

CONTESTING CLIMATE POLICY IN THE EU: RESISTANCE, REPRESSION, AND FUNDAMENTAL RIGHTS

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ABSTRACT

This article critically examines the growing tension between climate activism and state repression in the European Union, focusing on the legal and political implications of criminalising civil disobedience in environmental movements. It starts from the hypothesis that the legal frameworks of the EU member states and the EU itself insufficiently protect the rights of climate activists, leading to democratic backsliding and the erosion of fundamental freedoms. Grounded in John Rawls' theory of civil disobedience as a public, non-violent, and conscientious act aimed at changing unjust laws or policies, the article explores whether climate resistance should be considered a legitimate form of political expression rather than a threat to public order. Using a multidisciplinary and comparative legal method, the analysis draws on European and international human rights instruments—including the European Convention on Human Rights (ECHR) and the Aarhus Convention—EU climate policy frameworks such as the European Green Deal, and recent jurisprudence from national and European courts. It finds that while legal systems nominally protect freedom of expression and assembly, in practice, they often allow for disproportionate sanctions, police violence, and the misuse of anti-terror laws against environmental activists. The article concludes that EU climate governance lacks a consistent human rights-based approach (HRBA), particularly in policy implementation and allocating EU funds. It calls for integrating fundamental rights into all aspects of climate governance, including litigation, policy design, and public participation, to ensure a just, democratic, and socially equitable green transition.

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Climate Change – Much More Than a Simple Generational Concern

The climate crisis is causing growing alarm, particularly among younger generations, and is increasingly mobilising millions worldwide. This widespread mobilisation, however, is not limited to the youth. As demonstrated by the 2024 ruling of the European Court of Human Rights in *Verein KlimaSeniorinnen Schweiz et al. v. Switzerland*, the Grand Chamber upheld the right to health of the Swiss association KlimaSeniorinnen, or “Climate Seniors”, and found that Switzerland had violated the European Convention on Human Rights by failing to adopt sufficient measures to address climate change (ECHR Judgement 2024). This case illustrates that concern and activism over the climate crisis span all age groups. It is clear that, especially for younger generations, the continued unwillingness of countries such as the US and its policymakers to reduce greenhouse gas emissions—and the broader failure of governments to prioritise the fight against climate change—is no longer acceptable. This inaction is already leading to devastating consequences with potentially deadly implications for future generations. Responsibility for this crisis, whether through action, omission, or *culpa in vigilando*, lies not only with states but also with private entities, including some of the world’s largest multinational corporations, given their substantial contribution to global greenhouse gas emissions both directly and through their extended global value chains.

This growing frustration is understandable, as governments continue to delay the adoption of swift, consistent, and ambitious climate solutions while simultaneously aligning themselves with a noticeable resurgence in fossil fuel exploitation. This trend has become particularly evident over the past year, following the failure of the last two United Nations climate change conferences (COP28 in Dubai and COP29 in Baku) and the decisions of some national governments—most notably the United States after the election of Donald Trump—to pursue a strong revival of fossil fuel extraction and use.

The attention of legal experts on climate issues has so far focused mainly on climate litigation, highlighting some significant results achieved through legal actions brought by climate advocates (Cournil 2020).⁴ However, this article

⁴ The panorama of these disputes includes, to limit ourselves to Europe, in addition to the aforementioned *Klimaseniorinnen Schweiz et al. v. Switzerland*, important actions against States and the European Union to complain about inadequate protection, such as the exemplary *Urgenda v. Netherlands* ruling (The Hague District Court Decision 2015), the *Klimaatzaak* case in Belgium (Brussels Court of Appeal Judgement 2023), *Push Sweden, Fältbiologerna et. al v. Sweden* (Stockholm District Court Judgement 2017), *Commune de Grande-Synthe and Damien Carême v. France* (ECHR Decision 2024), *Organic farmer families and Greenpeace v. Germany* (Berlin Administrative Court Judgement 2019), *Armando Ferrão Carvalho et al. v. European Parliament and Council* (CJEU Order T-330/18), *Notre affaire à tous et al. v. France* (Administrative Court of Paris Decision 2021).

revolves around a different topic and approach, namely the conditions of active and non-violent resistance of the groups of climate and environmental activists that have sprung up almost everywhere demanding a serious and immediate commitment by states and international organisations to limit the damage caused to climate and biodiversity by human activities. In many countries, these actions have been criminalised the same way as any other criminal offence and sometimes even worse, as they are considered a serious disturbance of public order. In this regard, our analysis focuses on one basic question: instead of operating in the direction of penal repression, would it not be more just and appropriate to promote appropriate conditions for the growth of civil attention and the will to dialogue on these topics, increasing collective democratic sensitivity to respond in a more tolerant and constructive manner to the drive provoked by these social movements?

The ability of our legal systems to express new forms of political participation, going beyond the classic mechanisms typical of liberal democracies, may depend on how we answer this question. That would allow us to establish the conditions for better civil coexistence and overcome the feeling of generalised distrust towards traditional political institutions that is, unfortunately, taking root in present times (Lemons and Brown 2011). This path can also be illuminated by the in-depth reflections made by Hannah Arendt (1972), who was able to analyse with clarity the strategies of the opposition movements of the sixties and seventies, of the Freedom Riders and those opposed to the war and segregationism, investigating without prejudice in search of the "truth" of the political discourse.

We all have a duty, as citizens and as students of politics and law, to move away from a rigidly legalistic approach and recognise the need for peaceful and productive spaces for the expression of dissent, especially since what is at stake is the possible extinction of the human species. Talks and reflections on the so-called "sixth mass extinction" began in the mid-1990s, whose possible contours today are set out in numerous studies in relation to the dizzying growth in the rates of extinction of animal and plant species (Carducci 2021, 51). The single voice raised by 11,258 scientists from 153 different countries around the world, who have solemnly declared that "scientists have a moral obligation to clearly warn humanity of any catastrophic threat" and to "tell it like it is" since "climate change is not a possibility or a probability, it is a certainty" must be listened to (Ripple, Wolf, and Newsome 2019). In addition to the voices of scientists, scholars, and civil society, a recent and increasingly visible phenomenon is the emergence of climate disobedience as an organised phenomenon. This form of protest goes beyond traditional advocacy, as individuals and groups engage in acts of civil disobedience to draw attention to the urgency of the climate crisis and the failure of institutions to act decisively.

Climate Disobedience as an Organised Phenomenon: The Spectrum of Dissent and its Repression

In recent years, climate resistance has been spearheaded by movements like Extinction Rebellion and Fridays for Future, both founded in 2018. Extinction Rebellion emerged in the UK as a decentralised activist network using non-violent civil disobedience and direct action to push for radical changes in society's political and economic foundations, centred around climate and social justice and without a well-defined leadership structure.⁵ Fridays for Future, initiated by Greta Thunberg's school strike in Stockholm, rapidly became a global youth-led movement challenging inadequate government climate policies. Climate dissent today takes various forms, ranging from peaceful protests and symbolic individual acts to more disruptive measures such as road and rail blockades or the occupation of infrastructure sites. Some actions combine public protest with legal strategies, as seen in cases like the cancelled expansion of the Notre-Dame-des-Landes airport in France. Artistic protests, including flash mobs⁶, also serve as powerful tools for spreading environmental messages. However, some tactics, such as those involving minor or alleged damage to cultural sites, have sparked controversy. Authorities often exaggerate the impact of these acts to justify harsher penalties and gain public support for crackdowns, particularly from wealthier segments of society.⁷ This practice exemplifies penal

⁵ Extinction Rebellion made the following official statement: "By our conscience and our reason, we declare a non-violent rebellion against our corrupt and incompetent governments and institutions that threaten all our futures. The deliberate complicity of our government has undermined the foundations of democracy, relegating the common interest to the margins in favour of short-term gain and private profit. We demand to be heard and to listen to each other, to find rational solutions to the ecological and climate crisis and to establish national and city assemblies where we can decide together, through direct and participatory democracy, the necessary measures to be implemented to face the emergency" (Extinction Rebellion 2025).

⁶ From this point of view, the initiative carried out in Switzerland on November 22, 2018, in the Lausanne branch of *Crédit Suisse* was emblematic and quickly went viral because it used the hashtag *#SiRogersavait* ("if only Roger knew", alluding to the well-known tennis player and *Crédit Suisse* advertising testimonial Roger Federer). Thirty activists comically mimed a tennis match dressed in caricatured sportswear. The refusal to leave the occupied space of the bank branch following the injunction of the branch manager to leave the premises (the demonstrators remained in the room and continued their "sport" activities) led to the intervention of the police, following which the demonstrators left the premises without further resistance: none of the demonstrators, according to all the witnesses, showed any aggressive behaviour or stance, and the atmosphere remained friendly. The ensuing trial gave rise to significant debate inside and outside the courtroom (see Bourg, Demay and Favre [2021]).

⁷ An emblematic example of this repressive approach has been recorded in Italy with the adoption of Law no. 6 of January 22, 2024, n. 6 (Sanctioning provisions regarding the destruction, dispersion, deterioration, defacement, defiling and illicit use of cultural or landscape heritage), better known in the media as the "eco-vandals law".

populism and is not limited to authoritarian systems (Novaković 2024); democratic governments increasingly exhibit similar tendencies, particularly in response to rising social unrest over issues such as climate change. In such cases, authorities resort to repressive legislation and exaggerated criminal charges to suppress dissent. In both democratic and authoritarian contexts, the law is employed more as a tool for political messaging and symbolic reassurance than as a means of ensuring fair adjudication, thereby eroding the rule of law and undermining public trust in democratic institutions.

More traditional civil disobedience, such as refusing to pay environmentally harmful taxes, is less common today. Governments have responded to this wave of climate activism with increasingly repressive measures. Activists often face heavy-handed policing, inflated charges, and disproportionate sentences. Courts have allowed extended detentions and harsh bail conditions, while protesters and sometimes journalists have reported abuse and mistreatment by police.⁸ Anti-terrorism laws and surveillance tools, originally intended for organised crime, are now being misapplied to environmental activists. The criminalisation of climate protest is especially troubling where it is equated with terrorism (Cortes and Leurquin 2023), as in the French government's controversial dissolution of the activist group *Les Soulèvements de la Terre*⁹ (later overturned by the Conseil d'État).¹⁰ This trend marks a serious and inappropriate shift, using anti-terror legislation to suppress dissent in the environmental sphere.

The Alarm Sounded by the Special Rapporteur on Environmental Defenders under the Aarhus Convention

The position expressed by Michel Forst, Special Rapporteur on Environmental Defenders under the Aarhus Convention, is the first public and institutional condemnation of the excessive reactions by states in their fight against environmental protests and climate civil disobedience (Forst 2024). The Special

⁸ The brutality of the repression carried out by the police during the G8 summit in Genoa was confirmed both by the Italian judiciary and by the ruling of the European Court of Human Rights on October 26, 2017, in the case of *Azzolina and others v. Italy* (ECHR Judgement 2017).

⁹ The decree to dissolve *de facto* the group "*Les Soulèvements de la Terre*" (The Uprisings of the Earth) issued by the government and signed by President Macron was based on Article L. 212-1 of the Internal Security Code aimed at suppressing associations or groups "*that provoke armed demonstrations or violent acts against persons or property*".

¹⁰ On November 9, 2023, the Council of State annulled the dissolution on the grounds that the movement's actions were not proportionate to the extreme decision of a dissolution (Council of State 2023).

Rapporteur's appeal is addressed precisely to the States, and in particular, to those that signed the 1998 Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters, to immediately address the root causes of environmental mobilisation, and to counter the narratives, which, as can be clearly seen, are often fuelled by governments themselves that consistently portray environmental defenders and their movements as criminals. The danger highlighted is that the spread of climate and environmental civil disobedience will be instrumentally used as a pretext to limit the exercise of fundamental freedoms.

Forst's appeal moves in two different directions: on the one hand, by demanding that states respect their international obligations regarding freedom of expression, peaceful assembly and association, and on the other hand, by putting an end to the systematic use of purely counter-terrorist measures against environmental defenders.

Finally, it is extremely significant Forst's request that states guarantee that the courts' approach to climate and environmental protests, including the determination of imposed sanctions, does not indirectly result in a restriction of the civic space in which freedoms are exercised and democratic processes are carried out.

The Evolution of the EU Environmental and Climate Policy: The Green Deal and the Absence of a Human Rights-Based Approach

Although environmental protection was not a founding principle of European integration and received limited attention in its early years, the EU environmental and climate policy has steadily progressed since the 1980s. The European integration process was mostly based on economic needs and commercial considerations, and these origins are still somehow affecting and conditioning its current evolution (Moro 2013; Pomfret 2021). The 1987 Single European Act provided the first legal basis for a common environmental policy, aiming to protect the environment, human health, and natural resources (SEA 1987). This development accelerated with the Maastricht Treaty and key rulings of the European Court of Justice, gaining further momentum with the Lisbon Treaty in 2009, which increasingly intertwined environmental protection, climate change, and fundamental rights within EU law (Thieffry 2021). Despite these efforts, a unified approach among member states has not emerged, and national policies still vary significantly, as demonstrated by Gallarati (2021), Louvin (2020), and Bolopion (2024).

The EU's approach to environmental protection and climate change is closely linked to fundamental and citizenship rights. This connection is evident

in various EU legal acts, which reflect that environmental and climate policies—such as those under the Green Deal—operate within a broader legal framework that includes the EU Charter of Fundamental Rights and international human rights law. Consequently, the article argues that fundamental rights must be systematically considered in impact assessments during EU legislative processes.

Notably, the EU's attention to environmental protection and climate change has been closely linked to the fundamental principles governing human rights and citizenship. These principles, rules, and trends have been extensively analysed by scholars such as Beyerlin and Marauhn (2011), Bodansky and Brunnée (2007), Hollo, Kulovesi and Mehling (2013), among others. That has confirmed if we recall some of the “environmental elements” included in the EU's acts dedicated to these issues.¹¹

In order to put the EU on the route to a green transition, the European Green Deal was established in 2019. This crucial strategic document recalls both the Treaty on European Union (TEU) and fundamental rights, which are general principles of EU law (TEU 2012, Article 6, para. 3) and EU values (TEU 2012, Article 2). Besides, it is impossible to disregard that one of the main pillars of the European Union is the Charter of Fundamental Rights (the Charter), primary EU law, binding on all EU institutions and the member states when implementing EU law (Ward et al. 2015). In 2020, the European Commission reinforced its commitment to compliance with the Charter by adopting a new strategy to strengthen the application of the Charter in the EU (EC 2020). The EU has emphasised that the Charter of Fundamental Rights should guide institutional action and raise awareness of rights, including the right to a clean and safe environment. As such, the EU environmental and climate policies, like the Green Deal, operate within a legal framework that includes the Charter, international human rights law, and EU fundamental rights law—ensuring these policies are not implemented in isolation from fundamental rights. Climate change is already affecting all aspects of life in Europe. Its impact is especially severe on vulnerable groups such as the poor, marginalised communities, the elderly, youth, and people with disabilities, highlighting the need for a rights-based approach in the EU climate policy.¹² As a matter of fact, the 2024 study

¹¹ The “Green Deal” is the main EU strategic initiative to become a competitive, resource-efficient, and modern economy by making sure that (i) there are no more net greenhouse gas emissions generated by 2050; (ii) net greenhouse gas emissions are reduced by at least 55% by 2030; (iii) economic growth is decoupled from resource use, and (iv) no people and places are left behind. Fundamental rights, as guaranteed by the Treaty on European Union (TEU), are both values (TEU 2012, Article 2) and general principles of EU law (TEU 2012, Article 6, para. 3) (EC 2019).

¹² The 2023 Report on Roma of the Fundamental Rights Agency of the EU (FRA 2023) shows that the largest minority in Europe (Roma people) faces severe and constant discrimination

on climate risk assessment by the European Environmental Agency (EEA) demonstrates how climate change can intensify already-existing risks and crises, resulting in systemic issues that impact entire societies, with vulnerable social groups being disproportionately impacted (EEA 2024).

The real issue is that, even while the EU and its member states have made large financial and programmatic commitments to meet the climate targets, it is rare for these implementing laws and actions to specifically address basic rights according to the international law currently in force (Sands and Peel 2022).

The Green Deal aims to ensure a fair, inclusive, and people-centred green transition. However, it lacks clear guidance on how the member states should comply with the Charter of Fundamental Rights and other human rights obligations during its implementation (EC 2019). While it highlights the importance of addressing energy poverty through targeted policies, renovations, and lower energy costs, the integration of fundamental rights is not systematically outlined (EP 2023a). The EU Agency for Fundamental Rights (FRA) has recognised climate change as one of the key megatrends affecting fundamental rights in its 2023–2028 Strategic Plan (FRA 2023). The paper examines the European Green Deal from a human rights perspective, highlighting the limited and ad hoc integration of fundamental rights in the EU climate policy. Based on preliminary desk research, it identifies key elements of the Green Deal that affect human rights and stresses the need to mainstream these rights in future climate legislation. It outlines a potential Human Rights-Based Approach (HRBA), discusses the EU's human rights obligations, and analyses the Green Deal components impacting social rights, such as EU funding, energy poverty measures, and the 2030 environmental programme. The paper concludes by warning of the risks of neglecting rights in implementation and offers initial recommendations for a more rights-focused green transition.

International Legal Protection

In general terms, peaceful environmental and climate protests are protected not only by the constitutional norms that recognise the rights of free expression of thought, demonstration, and association in European countries but also by

in Europe when it comes to housing or jobs, but what is worst is that Roma suffer much more from climate change and environmental degradation than any other European community or minority (e.g., every second Roma person lives in damp, dark dwellings or housing without proper sanitation facilities, and every fifth person has no access to tap water inside their houses etc.), thus demonstrating that there is a strict connection between the impact of climate change and environmental degradation, human rights and most vulnerable groups. For the complete report see: FRA 2023.

the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), which explicitly guarantees and recognises as fundamental freedoms the freedom of expression (art. 10) and the freedom of assembly and association (art. 11) (ECHR 1950). Of course, the exercise of these rights and freedoms also carries with it duties and responsibilities. It may be subject to some conditions, restrictions, or penalties, but only to the extent that they are deemed necessary for the protection of national security, territorial integrity, and public safety, and for the prevention of disorder or crime in a democratic society.

Democratic systems thrive on pluralism and the open exchange of ideas, and peaceful demonstrations serve as an essential mechanism for political and social engagement. Through protest, citizens can voice concerns about governmental policies, environmental issues, or broader societal challenges, ensuring that authorities remain accountable and responsive to public demands. The European Court of Human Rights (ECHR) has repeatedly affirmed that the right to peaceful assembly must be safeguarded even when the views expressed challenge the interests of the state or powerful economic actors. In cases such as *Öllinger v. Austria* (ECHR Judgement 2006) and *Kudrevičius and Others v. Lithuania* (ECHR Judgement 2015), the Court has emphasised that states have a duty not only to refrain from interfering with peaceful protests but also to take positive steps to ensure they can take place without undue restrictions.

When governments resort to violence, they send a dangerous signal that state power is above the law, weakening public trust in institutions and eroding democratic legitimacy. Historical examples show that when peaceful protests are met with repression, they often escalate rather than dissipate, leading to further instability and radicalisation.

The ECHR also adds possible further limitations used instrumentally by state authorities to repress pro-climate demonstrations, such as the protection of health or morality and the “protection of the rights of others”. Balancing that with the words “rights of others” is undoubtedly the crux of the matter, as symbolic actions often focus on public or private property through occupations, inscriptions, traffic blockades, etc. Some authorities, therefore, use this clause precisely to prohibit and repress demonstrations in which there is even a minimal sacrifice of competing rights, such as private property (ECHR Protocol 1952, Article 1) or free movement (ECHR Protocol 1963, Article 2), but which only suffer limited and transitory restrictions. The argument of “minimum damage” caused to public property, for example, was invoked during the famous affair known as the “*Affaires des décrocheurs*” (2019-2020), *Ministère public contre les décrocheurs de portraits d’Emmanuel Macron* (Mougeolle and Le Dyllo 2019).

Partial protection of the right to peaceful protest can also be found in the 1998 Aarhus Convention, in the part which deals with public participation in

decision-making processes (Aarhus Convention 1998). This document, however, tends to establish rather formal participation procedures, allowing the public to present in writing and during public hearings or investigations any observation, information, analyses or opinions relevant to the proposed activity (Aarhus Convention 1998, Article 6). The authorities of individual states retain strong protection in their ability to impose conditions and procedures for these forms of participation.

If we move our analysis to constitutional principles, in the general panorama of modern European constitutions, a true “right to resist” has rarely found a home despite ancient constitutional history preserving some traces of the importance of guaranteeing the possibility of influencing “resistance” forms of activism by public opinion towards politics, legislation, and the constitutions themselves. In this regard, some scholars speak of a “dawn” of climate change law and offer a comprehensive picture of the current dynamics of climate constitutionalism (Viola 2022).

Ethical disobedience to the laws of the polis (city-state) and reflection on it is a very common topic of classical philosophical thought (we can refer to Sophocles’ *Antigone*) and modern political literature (as in the famous *Resistance to Civil Government* of H.D. Thoreau), but the subject is still widely debated today. The pantheon of civil disobedience is packed with important figures (from Gandhi to Nelson Mandela) because conflict is one of the greatest “drivers” of legal experience. Today, however, practices aimed at its “neutralisation” are increasingly widespread, as Carl Schmitt already anticipated with his brilliant insight almost a century ago.

Proclamations such as the French Constitution of 1793, which elevated resistance to the illegitimate exercise of power to the level of a true “constitutional duty”, are now consigned to history: “When the government violates the rights of the people, insurrection is, for the people and for every part of the people, the most sacred of rights and the most indispensable of duties”. A statement that had its roots in the *Déclaration des Droits de l’Homme et du Citoyen* of 1789, for which “The aim of all political associations is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression” (*Declaration of the Rights of Man and of the Citizen* 1789, Article 2). A right to resist that was understood as a natural right (according to Althusius and Locke) and, therefore, as an inviolable, irrevocable and non-transferable power of the people, but which later became suspect in the eyes of twentieth-century constitutionalism.

Today, however, constitutionalism prefers to be based on the implicit assumption of the necessary obedience of citizens, considered a tacit

prerequisite for the very survival of the legal system, the refusal of which is opposed by various legal means. Legal, in fact, but not necessarily legitimate.

We, therefore, need to pay close attention to the nature and limits that characterise an act of legitimate resistance. We can base this operation on the well-known definition given by John Rawls, who defined it as “a public, non-violent, conscientious yet political act contrary to law usually done with the aim of bringing about change in the law or policies of the government” (Rawls 1971).

Therefore, we restrict our examination to acts that are public in nature. Namely, they are committed transparently, deliberately seeking to make them particularly evident and have a public impact. The actions must be openly claimed, and the consequences for the author of civil disobedience are accepted in advance by the author of the act in the name of a strong re-evaluation of human responsibility, both towards Nature and towards the community of which one is a part.

The non-violent nature of these actions has changing connotations. It must be commensurate with the scope of the claim and proportionate to the values at stake in the sacrifice of opposing interests that can be imposed in the context of the demonstration.

Clearly, it must be a conscious behaviour, that is, a voluntary transgression of a legal precept considered unjust or an act aimed at affirming a value that the public order, in its inertia or for the preferred protection of less valid interests, in fact, demonstrates to disregard.

The essential aim of the disobedient person’s ethical and political tension is to bring about a change in the law in force or in public policies.

The elasticity of these concepts and their wide interpretation suggest the difficulty of finding the necessary points of equilibrium. For this reason, the analysis and role of jurisprudence is crucial in the current context. Climate activism aims to materially hinder, albeit often only symbolically, the normal functioning of production, trade and transport activities, which, due to their negative externalities, are responsible for climate change, loss of biodiversity, and disruption of ecosystems.

The exercise of the right to resist is, therefore, an alternative and complementary form of political participation with respect to the traditional methods of liberal democracies, such as joining political organisations, participating in electoral competitions to hold public office, electing representatives sensitive to a particular cause, and appealing to elected representatives and governments to adopt specific measures. These are methods that are not rejected out of hand by these organisations. However, they are certainly not considered capable of providing adequate responses in the time imposed by the climate emergency or of bringing about a rapid change

in the face of a phenomenon that now has the characteristics of a real emergency, as declared by the same national and international institutions (Chevalier and de la Motte 2020).

First European Case Law on the Subject

In the context of climate resistance and civil disobedience, European courts have so far largely shown deference to state repression. However, some lower courts, such as those in Lyon and Strasbourg, have accepted the defence of necessity and acquitted activists involved in illegal but non-violent acts, recognising them as justified efforts to prompt more effective governmental action on climate change (Diaz 2019; Roets 2019). These rulings acknowledged the urgency of the climate crisis and considered civil disobedience appropriate under such circumstances.

Nevertheless, higher courts have generally rejected this interpretation, viewing the necessity of defence as an artificial excuse. They demand a stricter standard, particularly regarding the imminence and directness of the danger. The courts require that the threat be immediate and closely linked to the actions taken, which poses a major evidentiary hurdle for defendants.

Debates in court often focus on whether the disobedient act was non-violent, necessary, and proportionate. However, proving the necessity of such actions is especially difficult since alternative legal avenues are often deemed available. This strict interpretation frustrates activists, who see legal recognition as essential to legitimising their cause.

Finally, many judges invoke the principle of separation of powers and avoid ruling on the substantive issues of climate policy, citing their lack of competence in addressing such scientifically and politically complex matters.

Final Remarks

The essential elements of the phenomenon outlined in this analysis are at risk of becoming an explosive issue in the coming years if they are not adequately tackled and channelled towards dialogue and if a real willingness by public authorities to implement adequate measures to combat global warming does not emerge soon. It is not just a question of preparing for the worst or providing climate engineering solutions (Morozov 2013) and aiming for mere climate resilience, an objective that already seems implicitly marked by strong social inequality (Louvin 2024, 361-375).

The potentially catastrophic effects of the changes, greatly accelerated by anthropogenic factors, both in terms of production and the excessively consumerist

lifestyles of a large part of humanity, will otherwise also reflect on the stability and democratic nature of our current institutions. Nor can the problem of global warming be tackled in purely nationalistic terms, as it is an issue that, by its very nature, goes beyond the borders of individual states. An effective response can only be provided in terms of a global social alternative and adopting and accepting a deep change in current economic dynamics (Conversi 2022, 99-100).

Towards a Just and Rights-Based Green Transition in the EU: Integrating Fundamental Rights into Climate Policy, Governance, and Litigation

In order to accomplish the EU's climate targets and mitigate the economic and social impacts of the pandemic, NextGenerationEU's Recovery and Resilience Facility (RRF) was created. The EU has paid particular emphasis to addressing energy poverty, and its Environment Action Programme (EAP) until 2030 aims to reduce emissions and meet the EU's climate ambitions.

Furthermore, the EU's main social policy tool, the Pillar of Social Rights, is pertinent to many facets of the green transition.

One of the main challenges the EU faces as it implements the Green Deal and moves towards a more sustainable economy is ensuring that no one is left behind (EP 2023b). Indeed, Equinet's preliminary assessment of the Green Deal's impact on equality shows that, despite the EU's policy efforts, differences persist across different EU regions and demographic groups (EQUINET 2023).

The EU and its member states must uphold, defend, and fulfil fundamental rights, which are an essential and fundamental component of EU legislation. Fundamental rights must be clearly and consistently represented in all legal and policy measures and at every level of policy creation, implementation, enforcement, monitoring, and evaluation in order for the Green Deal's implementing legislation to adequately meet them.

A thorough fundamental rights analysis of the structural and intersectional factors that endanger or pose risks to the rights of particular people and groups—which are further threatened by climate change or by policies intended to address it—is necessary for the just transition to a sustainable future for all. Therefore, in their impact assessments, EU institutions should thoroughly and methodically address fundamental rights, investigate whether policy actions implemented under the Green Deal fully and appropriately consider the potential impacts on fundamental rights, and endeavour to guarantee that all such actions adhere to the rights and principles outlined in the Charter. Comprehensive ex-ante assessments of climate policies and actions would be required to gain a thorough understanding of the difficulties faced by vulnerable

groups and how climate adaptation and mitigation policies and actions may have unforeseen negative effects that exacerbate their exclusion or jeopardise their enjoyment of fundamental rights. The explicit incorporation of pertinent fundamental rights standards into climate and environmental protection policies and legislative files, both at the national and EU levels, is necessary for the HRBA to the green transition.

According to the “Better Regulation: Guidelines and Toolbox” and the plan to strengthen the implementation of the Charter (EC 2020), an evaluation of fundamental rights compliance should be regularly and methodically carried out within the impact assessments carried out in the EU and the member states. Prior to creating climate policy measures, these fundamental rights impact assessments ought to be carried out ensuring that pertinent and applicable legal obligations pertaining to the fundamental rights emphasised in the Charter are taken into account. That will guarantee policy coherence as well as the respect, protection, and fulfilment of legally protected rights. Conflicts between various fundamental rights and the need to preserve the environment and slow down climate change should also be taken into account and addressed in such evaluations.

The HRBA to climate policy aligns with the goal of achieving more inclusive and equitable outcomes, particularly for vulnerable groups. Applying the HRBA while implementing the EU Green Deal and related policies can help mainstream fundamental rights through assessments such as HRIAs. These assessments should also consider potential conflicts between different rights and between rights and environmental measures. While referencing the EU Charter of Fundamental Rights in laws and strategies improves visibility, it does not guarantee full application, especially at the national level. Strategic foresight on climate policy could benefit from FRA guidelines and a fundamental rights lens. For a truly just and sustainable green transition, the EU policies under the Green Deal must fully integrate fundamental rights. However, tools like the Just Transition Mechanism and the Social Climate Fund currently lack systematic alignment with Charter commitments. Proper integration would help protect vulnerable groups and ensure consistency with the Charter principles. To meet its Charter obligations, the EU must embed human rights principles in financial governance. It is a legal and moral duty for EU institutions and the member states. The horizontal enabling conditions (Annex III) related to the Charter and CRPD are vital, but their implementation and oversight remain problematic (EU 2021).

The enabling requirements outlined in the general laws governing EU funds should apply to all funds, including the NextGeneration Fund and the SCF, to maintain policy coherence and consistency. The EU can guarantee that its climate and environmental goals are met in a manner that upholds social justice, equality, and human dignity by including basic rights in the planning, execution, and oversight of all EU funds implementing the Green Deal.

Moving the analysis to the monitoring framework, as of right now, there is no such thorough system in place to analyse how environmental conditions or policies affect fundamental rights, which might be used to gauge the just transition. To assess the impact of the green transition more clearly and address the social impacts of current climate policies on fundamental rights, including equality, the already quoted Parliament study policy instruments to tackle social inequalities related to climate change suggests additional steps in the design of pertinent policies and the use of EU funds.

Mechanisms must be put in place to methodically analyse, track, and evaluate how green policies affect human rights, such as the rights to employment, health care, and a clean environment. This entails funding and constructing pertinent capacities for monitoring organisations, indicator development, and data collection at the EU and member state levels. By making reference to SDG indicators or, more broadly, the Charter, the majority of the monitoring frameworks and indicators now in use merely make an implicit connection to specific fundamental rights. It is necessary to create a comprehensive and methodical monitoring mechanism for the just transition that clearly connects to the ingrained fundamental rights.

To evaluate how well green policies support human rights norms and facilitate evidence-based decision-making, particular human rights indicators must be created (EQUINET 2023). In order to collect qualitative data on the ground and document the lived experiences of people impacted by green transitions, it is imperative to collaborate with civil society organisations and human rights defenders (UNEP n.d.). As stated in several FRA publications, the function of equality organisations (FRA 2021) and national human rights institutions (FRA 2020a) might be enhanced in this respect, especially by allocating adequate funds and developing the required competence. FRA has already created human rights-based monitoring indicators and offered assistance in a number of sectors and EU strategies, including those pertaining to Roma people, anti-racism, disability, and children's rights (FRA 2020b; 2024), in close collaboration with the Commission and the member states.

Additionally, ensuring effective participation is another crucial element in enhancing the HRBA to environmental protection. Human rights frameworks have changed dramatically to place more emphasis on enforcement and participation, notably when it comes to environmental challenges. The significance of public involvement in climate action has been reaffirmed by the UN Human Rights Council on numerous occasions (OHCHR 2021). As evidence of the growing incorporation of rights-based methods in climate governance, the Paris Agreement and other climate frameworks now specifically acknowledge the significance of human rights and public engagement in climate action. According to these documents, to ensure the effective participation of

affected groups and individuals and that the opinions of those most affected are fully integrated, all stakeholders—including civil society organisations and marginalised communities—should be involved in decision-making processes related to climate policies. That will help uphold accountability, transparency, and respect for human rights.

Climate assemblies have the power to impact and meld the work of governments and parliaments and are increasingly being used to direct government choices about climate policy. People from many backgrounds get together to talk and deliberate on climate issues at the National Climate Assemblies (KNOCA n.d.). The purpose of these national, regional, and local assemblies is to engage the public in the fight against climate change. They give people a way to get involved in the creation of climate policies and the shift to a more sustainable future.¹³

In order to address delays and gaps in the implementation of legislation and hold governments responsible for their duties to implement a swift and equitable green transition in accordance with fundamental rights obligations, citizens and companies should have access to effective remedies (FRA 2020) and the complaint mechanisms, both individually and collectively (FRA 2024).

Finally, it is worth mentioning the central role of access to justice and adequate enforcement of judicial decisions related to environmental protection from a human rights-based perspective.

Access to justice is essential in climate and environmental matters because it ensures accountability, especially when addressing the collective impacts of climate change, and permits individuals and civil society to bring claims to enforce their fundamental rights in the context of climate change. The report from the European Parliament, “Can Nature Get It Right? A Study on the Rights of Nature in Europe”, focused on enabling civil society to guarantee the efficient application of environmental legislation and supporting wider access to justice in line with the objectives of the Green Deal (EP 2021).

It is equally important to recognise the function of strategic litigation. Climate lawsuits can support climate action, hold governments and companies accountable, and integrate the HRBA into climate mitigation and adaptation programmes by choosing cases that seek to create significant precedents and

¹³ One of the most effective and consistent National Climate Assemblies is the one created by the Republic of Ireland. The Children and Young People’s Assembly on Biodiversity Loss was held for the first time in October 2022. The assembly produced 58 calls to action across seven themes, such as waste reduction, habitat protection, and awareness-raising, acknowledging that biodiversity loss impacts children’s rights to a safe and healthy environment and that it is crucial for children and young people to participate in decision-making (Children and Young People’s Assembly on Biodiversity Loss 2022).

protection standards and impact systemic change. Effective access to justice in climate change cases is made possible by strategic litigation, which also has the power to influence policy changes in this field.

Domestic courts have elucidated the human rights responsibilities of states associated with climate policies in significant cases within the EU, including *Neubauer v. Germany*¹⁴ and *Urgenda v. State of the Netherlands*¹⁵. In three historic rulings delivered on April 9, 2024, the ECHR confirmed for the first time that the negative effects of climate change are covered by the convention's protection of human rights. It also required states to put in place effective mitigation measures and outlined requirements that climate policies must meet to comply with states' positive obligation to protect the right to private and family life.

Thus, the use of strategic litigation as a tool to guide the creation and application of just transition policies in a way that respects fundamental rights is growing. The increasing number of environmental lawsuits filed worldwide, which increased from about 800 between 1986 and 2014 to 1,200 in the next eight years until mid-2022, is indicative of this (Macfarlanes 2023). It is anticipated that this type of litigation will increase in the future and may influence how future just transitions are implemented in the member states and elsewhere.

The need for more comprehensive and effective legal and policy measures, including national legislation, is indicated by these trends in climate litigation, which also point to a widespread failure of states to act and human rights violations resulting from states' omissions. Litigation is not a panacea and cannot take the place of policy actions, which the ECHR has ruled are subject to governments' affirmative responsibilities.¹⁶

¹⁴ *Neubauer et al. v. Germany*: The German Constitutional Court ordered the government to set more aggressive emissions reduction objectives in 2021 after ruling that the government's climate protection statute was inadequate and infringed upon the constitutional rights of youth. (Federal Constitutional Court of Germany Order 2021).

¹⁵ *Urgenda Foundation v. State of the Netherlands*: the Urgenda Foundation and 900 Dutch people filed this historic lawsuit against the Dutch government. In 2019, the Dutch Supreme Court ruled that the government had a duty of care to preserve citizens' rights under the European Convention on Human Rights (ECHR) and ordered the government to cut greenhouse gas emissions by at least 25% below 1990 levels by the end of 2020. (The Hague District Court Decision 2015).

¹⁶ The European Court of Human Rights (ECHR) clarified the *locus standi* of individuals and associations under Article 34 of the ECHR in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, which dealt with complaints about injury or the threat of harm coming from the State's alleged failings to tackle climate change. For its part, the Court of Justice of the European Union has upheld a rigorous interpretation of the standing requirements for private parties to file direct proceedings under Article 263 of the TFEU, requiring applicants to demonstrate that an EU act directly affects them personally (ECHR Judgement 2024).

Furthermore, although it can be a useful and successful addition to legislative or policy action, strategic litigation cannot replace it. It can specifically aid in identifying areas where the green transition's protection of fundamental rights is lacking and make it easier to put particular state policies into action. Successful lawsuits are a major societal force behind decarbonisation initiatives since they have forced lawmakers worldwide to take action on climate change. Litigation can also strengthen and promote alliances between institutional entities, civil society, and other interested parties (Niehaus 2024).

In conclusion, strong legislative and regulatory measures, as well as the efficient execution of court rulings, are necessary to achieve significant change, even though strategic litigation and access to justice are crucial instruments in combating climate change.

Conclusion

The essential elements of the phenomenon outlined in this analysis are at risk of becoming an explosive issue in the coming years if they are not adequately tackled and channelled towards dialogue and if a real willingness by public authorities to implement adequate measures to combat global warming does not emerge soon. It is not just a question of preparing for the worst or providing climate engineering solutions (Morozov 2013) and aiming for mere climate resilience, an objective that already seems to be implicitly marked by strong social inequality (Louvin 2024).

Otherwise, the potentially catastrophic effects of the changes taking place, greatly accelerated by anthropogenic factors, both in terms of production and the excessively consumerist lifestyles of a large part of humanity, will also reflect on the stability and democratic nature of our current institutions.

Nor can the problem of global warming be tackled in purely nationalistic terms, as it is an issue that, by its very nature, goes beyond the borders of individual states. An effective response can only be provided in terms of a global social alternative and adopting and accepting a deep change in current economic dynamics (Conversi 2022, 99-100).

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References

- [Aarhus Convention] Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. 1998. 2161 U.N.T.S. 447, June 25, 1998.
- Administrative Court of Paris. 2021. *Notre Affaire à Tous et al. v. France*, Judgement No. 1904967/4-1, February 3, 2021.
- Arendt, Hannah. 1972. *Crises of the Republic: Lying in Politics, Civil Disobedience, On Violence, Thoughts on Politics and Revolution*. New York: Harcourt Brace Jovanovich.
- Berlin Administrative Court. 2019. *Organic Farmer Families and Greenpeace v. Germany*. Case no. VG 10 K 412.18. Judgement of October 31, 2019.
- Beyerlin, Ulrich, and Thilo Marauhn,. 2011. *International Environmental Law*, Oxford: Hart.
- Bodansky, Daniel, and Jutta Brunnée, eds. 2007. *The Oxford Handbook of International Environmental Law*. Oxford: Oxford University Press.
- Bolopion, Emma. 2024. "The European Union and Climate Security. Between Ambitions and Realities", *VerfBlog*, November 1, 2024. <https://verfassungsblog.de/the-european-union-and-climate-security/>.
- Bourg, Dominique, Clémence Demay, and Brian Favre. 2021. *Désobéir pour la Terre. Défense de l'état de nécessité*. Paris: Presses Universitaires de France.
- Brussels Court of Appeal. 2023. *VZW Klimaatzaak v. Kingdom of Belgium & Others*, 6 court of appeal Brussels Judgement 2021/AR/15gs 2022/AR/737 2022/AR/891, November 30, 2023.
- Carducci, Michele. 2021. "Cambiamento climatico (Diritto costituzionale)". In: *Digesto delle Discipline Pubblicistiche*, edited by Raffaele Bifulco, Alfonso Celotto and Marco Olivetti, 51-74. UTET: VIII Aggiornamento.
- Chevalier, Cédric, and Thibault de La Motte,. 2020. *Déclarons l'état d'urgence écologique*, Waterloo: Luc Pire.
- Children and Young People's Assembly on Biodiversity Loss. 2022. "About the Assembly". <https://cyp-biodiversity.ie/about-the-assembly/>
- [CJEU] Court of Justice of the European Union. 2019. *Carvalho et al. v. European Parliament and Council*, Case T-330/18, Order of May 8, 2019. <https://curia.europa.eu/juris/document/document.jsf?docid=214164&doclang=EN>.
- Conversi, Daniele. 2022. *Cambiamenti climatici. Antropocene e politica*. Milano: Mondadori Università.
- Cortes, Anthony, and Sébastien Leurquin. 2023. *L'affrontement qui vient: de l'éco-résistance à l'écoterrorisme?*. Monaco: Editions du Rocher.

- Council of State (Conseil d'État). 2023. Decision N° 476384. November 9, 2023.
- Cournil, Christel. 2020. *Les grandes affaires climatiques*. Confluences des droits Aix-en-Provence: DICE Éditions.
- [Declaration of the Rights of Man and of the Citizen] Déclaration des droits de l'homme et du citoyen. 1789. Déclaration des droits de l'homme et du citoyen du 26 août 1789. Adopted by the National Constituent Assembly of France, August 26, 1789. https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank_mm/anglais/cst2.pdf.
- Diaz, Hugues. 2019. "Décrochons Macron': l'état de nécessité climatique?", *Dalloz Actualité*, September 26, 2019. <https://www.dalloz-actualite.fr/flash/detrochons-macron-l-etat-de-necessite-climatique>.
- [EC] European Commission. 2019. Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee, and the Committee of the Regions, The European Green Deal, COM/2019/640 final. Brussels, December 11, 2019. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52019DC0640>.
- [EC] European Commission. 2020. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Strategy to strengthen the application of the Charter of Fundamental Rights in the EU, COM/2020/711 (final). Brussels, December 2, 2020. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0711>.
- [EC] European Commission. n.d. "Recovery and Resilience Facility". Accessed March 9, 2025. https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility_en.
- [ECHR Decision] European Court of Human Rights. 2024. *Case of Carême v. France*. European Court of Human Rights. Application no. 7189/21, Decision April 9, 2024. [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-233174%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-233174%22]}).
- [ECHR Judgement] European Court of Human Rights. 2006. *Case of Öllinger v. Austria*. European Court of Human Rights. Application no. 76900/01, Judgement of June 29, 2006. [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-76098%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-76098%22]}).
- [ECHR Judgement] European Court of Human Rights. 2015. *Case of Kudrevičius and others v. Lithuania*. European Court of Human Rights. Application no. 37553/05, Judgement of October 15, 2015. [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-158200%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-158200%22]}).
- [ECHR Judgement] European Court of Human Rights. 2017. *Azzolina and others v. Italy*. European Court of Human Rights. Applications Nos. 28923/09 and

- 67599/10, Judgement of October 26, 2017. [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-177915%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-177915%22]}).
- [ECHR Judgement] European Court of Human Rights. 2024. *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*. European Court of Human Rights. Application no. 53600/20, Judgement of April 9 2024. [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-233206%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-233206%22]}).
- [ECHR Protocol] European Court of Human Rights. 1952. *Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms*. European Court of Human Rights, Council of Europe, March 20, 1952.
- [ECHR Protocol] European Court of Human Rights. 1963. *Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms securing certain rights and freedoms other than those already included in the Convention and in the First Protocol thereto*. European Court of Human Rights, Council of Europe, September 16, 1963.
- [ECHR] European Court of Human Rights. 1950. *European Convention on Human Rights*. European Court of Human Rights, Council of Europe, November 4, 1950.
- [EEA] European Environment Agency. 2024. *European Climate Risk Assessment, Report 1*. <https://www.eea.europa.eu/en/analysis/publications/european-climate-risk-assessment>.
- [EP] European Parliament. 2021. “Can Nature Get It Right? A study on the rights of nature in Europe”, Policy Department for Citizens’ Rights and Constitutional Affairs Directorate-General for Internal Policies, PE 689.328. Brussels, March 1, 2021. [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/689328/IPOL_STU\(2021\)689328_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/689328/IPOL_STU(2021)689328_EN.pdf).
- [EP] European Parliament. 2023a. *Energy Poverty in the EU, Briefing*. September 18, 2023. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733583/EPRS_BRI\(2022\)733583_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733583/EPRS_BRI(2022)733583_EN.pdf).
- [EP] European Parliament. 2023b. “Policy instruments to tackle social inequalities related to climate change”, Policy Department for Economic, Scientific and Quality of Life Policies, Directorate-General for Internal Policies, PE 740.081. Brussels May 15, 2023. [https://www.europarl.europa.eu/RegData/etudes/STUD/2023/740081/IPOL_STU\(2023\)740081_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2023/740081/IPOL_STU(2023)740081_EN.pdf).
- [EQUINET] European Network of Equality Bodies. 2023. *Preliminary assessment of the EU Green Deal’s impact on equality Survey of current practices and needs of European Equality Bodies*. Brussels, September 29. <https://equinet.europe.org/wp-content/uploads/2023/09/Preliminary-assessment-of-the->

- EU-Green-Deals-impact-on-equality.-Survey-of-current-practices-and-needs-of-European-Equality-Bodies.pdf.
- [EU] European Union. 2000. *Charter of Fundamental Rights of the European Union*. C 364/1. December 18, 2000. https://www.europarl.europa.eu/charter/pdf/text_en.pdf.
- [EU] European Union. 2021. *Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down Common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy*, OJ L 231/159, 31.5.2021. <https://eur-lex.europa.eu/eli/reg/2021/1060/oj/eng>.
- [EU] European Union. n.d. "Next Generation EU: for a stronger, more resilient Europe". *European Union*. Accessed March 9, 2025. https://next-generation-eu.europa.eu/index_en.
- Extinction Rebellion. 2025. "Extinction Rebellion". *Extinction Rebellion*. Accessed February 17, 2025. <https://extinctionrebellion.it/chi-siamo/extinction-rebellion/>.
- Federal Constitutional Court of Germany. 2021. *Neubauer et al. v. Germany*. Order of the First Senate 1 BvR 2656/18; 1 BvR 78/20; 1 BvR 96/20; 1 BvR 288/20. March 24, 2021. <https://climatecasechart.com/non-us-case/neubauer-et-al-v-germany/>.
- Forst, Michael. 2024. *State repression of environmental protest and civil disobedience: a major threat to human rights and democracy*. Position Paper, UN Special Rapporteur on Environmental Defenders under the Aarhus Convention. February 2024.
- [FRA] European Union Agency for Fundamental Rights. 2020a. *Strong and effective national human rights institutions – challenges, promising practices and opportunities*. Luxembourg, September 1, 2020. https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-strong-effective-nhris_en.pdf.
- [FRA] European Union Agency for Fundamental Rights. 2020b. *Monitoring Framework for an EU Roma Strategic Framework for Equality, Inclusion and Participation: Objectives and Indicators*. Vienna, June 20, 2020. https://fra.europa.eu/sites/default/files/fra_uploads/2020-portfolio_of_indicators_working-paper_en.pdf.
- [FRA] European Union Agency for Fundamental Rights. 2021. *Equality in the EU 20 years on from the initial implementation of the equality directives*.

- Vienna, April 30, 2021. https://fra.europa.eu/sites/default/files/fra_uploads/fra-2021-opinion-equality-directives-01-2021_en_0.pdf.
- [FRA] European Union Agency for Fundamental Rights. 2023. *Roma Survey 2021*. European Union Agency for Fundamental Rights. October 25, 2022. https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-roma-survey-2021-main-results_en.pdf.
- [FRA] European Union Agency for Fundamental Rights. 2024. *Mapping Child Protection Systems in the EU – Update 2023*. European Union Agency for Fundamental Rights. January 31, 2024. <https://fra.europa.eu/en/publication/2024/mapping-child-protection-systems-eu-update-2023>.
- Gallarati, Francesco. 2021. “Le leggi-quadro sul clima negli Stati membri dell’Unione europea: una comparazione”. *DPCE Online* 49 (4): 3459-3484. <https://doi.org/10.57660/dpceonline.2021.1431>.
- Hollo, Erkki J., Kati Kulovesi, and Michael Mehling, eds. 2013. *Climate Change and the Law*. Springer: Dordrecht.
- [KNOCA] The Knowledge Network on Climate Assemblies. n.d. “Summaries of National Climate Assemblies”. Accessed March 9, 2025. <https://www.knoca.eu/climate-assemblies#Summaries-of-national-climate-assemblies>.
- Lemons, John and Daniel Brown. 2011. “Global climate change and non-violent civil disobedience”. *Ethics in Science and Environmental Politics* 11: 3-12. <https://doi.org/10.3354/esep00109>.
- Louvin, Roberto. 2020. “Climate stability as a common good : a strategy for the European Union”, In: *Environmental Sustainability in Europe: A Socio-Legal Perspective*, edited by Serena Baldin, Sara De Vido, 121-129. Trieste: EUT Edizioni, Università di Trieste.
- Louvin, Roberto. 2024. “Resilienza e resistenza climatica: riflessioni a partire da recenti vicende francesi”. In: *Scritti in memoria di Beniamino Caravita*, edited by Luisa Cassetti, Federica Fabrizzi, Andrea Morrone, Federico Savastano, and Alessandro Sterpa, 361-375. Napoli: Editoriale Scientifica.
- Macfarlanes. 2023. “Environmental litigation heats up”, *Macfarlanes*, January 5, 2023. <https://www.macfarlanes.com/what-we-think/2023/environmental-litigation-heats-up/>.
- Moro, Giovanni, ed. 2013. *The Single Currency and European Citizenship. Unveiling the Other Side of the Coin*. London: Bloomsbury.
- Morozov, Evgeny. 2013. *To save everything, click here: the folly of technological solutionism*. New York: Public Affairs.
- Mougeolle, Paul, and Antoine Le Dyllo. 2019. “Lutter contre le changement climatique par la désobéissance civile, un état de nécessité devant le juge

- pénal?”. *La Revue des droits de l’Homme*, October, 2019: 1-8. <https://doi.org/10.4000/revdh.7437>.
- Niehaus, Manuela. 2024. “Globules or Life-Saving Treatment after all? On the Effect of Climate Lawsuits: A Response to Bernhard Wegener - Homeopathic Globules for Environmental Lawyers”, *VerfBlog*, January 5, 2024. <https://verfassungsblog.de/globules-or-life-saving-treatment-after-all-on-the-effect-of-climate-lawsuits/>.
- Novaković, Marko. 2024. “Penal Populism Across Nations: Illustrative Case Studies”. In: *Penal populism and impact on the work of institutions, IX International scientific thematic conference*, edited by Marina Matić Bošković, and Jelena Kostić, 115-127. Belgrade: Institute of criminological and sociological research and Judicial academy.
- [OHCHR] UN Office of the High Commissioner for Human Rights. 2021. *FAQ on Human Rights and Climate Change*, Fact Sheet n. 38, New York-Geneva. https://www.ohchr.org/sites/default/files/Documents/Publications/FSheet_38_FAQ_HR_CC_EN.pdf.
- Pomfret, Richard. 2021. *The Economic Integration of Europe*. London: Harvard University Press.
- Rawls, John. 1971. *A Theory of Justice*. London: Harvard University Press.
- Ripple, William J., Christopher Wolf, Thomas M. Newsome. 2019. “World Scientists’ Warning of a Climate Emergency”. *BioScience*, Appeal of November 5, 2019.
- Roets, Damien. 2019. “Du vol d’un portrait officiel du président de la République comme moyen de lutter contre le réchauffement climatique: quelle ‘justification’?”. *Recueil Dalloz* 35: 1973-1978.
- Sands, Philippe, Jacqueline Peel. 2022. *Principles of International Environmental Law*, 5th Edition. Cambridge: Cambridge University Press.
- [SEA] Single European Act. 1987. Official Journal of the European Communities No L 169/1. June 29, 1987. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:11986U/TXT>.
- Stockholm District Court. 2017. *Push Sweden, Fältbiologerna et al v. Government of Sweden*. Case T 11594-16, Judgement of June 30, 2017.
- [TEU] Treaty on European Union. 2012. Official Journal of the European Union, C 326, October 26, 2012. https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF.
- The Hague District Court. 2015. *Urgenda Foundation v. State of the Netherlands*. Decision C/09/456689/HA ZA 13–1396. June 24, 2015. <https://climate>

- casechart.com/non-us-case/urgenda-foundation-v-kingdom-of-the-netherlands/.
- Thieffry, Patrick. 2021. *Handbook of European environmental and climate law*. Bruxelles: Bruylant.
- [UNEP] UN Environment Programme. n.d. "Who are environmental defenders?". UN Environment Programme. Accessed March 9, 2025. <https://www.unep.org/topics/environmental-law-and-governance/who-are-environmental-defenders#:~:text=The%20UN%20defines%20environmental%20human,land,%20flora%20and%20fauna%E2%80%9D>.
- Viola, Pasquale. 2022. *Climate Constitutionalism Momentum: Adaptive Legal Systems*. Cham: Springer.
- Ward, Angela, Jeff Kenner, Steve Peers, Tamara Hervey. 2015. *The EU Charter of Fundamental Rights. A Commentary*. London: Bloomsbury.

PREISPITIVANJE KLIMATSKE POLITIKE U EVROPSKOJ UNIJI: OTPOR, REPRESIJA I OSNOVNA PRAVA

Apstrakt: Autori u ovom radu analiziraju rastuću tenziju između klimatskog aktivizma i državne represije u Evropskoj uniji, fokusirajući se na pravne i političke posledice kriminalizacije građanske neposlušnosti u okviru ekoloških pokreta. Polazi se od hipoteze da pravni okviri država članica EU, kao i sama EU, nedovoljno štite prava klimatskih aktivista, što vodi ka slabljenju demokratije i urušavanju osnovnih sloboda. Oslanjajući se na teoriju Džona Rolsa o građanskoj neposlušnosti kao javnom, nenasilnom i savesnom aktu usmerenom ka promeni nepravednih zakona ili politika, članak ispituje da li se klimatski otpor može i treba smatrati legitimnim oblikom političkog izraza, a ne pretnjom javnom redu. Primenom multidisciplinarne i uporednopravne metode, analiza obuhvata evropske i međunarodne instrumente zaštite ljudskih prava—uključujući EKLJP i Arhusku konvenciju i akte EU poput Evropskog zelenog dogovora, kao i savremenu sudsku praksu nacionalnih i evropskih sudova. Ustanovljeno je da, iako pravni sistemi nominalno štite slobodu izražavanja i okupljanja, u praksi često dolazi do nesrazmernih sankcija, policijskog nasilja i zloupotrebe antiterorističkih zakona protiv ekoloških aktivista. Zaključak je da klimatska politika EU nema dosledan pristup zasnovan na ljudskim pravima (HRBA), naročito u primeni politika i korišćenju EU fondova. Autori pozivaju na integraciju osnovnih prava u sve aspekte klimatskog upravljanja—uključujući parnice, kreiranje politika i učešće javnosti—radi obezbeđivanja pravedne, demokratske i socijalno inkluzivne zelene tranzicije.

Ključne reči: klimatske promene; građanska neposlušnost; politika zaštite životne sredine EU; represija neslaganja; pristup zasnovan na ljudskim pravima; HRBA; sloboda govora; nenasilni protesti.