving property irregularities and violating community rights, along with federal climate and environmental legislation.

In the climate context, the accountability control initiated by public actors occurs not only vertically but also horizontally. In cases like *State ADI 0804739-62.2021.8.22.0000, concerning the Jaci-Paraná Extractive Reserve and Guajará-Mirim State Park*¹², the public prosecutor examined the extent to which an enacted law comply with human rights and the rights of affected communities. Such processes, when directed against the state, prompt the state to defend its actions, often considering a specific public interest, closely tied to human rights justifications. For example, in this ongoing case in Brazil, the State of Rondônia argued that the enactment of Law No. 1.089/2021 was necessary for the regularization of land tenure within Rondônia. The state contended that these amendments were designed to provide legal security to families residing in the region, fostering social and economic development while ensuring environmental protection.

⁹ Access to details of the case available at <https://climatecasechart.com/non-us-case/kepcoby-long-australia-independent-planning-commission-and-by-long-valley-protection-alliance/>

¹⁰ Jacqueline Peel, Rebekkah Markey-Towler, and Thea Shields, 'Global Perspectives on Corporate Climate Legal Tactics: Australia National Report' (British Institute of International and Comparative Law, 2024), https://www.unimelb.edu.au/__data/assets/pdf_file/0006/4886484/12176_global_perspectives_on_corporate_climate_legal_tactics_-_australia_national_report_v1.pdf.

¹¹ Access to the petition text available at <https://climatecasechart.com/non-us-case/public-defenders-office-of-the-state-of-para-vs-associacao-dos-ribeirinhos-e-moradores-and-others-project-2620-carbon-credits-and-forest-carbon-grabbing/>

¹² Access to full text of the decision available at https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2021/20211101_ADI-0804739-62.2021.8.22.0000_judgment-1.pdf

Courts themselves can play a role in shaping state actions based on human rights justifications through their own motions. An example of this is the decision made by the India National Green Tribunal in the case *In re Court on its own motion v. State of Himachal Pradesh*¹³ and others. In this case, the National Green Tribunal, acting on its own initiative, imposed several restrictions on activities around Rohtang Pass, a sensitive environmental area. The Tribunal concluded that Indian citizens have a constitutional right to a wholesome, clean, and decent environment. It also ordered the Himachal Pradesh government to implement measures to reduce pollution in this area in this context.¹⁴

As seen the judicial power of the state in various jurisdictions may hold state accountable in different ways. An other example of this situation may be illustrated with the experience from the *Klimatická žaloba* (climate lawsuit) case.

In this case, an NGO prepared a climate lawsuit and filed it in 2021 at the Municipal Court in Prague, claiming relevance of a number of international law or human rights instruments, such as the Paris Agreement, European Convention on Human Rights, EU Charter on Fundamental Rights, as well as the Czech Constitution/Charter of Fundamental Rights and Freedoms. By the insufficient activity of state in the GHG emission reduction and its plans, a number of human rights violations was claimed in the lawsuit: the right to life, the right to health, right to a favourable environment, right to property, right to the right to own a business, the right to protection of private and family life and the right to self-government, which are guaranteed by the Czech Constitution, the Czech Charter of Fundamental Rights and Freedoms and the European Convention on Human Rights (ECHR).

The Municipal Court (in its first decision) partially upheld the action, explaining among others that the right to a favourable environment according to the Czech Constitution (para 328 of the judgment) was violated by the insufficient activity of the state. It found that the state's inaction constituted an unlawful interference with the rights of the complainants. The Municipal Court (in its first decision) cited also the *Urgenda* judgment.

Following an appeal, the Supreme Administrative Court (SAC) overturned the decision of the first instance court and annulled the ruling, taking into account the limits of judicial decision-making and emphasizing the restraint of the judiciary. The SAC explained that the European Union had made a collective commitment in 2020 under the Paris Agreement to reduce emissions by 55% by 2030 compared to 1990 levels. Nevertheless, this collective commitment had not yet been transformed into EU law. It is therefore not possible to determine a specific commitment for the Czech Republic, as the specification of the national commitments is still subject to legislative and political

¹³Access to full text of the decision available at https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2016/20160509_2013-CWPIL-No.-15-of-2010_order-1.pdf

¹⁴ Eeshan Chaturvedi, 'Climate Change Litigation: Indian Perspective', *German Law Journal* 22, no. 8 (December 2021): 1459–70, <https://doi.org/10.1017/glj.2021.85>.

negotiations. The case was remanded to the Municipal court in Prague which in 2023 issued its second decision in line with the legal opinion of the SAC

Based on this experience, the judicial power of the state is able to hold the state accountable for its actions. Nevertheless, it depends on how the courts approach the balance of the three separate powers. The first decision of the Municipal Court was quite progressive and well-reasoned. Subsequently, the SAC chose the path of a restraint of the judicial power which should not interfere with the policies of the government. Furthermore, a constitutional complaint to the Constitutional Court can be filed in the future. Therefore, the judicial dialogue in this respect can be conducted on three levels of court at the domestic level.

As domestic courts follow relevant jurisprudence in other states or at the international level, any well-reasoned decision such as *Urgenda Foundation v. The Netherlands* or *Neubauer et al. v. Germany* can play a role in the decision of the court and its argumentation/reasoning.¹⁵

¹⁵ Charles Beauregard et al., 'Climate Justice and Rights-Based Litigation in a Post-Paris World', *Climate Policy* 21, no. 5 (28 May 2021): 652–65, <https://doi.org/10.1080/14693062.2020.1867047>.

4. Exploring Alternative Justifications Used by the States

The examination of climate litigation cases not only enhances our understanding of the contexts in which states utilize human rights justifications but also reveals alternative forms of justification. This exploration sheds light on the diverse strategies states adopt to legitimize their actions and decisions beyond the realm of human rights.

Within the framework of the WP6 case review the other types of justifications that states resort to have been identified, in situations where states do not utilize human rights justifications. This includes a range of categories such as public interest, competence-based, policy-based, development, social impact/equity, inadmissibility, procedural, lack of standing, and lack of causality justifications. By this way, the different arguments based on which states tend to justify their decisions and actions have also been observed.

In the Czech Republic, for instance, the state's reliance on human rights justifications is, at best, minimal. Instead, security concerns often take precedence, illustrating how states can prioritize national security as a fundamental basis for their actions. This approach underscores the multifaceted nature of state justifications, where the protection and welfare of the citizenry are framed within the broader context of national security.

In Austria's legal challenges like the Federal Climate Protection Act case, the government leaned on the **no sufficient substantiation justification**. The Federal Government held that the concerns with regard to the proportionality of the regulation had not been precisely described or conclusively and verifiably explained in the application. Furthermore, the applicant's concerns with regard to the violation of particular rights were also not precisely described.¹⁶ Similarly, in the *Children of Austria v. Austria* case employing *no sufficient substantiation justification*, **inadmissibility justification** and **lack of causality justification** the application was deemed inadmissible on several grounds, including a lack of specific allegations and detailed proportionality considerations. The Federal Government argued that the applicant did not address the questions of public interest, proportionality, suitability, necessity and adequacy of the intervention.¹⁷

The *Fliegenschnee et al. v. Federal Ministry for Digitalisation and Business Location, Austria* case showcased a **competency-based justification**. In the first instance, the Federal Minister dismissed the application for lack of competence. In her decision, the Minister argued that the requested measure,

¹⁶ Decision of the Constitutional Court, pp. 9-13, see https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2023/20230627_19870_decision.pdf

¹⁷ Decision of the Constitutional Court, pp. 11-16, see https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2023/20230627_na_decision.pdf

namely a transition from fossil to clean energy, was not covered by the respective constitutional competences, and that she was thus not authorized to issue the requested ordinance.¹⁸

In the *Greenpeace et al. v. Austria* case, known as *The Zoubek case*, the state adopted arguments based on grounds similar to those in previous cases, with the no sufficient substantiation justification and inadmissibility. The Federal Minister of Finance held that the required procedural prerequisites for the the application were not sufficiently substantiated and that the application is therefore inadmissible, or possibly unfounded.¹⁹

Beyond Austria, the *Urgenda Foundation v. State of the Netherlands* presented a distinctive set of justifications²⁰, including **policy-based** and **lack of causality arguments**. The Dutch government pointed to concerns like carbon leakage and the minimal impact of Dutch emissions on a global scale, emphasizing the separation of powers and the prerogative of the government to make policy decisions.²¹

In Norway, cases like *Greenpeace Nordic Ass'n v. Ministry of Petroleum and Energy* and its counterpart before the ECtHR, alongside *Statnett SF et al. v. Sør-Fosen siida et al.*²², reflected justifications rooted in **procedural aspects**, **lack of standing**, and **lack of causality**. Arguments ranged from the validity of new licenses due to the absence of procedural errors to the assertion that certain rights, such as those under Article 112 of the Norwegian constitution, do not confer substantive rights on individuals or organizations. Indeed Norwegian state argued that emissions from the licences were uncertain and will be (globally) marginal, and the ECHR (Article 2 or 8) was not violated and environmental groups lack a 'victim status' under the Convention²³. In the case of *Statnett SF et al. v. Sør-Fosen sijte et al* the State represented by the Ministry of Petroleum and Energy supported the contentions by *Fosen Vind DA* and submitted that Article 27 ICCPR protects physical persons only, not groups of individuals. Thus, the state argued that no individual rights were conferred on

¹⁸ See the summary of the decision in the Sabin Center database: <https://climatecasechart.com/non-us-case/fliemenschnee-et-al-v-federal-ministry-for-digitalisation-and-business-location-austria/>

¹⁹ Decision of the Constitutional Court, pp. 23-24, see https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2020/20200930_NA_decision-1.pdf

²⁰ C. W. (Chris) Backes and G. A. (Gerrit) van der Veen, 'Urgenda: The Final Judgment of the Dutch Supreme Court', *Journal for European Environmental & Planning Law* 17, no. 3 (10 July 2020): 307–21, <https://doi.org/10.1163/18760104-01703004>; Backes and Veen; Benoit Mayer, 'The Contribution of Urgenda to the Mitigation of Climate Change', *Journal of Environmental Law* 35, no. 2 (1 July 2023): 167–84, <https://doi.org/10.1093/jel/eqac016>.

²¹ Decision of the Supreme Court, pp. 17-19, see https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2020/20200113_2015-HAZA-C0900456689_judgment.pdf

²² Tom Syring, 'Statnett SF v. Sør-Fosen Sijte (Sup. Ct. Nor.)', *International Legal Materials* 61, no. 6 (December 2022): 991–1017, <https://doi.org/10.1017/ilm.2022.42>.

²³ Decision of the Supreme Court, paras 37-48, see https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2020/20201222_HR-2020-846-J_judgment.pdf

Nord-Fosen siida and Sør-Fosen sijte and the siidas were not allowed under procedural law to represent their members in a lawsuit.²⁴

Looking at cases outside of Europe, it's also possible to observe that states have adopted justifications that are both similar to and different in nature from those previously discussed.

Development/economic justifications are prominently utilized, particularly when state actions are aimed at supporting economic activity and growth. A notable case is *Association for Protection of Democratic Rights v. The State of West Bengal and Others*²⁵, where the government justified the felling of hundreds of trees as a development necessity.

Public interest arguments also play a critical role in the justification of state actions. An example of this can be seen in the case of *Sukhdev Vihar Welfare Residents Association v. Union of India*, where the operation of a waste-to-energy plant by the Municipal Corporation of Delhi was challenged. The claimants expressed concerns over the potential health risks posed by the plant to nearby residents. In defense, the respondent presented a public interest argument and linked the plant's operation to environmental protection and asserted its role as a Clean Development Mechanism compliant with international standards. The National Green Tribunal, recognized the environmental benefits of the plant, emphasized its alignment with global standards and subsequently permitted its continued operation.

Moreover, in the case of *Sharma and others v. Minister for the Environment*²⁶, the Minister adopted a defensive response by arguing against the imposition of a duty of care. The Minister emphasized the incoherence with the relevant legal framework and potential distortion of statutory tasks. This defensive stance in fact aimed to shift responsibility away from the state. Additionally, the Minister provided a policy-based justification by emphasizing the need to balance competing interests and policy choices related to climate change mitigation and management.

Overall, these cases exemplify how states strategically employ various justifications and these will continue evolving with the future court decisions concerning climate disputes.

²⁴ Decision of the Supreme Court, paras 55-59, see <https://www.domstol.no/globalassets/upload/hret/decisions-in-english-translation/hr-2021-1975-s.pdf>

²⁵ Access to the full text of the decision available at https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2021/20210325_SPECIAL-LEAVE-PETITION-CIVIL-NO.-25047-OF-2018_order-1.pdf

²⁶ Details of the case available at <https://climatecasechart.com/non-us-case/raj-seppings-v-ley/>

5. Additional Notes & Findings Concerning the Case Review

In the examination of core cases in the Czech Republic, Finland, India, Sweden, Switzerland, Taiwan, and Ukraine, decisively progressive decisions on climate change that parallel landmark human rights cases such as *Urgenda* or *Neugebauer* have not been identified. Typically, courts in these states have adopted a more restrictive stance towards climate change-related litigation, although a number of relevant cases are still pending. For instance, the Czech Republic's *Klimatická žaloba* (climate lawsuit) appeared to verge on becoming a landmark case, yet its initial decision was overturned by the Supreme Administrative Court (SAC). The ultimate outcome of the case remains uncertain, as there is a potential for the case to be brought before the Constitutional Court.

On the other hand, jurisdictions such as India has seen some progressive judicial decisions that mandate the enforcement of green policies. Furthermore, there is a growing number of climate litigation cases before the European Court of Human Rights (ECtHR) alleging violations by various states. The recent decision in the case of *Verein Klimasenioren Schweiz and Others v. Switzerland* signals a rising trend in such legal actions too.

The most common human rights violations that have been claimed are: right to life, right to a protection of private and family life (and the right to a healthy environment if domestically, as it is not part of the ECHR). Other alleged human rights infringements encompass protection against discrimination, right to property, and right to health. Some cases also invoke the prohibition of torture, the right to a fair trial, the right to an effective remedy, freedom of expression, assembly and association, and freedom of information.

Claims often cite violations of domestic environmental laws, constitutional rights, the ECHR, and the Paris Agreement, highlighting the importance of these documents. It is also important to note that cross-fertilization can be an important factor, so the more important cases (such as *Urgenda* or *Neugebauer*) are issued and become known, the more they can influence future decisions in other states via argumentation/reasoning.

Annex 1. Codebook

The following table reproduced the codebook that is being developed by WP6 for systematize the relevant data collection. This codebook will also inform the building up of the Visual Tool of WP6.

Concept	Variable	Meaning	Notes
General Information	Country	The country in which the case was filed or originated.	
	Case Name	The title of the case in English as recognized by the related database	
	Name of the Case in the Original Language	The title of the case in the original language of the country where the case was filed, if different from English.	
	Number of Proceeding	Indicates the sequence of legal actions related to the case. The number continues to increase with each subsequent appeal or legal proceeding related to the case	Ex: value of 1 denotes the original decision without any appeals, this number increases to 2, indicating that there is a first level of appeal
Information on Parties	Claimant	The party (or parties) who initiates the lawsuit	
	Respondent	The party (or parties) against whom the legal action is initiated	
Type of Claimant	Public	Refers to claimants as a government entity or public institution at any level (local, regional, national, or international).	Agencies. Departments or any other official bodies acting in official capacity were included in this group.
	Civil Society	Refers to claimants as non-governmental organizations (NGOs), advocacy groups, or any non-profit entities that are part of civil society.	
	Individual	Refers to claimants as natural persons acting in their personal capacity.	This category is used when the legal action is initiated by one or more natural persons on their own behalf.
	Corporation	Refers to claimants that initiated cases as private companies, businesses, or corporate entities.	

Type of Respondent	Public	Refers to respondents acting as a government entity or public institution at any level (local, regional, national, or international).	
	Civil	Applies to cases where the respondent is a private individual, corporation, or non-governmental organization.	
	Both	Indicates cases where the respondents include both public (government or public institutions) and civil (private individuals, corporations, NGOs) entities.	
Content of the Case	What is at stake	Brief description of the core dispute or legal question at the heart of the case, typically in one sentence.	This may parallel the descriptions found in the SC database, but it could evolve to include only keywords that highlight the critical elements of the dispute as the project progresses.
	Summary	Provides an overview of the main arguments presented by both the claimant and the respondent.	
	Outcome	Details the court's decision and the reasoning behind it. If the case is still pending, this section will simply note that status	
	Date of Submission	The date when the case was officially filed or brought before the court.	
	Date of the Decision	Refers to the date on which the decision was made by the court regarding the case. In cases where multiple decisions have been made at different levels of the judicial process, this category includes the dates of all significant decisions	
	Type of Court	Identifies the specific court that issued the decision on the case. If a case has been adjudicated by multiple courts, this category lists all relevant courts that have issued significant decisions.	
	Status of the Proceedings	Indicates the current stage of the legal proceedings.	This can be "decided" if the case has reached a conclusion before the court, "pending" if the case is still active, or other descriptors like "settled" or "withdrawn" etc. in cases where legal action is

			resolved outside of a court decision.
National Law invoked in the case	National Law Invoked	Specifies any national legislation, other than the constitution, cited or applied in the case. This includes the full title of the law(s) invoked.	ex: The Wildlife Preservation and Conservation Act
	National Constitution Invoked	A binary (Yes/No) indicator indicating whether any national constitution were cited or relied upon in the arguments or the court's decision.	"Yes" response indicates constitutional law played a role in the case, while "No" suggests the case was resolved without direct reference to the constitution
	Invoked Articles of the National Constitution	If the national constitution was invoked, this field lists the specific articles or sections cited in the proceedings.	
International Law Instrument Invoked	Which international law instrument was invoked?	Lists all the international legal instruments, such as treaties, conventions, protocols, or agreements, that were cited or relied upon in the case.	
	Human Rights Instrument	A binary (Yes/No) indicator signifying whether any human rights treaties, conventions, or declarations were cited or relied upon in the legal arguments or the court's decision.	
	Climate Change Instrument	A binary (Yes/No) indicator indicating whether any international legal instruments specifically related to climate change were cited or relied upon in the legal arguments or the court's decision.	
Human Rights Involvement	Direct or Indirect Classification	This category identifies the nature of human rights application within the case as either "Direct" or "Indirect." "Direct" involvement signifies cases where human rights are explicitly argued or cited by the parties or the court. "Indirect" involvement is recognized when the case does not explicitly mention human rights but involves principles or reasoning that can be linked to human rights concepts. In case neither application is found in the case, then this section is classified as "None".	Ex: In a case where there is no explicit reference to human rights, the court refers to intergenerational equity in its reasoning. Such case is considered to have an indirect human rights involvement.
	Indirect involvement	For cases marked as having "Indirect" human rights involvement, this field specifies which human rights are implied in the case's context or reasoning without direct citation.	

	Direct involvement	In cases identified with "Direct" involvement, this field lists the specific human rights that are explicitly cited or argued within the case.	
	Human rights found to be violated	This category is used to document instances where the court or tribunal finds a violation of one or more human rights. The specific rights found to be violated are listed.	
	Notes Concerning State Arguments	This category is used to provide an overview of state argumentation in cases that directly or indirectly involve human rights arguments. If no documents related to the case are available in the relevant database, or if there is no content related to the case, the researcher should note this situation as 'no available argument.' In instances where documents that can be used to analyze state argumentation are available only in the original language, the researcher should indicate this as 'available in original language.'	
	Typology of Justification	<p>These explanations will guide users to classify the state's responses in the context of human rights allegations:</p> <p>No Argument Available: This designation is used when cases lack any guiding document or explicit argument from the state concerning the allegations made. In such situations, the typology is determined as N/A.</p> <p>Defensive Response Cases where states acknowledge the allegations and attempt a defense are categorized under this typology. A defensive response typically involves the state providing arguments or evidence to counter the claims made against it, aiming to justify its actions or decisions in the face of alleged human rights violations.</p> <p>Denial This typology is assigned to states that disregard the allegations, asserting that the claimant lacks the legal standing or right to bring the case before the court.</p> <p>Sustainable Development Justification Assigned to cases where states present arguments based on intergenerational equity or sustainable development principles.</p> <p>Procedural Justification When states emphasize the adequacy of the legal or procedural steps taken in the context of the</p>	

		<p>case, they are given this typology. It implies that the state contends the process was followed correctly.</p> <p>Public Interest Justification This is used when states attempt to justify an act by claiming it serves the public interest.</p> <p>Lack of Causality Justification Assigned to cases where states deny a causal link between an alleged act or policy and the harmful violation generally as a result of the GHG emissions, or other adverse climate change impacts.</p> <p>Policy-Based Justifications Cases where states highlight the role of policy decisions in the context of the allegations are categorized here. This suggests that the state defends its actions as being rooted in legitimate, considered policy choices.</p> <p>Confidentiality Justifications Used in instances where the state challenges or limits freedom of information by citing confidentiality concerns..</p> <p>Cooperative Response This categorization is for states that admit to certain allegations and highlight their efforts to address the issues raised. It signifies a willingness to acknowledge shortcomings and engage in remedial actions or dialogue to improve.</p>	
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Annex 2. Excerpts from the data collection – core cases

The following tables are the excerpts from the data collection that will also inform the building up of the Visual Tool of WP6. The following excerpts are limited to the core cases.

RESPONDENT COUNTRY	CASE NAME	TYPE OF CLAIMANT (individual, civil society...)	DATE OF THE DECISION	STATUS OF THE PROCEEDINGS	HUMAN RIGHTS FOUND TO BE VIOLATED	Notes Concerning State Arguments	Typology of Justification
Czech Republic	<i>In re Václav Havel Airport Expansion</i>	<i>Individual</i>	24/06/2020	Decided	N/A	No Human Rights Involvement	No Human Rights Involvement
Czech Republic	<i>Klimatická žaloba ČR v. Czech Republic</i>	<i>Civil Society</i>	15/06/2022 (Municipal Court) 20/02/2023 (SAC)	Decided (pending if appeal)	Municipal Court first decision: right to a favourable environment, Czech Constitution/Charter (para 328, but overturned by SAC)	The State defended itself by arguing that the plaintiffs did not meet the burden of proof or argumentation in their case. The Ministry of the Environment considered the Městský soud's recognition of the government's unlawful interference with the plaintiffs' subjective public rights contradictory and confusing.	Defensive Response
Czech Republic	<i>Micronesia Transboundary EIA Request</i>	<i>Public</i>	N/A	N/A (gvt)	N/A	No Human Rights Involvement	No Human Rights Involvement
Czech Republic	<i>Duarte Agostinho et al. v. Austria et al.</i>	<i>Individual</i>	9/4/2024	Decided	The application has been found inadmissible	The Governments contended that the applicants had sought to bypass the essential conditions for the admissibility. The Governments submitted that the applicants were not within the jurisdiction of the respondent States, except for Portugal. The Governments argued that the applicants lacked the victim status.	Inadmissibility justification Competence-based justification Lack of standing Justification

Finland	<i>Finnish Association for Nature Conservation and Greenpeace v. Finland</i>	<i>Civil Society</i>		Decided		Government submitted that the annual climate report to Parliament did not constitute an administrative decision subject to judicial review.	Procedural Justification
Finland	<i>Duarte Agostinho et al. v. Austria et al.</i>	<i>Individual</i>	9/4/2024	Decided	The application has been found inadmissible	The Governments contended that the applicants had sought to bypass the essential conditions for the admissibility. The Governments submitted that the applicants were not within the jurisdiction of the respondent States, except for Portugal. The Governments argued that the applicants lacked the victim status.	Inadmissibility justification Competence-based justification Lack of standing Justification
India	<i>Sukhdev Vihar Welfare Residents Association v. Union of India</i>			Decided		The respondents, including the State of NCT of Delhi, Municipal Corporation of Delhi, and New Delhi Municipal Corporation, defend themselves against the allegations. They present arguments related to the compliance with environmental regulations and the necessity of the Waste to Energy plant for waste management in the region. The respondents highlight the measures taken to address pollution concerns, such as the use of advanced technology for waste processing and adherence to legal procedures	Defensive Response
India	<i>Society for Protection of Environment & Biodiversity v. Union of India</i>			Decided		Respondent highlights the importance of sustainable development in maintaining a balance between environmental rights and development rights, stating that sustainable development is essential, especially concerning the right to ensure affordable housing.	Sustainable Development Justification

India	<i>Rajiv Dutta v. Union of India</i>			Decided		The respondent, State of Uttarakhand, presented arguments suggesting that they had taken measures to address forest fires, such as tackling recent fire incidents and dousing fires in the region . Additionally, the respondent highlighted the erratic weather conditions in the current year, as indicated by data from the Indian Meteorological Department (IMD), showing less rainfall and heat waves that rendered the forests extremely vulnerable to fires	Defensive Response
India	<i>Hindustan Zinc Ltd. v. Rajasthan Electricity Regulatory Commission</i>			Decided		No Human Rights Involvement	No Human Rights Involvement
India	<i>Indian Council for Enviro-Legal Action (ICELA) v. MoEF</i>			Decided		No Human Rights Involvement	No Human Rights Involvement
India	<i>Mahendra Pandey v. Union of India</i>			Decided		No Human Rights Involvement	No Human Rights Involvement
India	<i>Gaurav Bansal v. Union of India</i>			Decided		No Human Rights Involvement	No Human Rights Involvement
India	<i>Association for Protection of Democratic Rights v. The State of West Bengal and Others</i>			Pending		No Human Rights Involvement	No Human Rights Involvement

India	<i>Hanuman Laxman Aroskar v. Union of India</i>			Decided		No Human Rights Involvement	No Human Rights Involvement
India	<i>In re Court on its own motion v. State of Himachal Pradesh and others</i>			Decided	Own motion: right to a healthy environment and right to life according to the Constitution	<p>The respondents, primarily the State of Himachal Pradesh, defended themselves by acknowledging the directions of the Tribunal and expressing their intent to implement them effectively and sincerely . They highlighted financial limitations as a major obstacle in fully complying with the Tribunal's directions . The State also requested certain relaxations or variations in the directions due to economic reasons, such as revenue loss and impact on employment .</p> <p>Additionally, the State of Himachal Pradesh took steps to show compliance with the Tribunal's orders, such as identifying areas for snow scooters and paragliding, and establishing check-posts equipped with technology . The State also engaged in discussions with relevant authorities to address the issues raised by the Tribunal .</p>	Cooperative Response
India	<i>Riddhima Pandey v. Union of India and Others (Pandey v. India)</i>			Decided		No state argument available	N/A

Sweden	<i>Anton Foley and others v Sweden (Aurora Case)</i>			Pending		<p>Stating that Sweden follows international guidelines set by the IPCC for reporting greenhouse gases, ensuring comprehensive statistics by accounting for biogenic emissions in the LULUCF sector.</p> <p>Highlighting the government's support for industrial transition through various measures, leading to significant projects across the country and enabling the export of green solutions to the world</p> <p>Responding to Aurora's letter by providing the government's perspective on the climate action demands raised, indicating a commitment to strengthening Sweden's contribution to achieving the 1.5-degree target</p>	Defensive Response
Sweden	<i>PUSH Sweden, Nature and Youth Sweden and Others v. Government of Sweden (Magnolia case)</i>			Decided		No decision text available	
Sweden	<i>Soubeste and 4 other applications v. Austria and 11 other States</i>			Pending			
Sweden	<i>Duarte Agostinho et al. v. Austria et al.</i>	<i>Individual</i>	9/4/2024	Decided	The application has been found inadmissible	<p>The Governments contended that the applicants had sought to bypass the essential conditions for the admissibility</p> <p>The Governments submitted that the applicants were not within the jurisdiction of the respondent States, except for Portugal. The Governments</p>	<p>Inadmissibility justification</p> <p>Competence-based justification</p> <p>Lack of standing</p> <p>Justification</p>

						argued that the applicants lacked the victim status.	
Switzerland	<i>KlimaAllianz v. FIFA</i>			Decided (non-judicial decision)		No Human Rights Involvement	No Human Rights Involvement
Switzerland	<i>Edy Mulyono and three others v. Holcim AG (Asmania et al. v. Holcim)</i>			Pending		No Human Rights Involvement	No Human Rights Involvement
Switzerland	<i>Credit Suisse Activists Trials</i>			Decided/pending (different results)		The applicants were charged with trespassing and acquitted at first instance, but later found guilty on appeal by the Public Prosecutor of the canton of Vaud. The applicants invoked a provision in the Swiss Penal Code with permits illegal actions under certain conditions, i.e. under conditions of lawful necessity given imminent danger. The Swiss Federal Supreme Court did not agree with this argumentation, noting that the activists also had legal methods at their disposal in order to draw attention to the climate crisis.	Justifications based on Criminal Law
Switzerland	<i>Lausanne Action Climate v. Switzerland</i>			Pending		The applicants were charged with trespassing and acquitted at first instance, but later found guilty on appeal by the Public Prosecutor of the canton of Vaud. The applicants invoked a provision in the Swiss Penal Code with permits illegal actions under certain conditions, i.e. under conditions of lawful necessity given imminent danger. The Swiss Federal Supreme Court did not agree with this argumentation, noting that the activists also had legal methods at their disposal in order to draw attention to the climate crisis.	Justifications based on Criminal Law

Switzerland	<i>Verein KlimaSeniorinnen et al. v. Switzerland</i>		09.04.2024	Decided (Switzerland), pending (ECtHR)		Only collective action by the States, combined with the individual effort of citizens, could provide a durable solution to the effects of global warming. Switzerland, as an Alpine State particularly affected by climate change, had already recognised the problem of global warming and had taken various measures to address it. System of individual application under the Convention was not the appropriate means to do that given, in particular, the principle of subsidiarity and separation of powers. the applicant association could not claim to be the victim of a violation of Articles 2 and 8 as it could not rely on the right to life or the right to respect for private and family life. As regards the individual circumstances of applicants nos. 2-5, the Government considered that the impugned effects they had suffered had not been sufficiently specific to them. The Government maintained that the applicants had not established a causal link between the alleged omissions of Switzerland and the interferences with their Articles 2 and 8 rights.	Defensive Response, Separation of Powers, Lack of Causality, Lack of Standing
Switzerland	<i>Soubeste and 4 other applications v. Austria and 11 other States</i>			Pending			
Switzerland	<i>Duarte Agostinho et al. v. Austria et al.+B29:X29</i>	<i>Individual</i>	9/4/2024	Decided	The application has been found inadmissible	The Governments contended that the applicants had sought to bypass the essential conditions for the admissibility. The Governments submitted that the applicants were not within the jurisdiction of the respondent States, except for	Inadmissibility justification Competence-based justification Lack of

						Portugal.The Governments argued that the applicants lacked the victim status.	standing Justification
Switzerland	<i>De Conto and Uricchio v. Italy and 32 other States</i>			Pending			
Taiwan	<i>Greenpeace East Asia and others v. Ministry of Economic Affairs</i>			Pending		No Human Rights Involvement	No Human Rights Involvement
Ukraine	<i>Environment -People-Law v. Ministry of Environmental Protection</i>			Application granted		No Human Rights Involvement	No Human Rights Involvement
Ukraine	<i>Environment -People-Law v. Cabinet of Ministers of Ukraine and National Agency of Environmental Investments</i>			N/A		No Human Rights Involvement	No Human Rights Involvement
Ukraine	<i>Duarte Agostinho et al. v. Austria et al.+B29:X29</i>	<i>Individual</i>	9/4/2024	Decided	The application has been found inadmissible	The Governments contended that the applicants had sought to bypass the essential conditions for the admissibility The Governments submitted that the applicants were not within the jurisdiction of the respondent States, except for Portugal.The Governments argued that the applicants lacked the victim status.	Inadmissibility justification Competence-based justification Lack of standing Justification

References

- Backes, C. W. (Chris), and G. A. (Gerrit) van der Veen. 'Urgenda: The Final Judgment of the Dutch Supreme Court'. *Journal for European Environmental & Planning Law* 17, no. 3 (10 July 2020): 307–21. <https://doi.org/10.1163/18760104-01703004>.
- Christine Bakker, "Chapter 9 Climate Change Litigation in the Netherlands: The Urgenda Case and Beyond", in Ivano Alogna, Christine Bakker, Jean-Pierre Gauci (eds.), *Climate Change Litigation: Global Perspectives* (Brill, 2021), 199–224
- Eva Balounová, "Guest Commentary: An Unexpected Success for Czech Climate Litigation" Sabin Center's Peer Review Network of Global Climate Litigation (18 October 2022), <https://blogs.law.columbia.edu/climatechange/2022/10/18/guest-commentary-an-unexpected-success-for-czech-climate-litigation/>
- Maria L. Banda, Fulton Scott, "Litigating Climate Change in National Courts: Recent Trends and Developments in Global Climate Law" 47 *Environmental Law Reporter* 2 (2017), pp.10121-10134
- Beauregard, Charles, D'Arcy Carlson, Stacy-ann Robinson, Charles Cobb, and Mykela Patton. 'Climate Justice and Rights-Based Litigation in a Post-Paris World'. *Climate Policy* 21, no. 5 (28 May 2021): 652–65. <https://doi.org/10.1080/14693062.2020.1867047>.
- Boyle, Alan. 'Human Rights and the Environment: Where Next?'. *European Journal of International Law*. 23, no. 3 (2012): 613–642. <https://doi.org/10.1093/ejil/chs054>.
- Burgers, Laura. 'Should Judges Make Climate Change Law?' *Transnational Environmental Law* 9, no. 1 (March 2020): 55–75. <https://doi.org/10.1017/S2047102519000360>.
- Brunner, Ursula and Bähr, Cordelia C., "Climate Change and Individuals' Rights in Switzerland", in Francesco Sindico, Makane Moïse Mbengue (eds.), *Comparative Climate Change Litigation: Beyond the Usual Suspects* (Springer, 2021), 119-132
- Chaturvedi, Eeshan. 'Climate Change Litigation: Indian Perspective'. *German Law Journal* 22, no. 8 (December 2021): 1459–70. <https://doi.org/10.1017/glj.2021.85>.
- Dehm, Julia. 'Coal Mines, Carbon Budgets and Human Rights in Australian Climate Litigation: Reflections on Gloucester Resources Limited v Minister for Planning and Environment'. *Australian Journal of Human Rights* 26, no. 2 (3 May 2020): 244–73. <https://doi.org/10.1080/1323238X.2020.1813380>.
- Di Paola, Marcello and Jamieson, Dale. 'Climate Change and the Challenges to Democracy'. *University of Miami Law Review* 72, no. 2 (2018): 369-424. <https://repository.law.miami.edu/umlr/vol72/iss2/5/>.
- Egan, Noomi. "Climate litigation cases explained: what is their purpose, and what is their impact within and outside the courts?" Lund University (20 March 2023), <https://www.lucsus.lu.se/article/climate-litigation-cases-explained-what-their-purpose-and-what-their-impact-within-and-outside>
- Fornalé, Elisa. "Vulnerability, Intertemporality, and Climate Litigation", *Nordic Journal of Human Rights* (2023).
- Hartmann, Jacques, and Marc Willers. 2022. "Protecting Rights through Climate Change Litigation before European Courts." *Journal of Human Rights and the Environment* 13, no. 1: 90–113.
- Hedemann-Robinson, Martin. 2022. "Access to Environmental Justice and European Union Institutional Compliance with the Aarhus Convention: A Rather Longer and More Winding Road than Anticipated." *European Energy and Environmental Law Review* 31, no. 3: 175–88.

- Helen Arling, Hani Taghavi, "KlimaSeniorinnen v. Switzerland. A New Era for Climate Change Protection or Proceeding with the Status Quo?" EJIL:Talk! Blog (6 April 2023), https://www.ejiltalk.org/klimaseniorinnen-v-switzerland-a-new-era-for-climate-change-protection-or-proceeding-with-the-status-quo/?utm_source=mailpoet&utm_medium=email&utm_campaign=ejil-talk-newsletter-post-title_2
- Hollo, Erkki J.. "Climate Change and the Individual in the Finnish Legal System", in Francesco Sindico, Makane Moïse Mbengue (eds.), *Comparative Climate Change Litigation: Beyond the Usual Suspects* (Springer, 2021), 509-520
- Iyenga, Shalini. "Human rights and climate wrongs: Mapping the landscape of rights-based climate litigation" 32 *Review of European, Comparative and International Environmental Law* 2 (2023), 299-309, DOI <https://doi.org/10.1111/reel.12498>
- Jodoin, Sébastien et al. 'Rights-based approaches to climate decision-making'. *Current Opinion in Environmental Sustainability* 52 (2021): 45–53, <https://doi.org/10.1016/j.cosust.2021.06.004>.
- Juha Jokela, "Finland's Fight Against Climate Change: Ambitious Yet Pragmatic Approach", in Michael Kaeding, Johannes Pollak, Paul Schmidt (eds.), *Climate Change and the Future of Europe. Views from the Capitals* (Springer, 2023), 35–38, at https://link.springer.com/chapter/10.1007/978-3-031-23328-9_9
- Krämer, Ludwig. 2015. "The EU Courts and Access to Environmental Justice." In *Environmental Law Dimensions of Human Rights*, edited by Ben Boer, 107–33. Oxford: Oxford University Press.
- Kulovesi, Kati, Savaresi, Annalisa, Mähönen, Maiju and Bruun, Otto. "Finland's first climate lawsuit: Watching the forest sink" CCEEL blog (14 February 2023), <https://sites.uef.fi/cceel/finlands-first-climate-lawsuit-watching-the-forest-sink/>
- Lin, Jolene. "Climate Change and the Courts" 32 *Legal Studies* 1 (2012), 35-57
- Maljean-Dubois, Sandrine. "Climate Change Litigation" *Max Planck Encyclopedia of Public International Law* (June 2018), <https://opil-ouplaw-com.peacepalace.idm.oclc.org/display/10.1093/law-mpeipro/e3461.013.3461/law-mpeipro-e3461?rkey=AJSz3v&result=1&prd=MPIL>
- Mayer, Benoit. 'The Contribution of Urgenda to the Mitigation of Climate Change'. *Journal of Environmental Law* 35, no. 2 (1 July 2023): 167–84. <https://doi.org/10.1093/jel/eqac016>.
- Mohan, M. P. Ram, Reynaers, Els and Prasad, Sriram. "India's Progressive Environmental Case Law: A Worthy Roadmap for Global Climate Change Litigation" IIMA Working Paper September 2022, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4224616
- Muravska, Mariia. "Climate Change Litigation in Ukraine", in Francesco Sindico, Makane Moïse Mbengue (eds.), *Comparative Climate Change Litigation: Beyond the Usual Suspects* (Springer, 2021), 539–556, https://link.springer.com/chapter/10.1007/978-3-030-46882-8_28
- Nollkaemper, André and Burgers, Laura. 'A New Classic in Climate Change Litigation: The Dutch Supreme Court Decision in the Urgenda Case'. EJIL:Talk! (2020). <https://www.ejiltalk.org/a-new-classic-in-climate-change-litigation-the-dutch-supreme-court-decision-in-the-urgenda-case/>.
- Norwegian Institution for Human Rights (NIM), *Climate and Human Rights* (19 May 2021), <https://www.nhri.no/en/report/climate-and-human-rights/>

- Osofsky, Hari, and Jacqueline Peel. 'Litigation's Regulatory Pathways and the Administrative State: Lessons from U.S. and Australian Climate Change Governance'. *GEO. INT'L ENVTL. L. REV* 25 (2013).
- Peel, Jacqueline and Osofsky, Hari M. 'A Rights Turn in Climate Change Litigation?'. *Transnational Environmental Law* 7, No 1 (2018): 37-67
- Pisillo Mazzeschi, R. and De Sena, P. (eds.) *Global Justice, Human Rights and the Modernization of International Law*, Springer International Publishing, Heidelberg, 2018
- Pouikli, Kleoniki. 2022. "Editorial: a short history of the climate change litigation boom across Europe." *ERA Forum* 22, no. 4: 569–86
- Rodriguez-Garavito, César. "Empowered Participatory Jurisprudence, Experimentation, Deliberation and Norms in Socioeconomic Rights Adjudication." *The Future of Economic and Social Rights*, edited by Katharine G. Young, Cambridge University Press, 2019, pp. 233–258
- Saiger, Anna-Julia. "Domestic Courts and the Paris Agreement's Climate Goals: The Need for a Comparative Approach" *9 Transnational Environmental Law* 1 (2020), 37-54
- Savaresi, Annalisa and Auz, Juan. "Climate Change Litigation and Human Rights: Pushing the Boundaries." *Climate Law*, vol. 9, no. 3, 2019, pp. 244–262.
- Savaresi, Annalisa and Setzer, Joana. "Rights-based Litigation in the Climate Emergency: Mapping the Landscape and New Knowledge Frontiers." *Journal of Human Rights and the Environment*, 2021, <https://ssrn.com/abstract=3928385>.
- Savaresi, Annalisa, et al. "Climate Change Litigation and Human Rights: Stocktaking and a Look at the Future." *Journal of Human Rights and the Environment*, vol. 13, no.1, 2022, pp. 1–6, <https://doi.org/10.4337/jhre.2022.0001>.
- Savaresi, Annalisa. "The use of human rights arguments in climate change litigation and its limitations." *Climate Change, Justice and Human Rights, Changing Perspectives on Human Rights*, edited by David Ismangil et al.. Amsterdam: Strategic Studies, 2020, pp. 49–55.
- Setzer, Joana, and Lisa C. Vanhala. 'Climate Change Litigation: A Review of Research on Courts and Litigants in Climate Governance'. *WIREs Climate Change* 10, no. 3 (2019): e580. <https://doi.org/10.1002/wcc.580>.
- Shelton, Dinah. "Legitimate and Necessary: Adjudicating Human Rights Violations Related to Activities Causing Environmental Harm or Risk." *Journal of Human Rights and the Environment*, vol. 6, no. 2, 2015, pp. 139–155, <https://doi.org/10.4337/jhre.2015.02.01>.
- Sindico, Francesco, Moïse Mbengue, Makane and McKenzie, Kathryn. "Climate Change Litigation and the Individual: An Overview", in Francesco Sindico, Makane Moïse Mbengue (eds.), *Comparative Climate Change Litigation: Beyond the Usual Suspects* (Springer, 2021), 1-33.
- Stehr, Nico. "Climate Policy: Democracy Is Not an Inconvenience." *Nature*, vol. 525, no. 7570, 2015, pp. 449–450, <https://doi.org/10.1038/525449a>.
- Strauss, Andrew. "Climate change litigation: opening the door to the International Court of Justice." *Adjudicating Climate Change: State, National, and International Approaches*, edited by William C. G. Burns and Hari Osofsky, Cambridge University Press, 2009 pp. 334–356.
- Swyngedouw, Erik. "Depoliticized Environments: The End of Nature, Climate Change and the Post-Political Condition." *Royal Institute of Philosophy Supplement*, vol. 69, 2011, pp. 253–274, <https://doi.org/10.1017/S1358246111000300>.
- Syring, Tom. 'Statnett SF v. Sør-Fosen Sijte (Sup. Ct. Nor.)'. *International Legal Materials* 61, no. 6 (December 2022): 991–1017. <https://doi.org/10.1017/ilm.2022.42>.

- Ulfstein, G. “The Human Rights Treaty Bodies and Legitimacy Challenges”, in Keller, H., & Ulfstein, G (eds.), *UN Human rights Treaty Bodies, Law and Legitimacy*, Cambridge University Press, Cambridge, 2021.
- United Nations (UN), Human Rights Council. Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, UN Doc. A/HRC/31/52, 1 February 2016, <https://undocs.org/A/HRC/31/52>.
- UNEP (United Nations Environment Programme). 2020. Global Climate Litigation Report: 2020 Status Review. Nairobi: UNEP.
- Vidya Ann Jacob, “Climate Litigation in India: An Overview” *ILI Law Review* (2021), 72-93, https://ili.ac.in/pdf/win21_5.pdf
- Viñuales, Jorge E. “A Human Rights Approach to Extraterritorial Environmental Protection?” *The Frontiers of Human Rights*, edited by Nehal Bhuta, Oxford University Press, 2016, pp. 177–223.
- Vomáčka, Vojtěch and Jančářová, Ilona. “Climate Change Disputes in the Czech Republic”, in Francesco Sindico, Makane Moïse Mbengue (eds.), *Comparative Climate Change Litigation: Beyond the Usual Suspects* (Springer, 2021), 455-470
- Wewerinke-Singh, Margaretha et al. “Bringing Climate Change before the International Court of Justice: Prospects for Contentious Cases and Advisory Opinions.” *Climate Change Litigation: Global Perspectives*, edited by Ivano Alogna, Christine Bakker, and Jean-Pierre Gauci, 2021, pp. 393–414, https://doi.org/10.1163/9789004447615_018.
- Žuffová-Kunčová, Tereza and Kovalčí, Michal. "Czechia's First Climate Judgment" *Verfassungsblog* (3 September 2022), <https://verfassungsblog.de/czechias-first-climate-judgment>.

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