

# European Court of Human Rights and climate litigation

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# why is it important today to deal with environmental or climate issues in relation to the jurisprudence of the ECHR?

The issue of climate change is a transversal, interdisciplinary and even multidisciplinary question that affects both human rights and non-human rights

The jurisdictions that have the competence to protect human rights can no longer avoid this global movement

Taking into account the impact of certain concepts such as vulnerability, climate emergency or climate change.

New phenomena have appeared with the climatic difficulties: Tiger Mosquitoes problem, problem of the wild boar that invade the cities.

# Conventional environmental litigation and ECHR

- European Court of Human Rights has decided on several occasions on issues related to the protection of the environment under Article 2 on the right to life, Article 8 on the protection of private and family life (Hatton I and II cases on airport noise, the Di Sarno case on waste management, Oneryildiz).
- Court uses the technique of **protection by ricochet**.
- The ECHR Court relies on a right already guaranteed in the ECHR to protect or guarantee a right to a healthy environment.

# Conventional environmental litigation and ECHR

- **Evolutionary Interpretation:** Moreno Gomez judgment provided a very progressive vision of respect for the domicile
- Violations of the right to respect for the domicile are not only material or corporal violations, such as the entry into the domicile of an unauthorized person, but also immaterial or intangible violations, such as noises, vibrations, smells and other interferences.

# Conventional environmental litigation and ECHR

- Article 10: used by **environmental association to defend the interests of their members or to defend a general interest.**
- Two cases of Gorraiz Lizarraga and Collectif Mellox in which the Court of Human Rights declared the application of these two associations admissible, because they defended, the interests of their members.

# Conventional environmental litigation and ECHR

- **Formal criteria concern above all the Exhausting internal remedies** which is required to go before the Court, and which has recently been reduced from 6 months to 4 months (after February 2022).
- Principle of subsidiarity
- National margin of appreciation
- **Materials conditions: direct link between the damage and the prejudice which influences the quality of victim** (Balmer v. Switzerland and Atanassoglou v. Switzerland )

## ...Towards climate litigation

- **1. Case Cláudia Duarte:** submitted on September 7, 2020 to the Court EDH
- **2. Association des aînées suisses** submitted to the European Court of Human Rights on November 26, 2020
- **3. Fridays for Future collective,** was submitted by lawyer Michaela Krömer.
- **4. Six young people between the ages of twenty and twenty-seven,** Application was submitted in June 2021, with **Greenpeace** and **Young Friends of the Earth.**

# ...Towards climate litigation

Change in the context of applications before the European Court of Human Rights, especially in **the area of climate change and vulnerable groups**.

Decisions that will be taken by the European Court of Human Rights in these cases will certainly have an **impact on the evolution of European and other national jurisprudence**.

**Urgenda case**, the Supreme Court of Netherlands supported the application of ECHR jurisprudence to climate change

Not the case of French judge : **Affaire du Siècle and Commune de Grande-Synthe**.

**Thank you for your  
attention**



**To be continued**