**What is the goal of this case?**

The goal of this case is to seek a legally binding decision from the European Court of Human Rights (ECtHR) requiring governments in Europe to take the urgent action needed to stop the climate crisis. In bringing this case, the six youth-applicants seek to add to the increasing pressure which ordinary people across Europe are putting on their governments to take this action now. They are going to the ECtHR because its decisions have the power to bring about significant changes in the policies of European governments.

Importantly, while the ECtHR can order States to pay compensation, the youth-applicants are not seeking any money. This case is solely about making European governments act to protect their futures.

**How does climate change harm the youth-applicants and interfere with their human rights?**

Climate change interferes with three specific human rights of the youth-applicants: their right to life, their right to respect for their private and family lives and their right not to be discriminated against.

Climate change affects their right to life simply because it creates a risk to their lives. The forest fires which killed over one hundred people in Portugal in 2017 and which were worsened by climate change demonstrate that they and others already face a risk to their lives. This is a risk which will increase significantly over the course of their lifetimes. For example, on the current path leading to about 3°C of warming by the end of the century, thirty times more people are expected to die in Western Europe from extreme heat in the final three decades of this century, than in the beginning of the century.

Climate change also affects the youth-applicants’ right to privacy, a right which covers their physical and mental wellbeing. In recent years Portugal has experienced more intense and prolonged heatwaves as a result of climate change. For example, during a heatwave in August 2018, Lisbon experienced a record high temperature of 44⁰C. These heatwaves have interfered with the youth-applicants’ ability to exercise, to spend time outdoors and to sleep properly. Again, these extreme events will only worsen dramatically over time if we remain on our current path. Towards the end of the youth-applicants’ lifetimes, Portugal could face heatwaves, with temperatures exceeding 40⁰C, which last for over a month. The effects of ever-worsening heat extremes on their health and wellbeing interfere with their right to privacy.

As an inevitable result of facing into such a future, climate change also takes a toll on the youth- applicants’ mental health. They worry about the world that they and the families which they hope to have in future will live in. The anxiety that climate change causes them is another example of how it interferes with their rights to respect for their private and family lives.

Finally, climate change interferes with the youth-applicants’ right not to be discriminated against. As young people, they stand to experience the worst effects of climate change simply because they will live longer. Because there is no justification for forcing them and other young people to bear this burden, European governments are wrongly discriminating against the youth-applicants through their failures to properly and urgently fight climate change.

**Which 33 countries are being sued and why these countries?**

This case is brought against the Member States of the EU (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Germany, Greece, Denmark, Estonia, Finland, France, Croatia, Hungary, Ireland, Italy, Lithuania, Luxembourg, Latvia, Malta, the Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain and Sweden) as well as Norway, Russia, Switzerland, Turkey, Ukraine and the United Kingdom. Taking the Member States of the EU as a bloc of countries, these countries are the major emitters within Europe.

**What does the European Convention on Human Rights oblige governments to do to fight climate change?**

We argue that the European Convention on Human Rights obliges European governments to fight climate change in two main ways. Firstly, they must bring about deep and urgent cuts to the greenhouse gas emissions that come from within their own borders. And secondly, they must take responsibility for the ways in which they contribute to emissions which are released abroad. States contribute to emissions released abroad by:

1. exporting fossil fuels;
2. importing goods whose production involves the burning of fossil fuels;
3. permitting companies operating or headquartered within their jurisdiction to contribute to the burning of fossil fuels overseas (e.g. a bank financing fossil fuel extraction overseas).

The climate emergency demands that States take measures to tackle these ‘overseas’ contributions to global emissions as well as their emissions released ‘at home’.

**How do we argue that European governments breach their obligations to fight climate change?**

A key feature of this case is how it addresses the fact that States globally have not agreed between themselves what each State must do if the world is to meet the target of maintaining global warming at 1.5⁰C, as set out in the Paris Agreement. The absence of a globally agreed approach to burden-sharing creates uncertainty as to what amounts to any one State’s “fair share” of the global effort to fight climate change. So far, States have taken advantage of this uncertainty and chosen self-serving interpretations of their “fair share.” Of course, if every State does this, the collective outcome will be one which far exceeds the 1.5⁰C target. This, indeed, is the very reason we are careering towards an imminent climate catastrophe. We argue that the European Court of Human Rights (ECtHR) must resolve the uncertainty around the “fair share” question in favour of the youth-applicants and not States. In practice, this means that the adequacy States’ climate change policies must be measured against the relatively more demanding measures of their “fair share”.

This argument is designed to prevent States from escaping responsibility for the harm caused by climate change through emissions cuts which are collectively too weak to stop the climate crisis. In this way it is similar to the approach taken by the [Climate Action Tracker](https://climateactiontracker.org/countries/) (“CAT”) to rating the adequacy of States’ climate change policies. Under the CAT’s approach, it is only where States’ emissions reductions are in line with the more demanding measures of their “fair share” that they are given a “1.5⁰C Paris Agreement Compatible” rating. The CAT ratings for the countries being sued in this case are as follows: [the EU as a whole](https://climateactiontracker.org/countries/eu/), [Norway](https://climateactiontracker.org/countries/norway/), [Switzerland](https://climateactiontracker.org/countries/switzerland/) and [the United Kingdom](https://climateactiontracker.org/countries/uk/) are each given an “insufficient” rating while [Russia](https://climateactiontracker.org/countries/russian-federation/), [Turkey](https://climateactiontracker.org/countries/turkey/) and [Ukraine](https://climateactiontracker.org/countries/ukraine/) are rated “critically insufficient.”

We argue that the ECtHR should adopt this approach to ensure that European governments are required to adopt emissions cuts which are collectively consistent with the 1.5⁰C target. In the EU context, this means that the EU, as a whole, must commit to reducing its emissions by at least 65% by 2030, as [called for by numerous campaigning organisations](http://www.caneurope.org/energy/climate-energy-targets).

**How does this case relate to climate cases brought at the domestic level throughout Europe?**

The European Court of Human Rights (ECtHR) was established on the understanding that States – including their domestic courts – are primarily responsible for securing people’s human rights. And in practice it is only domestic courts which have the tools to force governments to take the measures necessary to keep climate change to the 1.5⁰C target set by the Paris Agreement. At the same time, the ECtHR exists to address breaches of human rights when States fail to comply with their obligations under the European Convention on Human Rights (ECHR). In doing so, it clarifies what these obligations require States to do in specific situations; this then enables domestic courts to properly apply the Convention when they are called on to do so.

The normal rule is that before bringing a case to the ECtHR, an individual must seek to have their rights vindicated by a domestic court. There is an exception to this rule, however, which applies where there is no adequate remedy that is reasonably available to such an individual. This case, which is about the contribution by over thirty countries to the risk of harm from climate change, seeks to rely on this exception. It is important to understand clearly why it does. Firstly, there is an obvious argument: it would not be practically possible for a group of children and young adults to bring cases in thirty-three different countries and pursue them all the way to their highest courts.

The second argument is more nuanced: we argue that the remedies currently available at the domestic level in Europe are not *adequate*. Critically, this is not to say that there are no domestic remedies *available* in Europe. Nor is it to say that domestic courts are not the appropriate courts in which to challenge the adequacy of States’ climate change policies as incompatible with the ECHR – in fact, we say the opposite. Rather, we argue that from the domestic decisions handed down in Europe so far, it is clear that domestic courts can and must do more. This is made clear by cases such as those taken in the UK and Germany, where courts have refused to order their governments to do more.

It is even also true of the [landmark decision in the case of *Urgenda v The Netherlands*](http://climatecasechart.com/non-us-case/urgenda-foundation-v-kingdom-of-the-netherlands/). In that case, the Dutch Supreme Court held, just as we argue, that the ECHR requires States to “take measures to counter the genuine threat of dangerous climate change.” It therefore held that the Netherlands had to reduce its greenhouse gas emissions by a specific amount i.e. 25% (relative to 1990 levels) by 2020. This decision is ground-breaking because it is the first in which a court made an order of this kind. It demonstrates that domestic courts can force governments to take stronger action on climate change. But the climate emergency demands that courts go further than the Dutch courts did in *Urgenda*. They arrived at this figure on the basis that developed countries had previously agreed to reduce their emissions by 25 – 40% (relative to 1990 levels) by 2020 in order to keep global warming to 2⁰C. Of course, if every developed country were to adopt the lowest end of this range, the collective outcome would be inadequate.

Our case seeks to build on the truly historic precedent set by the *Urgenda* decision. We seek a ruling from the ECtHR that States are required by the Convention to adopt emissions cuts that are collectively consistent with the 1.5⁰C target. A decision of this kind would then greatly enhance the prospect of domestic courts in Europe forcing their Governments to take such measures.

**What is the difference between this case and the “People’s Climate Case” which is ongoing before the Court of Justice of the European Union?**

The Court of Justice of the European Union (CJEU) is, as its name indicates, the judicial body of the EU. It is responsible for interpreting EU law, which includes the EU Charter on Fundamental Rights. The European Court of Human Rights, on the other hand, is a court established under the auspices of the Council of Europe which is responsible for interpreting the European Convention on Human Rights. While the EU and Council of Europe are often confused, not least because they share the same flag, they are distinct bodies.

The [People’s Climate Case](https://peoplesclimatecase.caneurope.org/), which is currently ongoing before the CJEU, is therefore being taken to a different court to the European Court of Human Rights. It is also being taken against the EU as a separate entity to its Member States whereas in this case it is the Member States of the EU themselves (as well as other States) which are being sued. Both the People’s Climate Case and this case are, nonetheless, fundamentally based on the argument that human rights law (be it under the EU Charter on Fundamental Rights or the European Convention on Human Rights) requires the adoption of greenhouse gas emissions reductions in line with what the science demands.

**Why bring this case now, in the midst of a global pandemic?**

The Covid-19 pandemic has not removed the urgency to act to prevent a climate catastrophe. Had governments known prior to 2020 than an outbreak of the coronavirus was imminent, it goes without saying that they would have taken every step possible to prevent it. Governments know that a climate catastrophe is around the corner, they know what needs to be done to prevent it and they have the means to do so. And yet governments around the world, including European governments, are still failing to take the necessary action.

The climate crisis, which poses nothing less than an existential threat to humanity, stands to cause destruction on a scale far greater than any crisis ever seen before. There is a rapidly closing window of time within which to stop it and we must act now. In May 2020, over 350 organisations representing over 40 million health workers worldwide stated that a truly [healthy recovery from the Covid-19 crisis means acting to prevent the climate crisis](https://healthyrecovery.net/). With European governments planning invest to invest billions to revive our economies, they must use this money to end Europe’s reliance on fossil fuels once and for all.

**What happens next?**

When a case is filed with the European Court of Human Rights, the Court must first decide whether the case is “admissible” before going on to decide on the “merits” of the case. Occasionally, the Court combines the admissibility and the merits stages of a case and determines both together. It is, however, entirely up to the Court to decide how and when to deal with this case. Given the urgency associated with climate change, the application submitted to the Court requests that this case be given priority.