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Intergenerational Inequity?

The applicability of ECHR Article 14 to indirect discrimination on the basis of “birth-cohort” in cases concerning climate change

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1 Introduction

1.1 Topic and research questions

The topic of this thesis is whether Article 14 of the European Convention on Human Rights (ECHR or the "Convention") is applicable to indirect disparate effects between generations in systemic climate mitigation cases, i.e. cases concerning a State's overall climate change mitigation efforts.[1] The thesis examines the risk of disproportionate lifetime effects that insufficient mitigation efforts pose to younger generations, in particular, the children born in 2020. Accordingly, the primary question is whether Article 14 is applicable to indirect discrimination on the basis of "birth-cohort" in climate cases. The prohibition of discrimination under Article 14 states that:

> "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

According to established case law of the European Court of Human Rights (ECtHR or the "Court"), discrimination means "treating differently, without an objective and reasonable justification, persons in relevantly similar situations".[2] Article 14 also applies to indirect discrimination, where a "general policy or measure that has disproportionately prejudicial effects on a particular group may be considered discriminatory even where it is not specifically aimed at that group and there is no discriminatory intent".[3] As a result, discrimination contrary to Article 14 may arise from *neutral rules*[4] or a *de facto* situation.[5] Although environmental issues are not often addressed under Article 14, the general principles and interpretations seem to apply in "a fairly standard manner".[6]

In light of this, the thesis raises two research questions. The first is whether "birth-cohort" can be considered a relevant basis of discrimination under Article 14. The second is whether the effects of climate change constitute differential treatment on this basis, and if this can be objectively and reasonably justified. Finally, this thesis addresses certain implications of the

[1] "As measured by the pace and extent of its greenhouse gas emissions reduction" see Maxwell (2021) page 2 – 4, as opposed to cases concerning: i) specific decisions with implications for emissions, and ii) (mal)adaptation to past or ongoing harm from climate.

[2] See among many others D.H. v. The Czech Republic [GC] para 175, and Zarb Adami v. Malta para 71.

[3] S.A.S v. France [GC] para 161, D.H and others v. The Czech Republic [GC] para 184.

[4] See e.g. Biao v. Denmark [GC] para 103.

[5] Zarb Adami v. Malta para 76.

[6] COE (2021) page 68. See e.g. Chapman v. UK [GC] paras 126 – 130.

applicability of Article 14 – for instance, whether States are obligated to consider lifetime impacts for younger generations in decisions with the potential of causing climate harm.[7]

In a broader context, this thesis reflects how the principle of intergenerational equity might be operationalized by framing the effects of dangerous climate change as discriminatory. Scientific findings illustrate that children and younger generations are disproportionately exposed to extreme weather events across their lifetime compared to older generations.[8] Climate change thus reflects an inequity in which the group with the least responsibility for human-induced global warming is a group particularly affected by and vulnerable to the risk of harm climate change represents.[9]

Against this background, there are at least three effects of significance to younger generations. First, younger generations are particularly impacted by climate change today due to their young age now.[10] Second, they will experience more of the impact of dangerous climate change due to the fact that they live longer – effects that will only intensify as their generation ages.[11] Finally, postponing the necessary mitigation today offloads an increased burden to drastically cut emissions onto younger generations, thereby restricting their future rights and freedoms.[12]

1.2 Delimitations and terminology

In principle, the discussions in this thesis are relevant for younger generations in general, and possibly also for future generations.[13] Due to space constraints, the scope of this thesis is limited to the European cohort of children born in the year 2020. This delimitation can be debated. Counting more than 4 million individuals, the cohort's size is arguably too large in a context of individual human rights.[14] At the same time, excluding the immediately adjacent cohorts, in terms of year of birth, could be regarded as arbitrary.[15] Indeed, the impacts of dangerous climate

[7] A question inspired by Sandvig et al (2021).

[8] See chapter 2.1.3.

[9] Schapper (2018) page 280.

[10] IPCC (2022a) SPM.B.1.3.

[11] ENNHRI (2021a) page 34.

[12] Ibid. page 34. See also Neubauer et al v. Germany para 192.

[13] Similarly, the argumentation might be relevant for the independent protection against discrimination under Article1 of ECHR Protocol 12, and Article26 of the UN ICCPR, or for domestic provisions.

[14] The number of live births in the European Union alone was over 4,2 million based on the last available data from 2019, see Eurostat (2021a).

[15] See Chalifour (2021) page 26 ff. with reference to *Environement Jeunesse v. Canada*, where the superior court of Quebec found that the demarcation of plaintiffs below the age of 35 was arbitrary.

change will not differ significantly between cohorts born at approximately the same time.[16] Finally, the impacts of climate change varies across Europe, thus, it is challenging to isolate overall effects on the cohort.

Yet, it might be argued that the potential benefits of limiting the class of subjects outweigh the disadvantages. Isolating this cohort underlines a critical temporal dimension of the harm caused by climate change. The scientific discussion in Chapter 2.1 outlines the expected risk of climate-induced harm for a child born in 2020 at regional levels.[17] While not decisive for the demarcation, it provides a clearly defined factual backdrop for the thesis. In addition, the overall life expectancy of the cohort is of significance. In 2020 a child born in Europe is expected, not accounting for national variations, to live to the age of 81.[18] As a result, the cohort is estimated to live beyond the end of the century. The expected life span of the cohort therefore has an overlapping trajectory with the models and projections of the impacts of climate change towards 2100 of the Intergovernmental Panel on Climate Change (IPCC). As the predicted impacts of climate change will worsen over time, it is a clear benefit that the lifespan of the cohort is compatible with the current scientific models of climate change.

All children born in 2020 share the same year of birth and are correspondingly part of the same age group. This group could be described as a "generation," which can be defined as "a group of individuals born and living contemporaneously."[19] A more precise demographic term is "cohort", which is defined as a "group of individuals having a statistical factor in common".[20] In this instance, the common factor is the year of birth, which also correlates to their age at a given time.

Because the members of the 2020-cohort are currently children, one could argue there is no need for additional demarcation. Indeed, the question could be analyzed through the prism of discriminatory effects in relation to children. Traditionally, children are considered inherently vulnerable for a number of reasons. Their limited experience, development, maturity, and autonomy make them dependent to various degrees.[21] In this thesis, the term "vulnerability" is used to describe actual or potential exposure to harm.[22] As a characteristic of a vulnerable group, the term indicates a group particularly exposed to harm or at an increased risk of experiencing

[16] Children born between 2010 and 2020 are for example "projected to experience a nearly four-fold increase in extreme events under 1.5 ° C of global warming by 2100", see IPCC (2022c) Question 3.

[17] See Thiery et al (2021) and Save the Children (2021).

[18] Based on the overall life expectancy in the European Union`s last available data from 2019, see Eurostat (2021b).

[19] Merriam-Webster (2022a).

[20] Merriam-Webster (2022b).

[21] Ippolito (2015) p. 23.

[22] Nifosi-Sutton (2017) pages 4 – 5.

harm vis-à-vis other groups.[23] The context of climate change illustrates children's vulnerability in several ways.

The year the children were born marks the start of what has been referred to as a "defining decade" for the development of the planet's climate.[24] From a societal perspective, it is in this decade that the children are most vulnerable – both physically and mentally. However, this aspect of children as vulnerable individuals is not the only one applicable in relation to the potential harm caused by climate change.

From a democratic perspective, the group is vulnerable due to under-representation in the upcoming defining decades of action. With some exceptions,[25] 18 is the minimum voting age at national parliamentary elections in European countries, implying that the cohort cannot formally influence democratic decision-making processes until 2038 at the earliest.[26] As a result, they can be considered as vulnerable in relation to the current priorities of the majority, due to the structural organization of democratic political processes.[27] The *de facto* discriminatory effect on children is emphasized by the *de jure* exclusion of their interests.[28]

In a long-term perspective, they are vulnerable due to increased risk of exposure to extreme weather events caused by climate change. Over their lifetime, extreme weather events will intensify and are projected to increase in all categories, such as droughts, wildfires, flooding, and heatwaves.[29] Noting that the elderly are particularly vulnerable to such events,[30] this underlines how the cohort is vulnerable throughout their lifetime in the context of climate change. For these reasons, and as the characteristic of being a child is temporary – unlike the consequences of climate change – this thesis discusses discrimination on the basis of birth-cohort.

This results in certain limitations on the scope of the thesis. One general limitation relates to the question of whether Articles 2 and 8 are applicable in the case of harm caused by climate change. This is assumed to be the case for the purposes of this thesis.[31] In terms of jurisdiction, although the scope includes the European 2020 cohort as a whole, an important distinction is

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[23] Ibid. pages 4 – 5.

[24] See e.g. Bugge (2021) p. 28, Wordland (2020).

[25] Austria (16), Greece (17), Italy (25), see CIA (2022).

[26] CIA (2022). At the earliest because election cycles may not correspond. For example, the 2041-election is the earliest Norwegian children born in 2020 can partake in at the national level, given that the criteria remain the same. See the Norwegian Election Act § 2-1 (1)(a).

[27] See e.g. Neubauer et al v. Germany para 206.

[28] Gibbons (2014) p. 27.

[29] See chapter 2.1.3.

[30] IPCC (2022a) SPM.B.4.4.

[31] See chapter 2.2.1.

that the thesis is limited to the State's responsibility vis-à-vis the children "within their jurisdiction".[32] Accordingly, the thesis discusses the rights of the Convention isolated from differences within the domestic legal systems of the Member States. Given that the interpretation of the Convention is universal, and due to the scope of this thesis, this aspect is not addressed. Finally, as it is not decisive for the general application of Article 14, the potential for extraterritorial jurisdiction in cases of harm caused by climate change is not discussed.

1.3 Relevance and objective

Addressing the applicability of Article 14 in the context of climate change is relevant for several reasons. With certain notable exceptions,[33] not much legal research has been conducted on the relationship between discrimination on the basis of age and the disparate impacts of climate change, especially in the context of the Convention. Article 14 of the ECHR has been the subject of numerous reviews in the literature from various perspectives.[34] However, the research conducted for the purposes of this thesis has revealed an absence of analysis of the Court's jurisprudence on indirect discrimination from this angle. This thesis therefore contributes to the broader debate on the role of Article 14 in the context of climate change.

Although the issue of climate change is one that will extend into future decades, there is only "a brief and rapidly closing window of opportunity to secure a livable and sustainable future for all".[35] As the impacts of climate change are cumulative, transnational, and intergenerational by nature, the challenges that exist can be observed when addressing the issue through human rights law.[36] In particular, the prohibition of discrimination could possibly address the intertemporal dimensions of harm caused by climate change.

This thesis argues that approaching the issue through Article 14 makes it possible to address and describe differential effects as a problem of inaction. Most types of indirect discrimination stem from historical cases of injustice not being corrected, manifested through the disparate impacts on certain groups in society.[37] In the case of climate change there is still time to correct some of the injustice that will materialize over time. Furthermore, this approach offers a wider arsenal than traditional approaches, as the equity aspect of environmental exposure can be

[32] ECHR Article1.

[33] See in particular Gosseries (2014;2015), Kaya (2019a&b;2020;2021), Chalifour (2021) and Sandvig et al (2021).

[34] See in particular Arnardòttir (2017), O'Connell (2009) and Blaker Strand (2019). See also Kjølbro (2020), Jacobs (2021) and Harris (2018).

[35] IPCC (2022a) SPM.D.5.3.

[36] Lewis (2018) page 7.

[37] Collins (2018) pages 11 – 13.

targeted more towards the groups that are particularly disadvantaged.[38] At least conceptually, each insufficient mitigation policy can be regarded as a potential claim of *intergenerational inequity*.

Finally, two communicated cases by the ECtHR demonstrate the practical relevance of the topic of this thesis. In the case *Greenpeace Nordic and others v. Norway*, the Court has raised the question if there has been a violation of Article 14 in conjunction with Articles 2 or 8, inter alia on the basis of age.[39] In the case *Duarte Agostinho and others v. Portugal and others*, the plaintiffs allege that the failure by the States that are signatories to the Paris Agreement to comply with their commitments in order to limit climate change amounts to a violation of Article 14 of the Convention. The applicants argue that global warming disproportionately affects their generation, partly because the deterioration of climatic conditions will continue over their lifetime.[40]

1.4 Methodology

The topic of this thesis raises a number of questions of the interpretation of the ECHR. As the question of applicability of Article 14 in climate cases has not yet been authoritatively decided by the Court, this section presents an overview of the established interpretational principles to provide a background for the discussion in the continuation of this thesis.

The Convention is interpreted in a purpose-oriented manner, in accordance with Articles 31–33 of the Vienna Convention. In determining the meaning of the Convention, the Court ascertains "the ordinary meaning to be given to the words in their context and in the light of the object and purpose of the provision".[41] The ECHR is reiterated as being "an instrument for the protection of individual human beings",[42] which should consequently be interpreted and applied "in a manner which renders its rights practical and effective, not theoretical and illusory."[43] This underlines the dynamic style of interpretation, as well as the ECtHR's role as the authoritative interpreter of the ECHR. Furthermore, the Convention is regarded a "living instrument," implying that it should be interpreted "in the light of present-day conditions."[44]

[38] Kaya (2021) page 203.

[39] Greenpeace Nordic and others v. Norway, questions to the parties 4 d).

[40] Duarte Agostinho and others v. Portugal and others (unofficial translation) page 2.

[41] Demir and Baykara v. Turkey [GC] para 65.

[42] Soering v. The United Kingdom [Plenary] para 87.

[43] See e.g. Demir and Baykara [GC] para 66.

[44] See e.g. Demir and Baykara [GC] para 146, Tyrer v. UK § 31, Selmouni v. France [GC] para 101.

From this point of reference, it can be ascertained that the jurisprudence of the ECtHR is of significant importance. However, this is not always sufficient to determine how the Court will consider new questions.[45] In the absence of authoritative interpretation by the Court, domestic jurisprudence can be regarded as a subsidiary means of interpretation.[46] Similarly, in the broader view of European coherence, the Court finds argumentative value in the judgments of the European Court of Justice (ECJ).[47]

The dynamic and purpose-oriented style of interpretation is counterbalanced by the principle of "subsidiarity" and the "margin of appreciation" afforded the States in their primary function to secure the rights under the Convention.[48] The Court's subsidiary role is based on the view that "national authorities have direct democratic legitimation and are [...] in principle better placed than an international court to evaluate local needs and conditions."[49] This can be seen as the *structural* side of the margin of appreciation doctrine.[50] What can be called the *substantive* concept of the doctrine, relates to the balance between individual rights and collective interests.[51] The Court has held that this balance is "inherent in the system of the Convention".[52] The width of the margin varies, inter alia, based on the character of the right in question and the nature of the infringement in question.[53]

In environmental cases, the margin of appreciation has usually been wide, given that it is a complex field and that "in matters of general policy […] opinions within a democratic society may reasonably differ widely."[54] However, the margin of appreciation in environmental cases has tended to be moderated in recent case law regarding environmental pollution.[55] In *Budayeva,* the Court stated that the margin must be given even greater weight in cases relating to events "beyond human control, than in the sphere of dangerous activities of a man-made

[45] Kjølbro (2020) page 25.

[46] See e.g. Gäfgen v. Germany [GC] para 73, S. V. and A vs Denmark [GC] para 125.

[47] See e.g. Stec and others v. The UK para 58, D.H and others v. The Czech Republic [GC] para 187 and Vilho Eskelinen and others v. Finland [GC] para 60. See also Kjølbro (2020) page 33 ff.

[48] ECHR preamble para 6, implementing Protocol No. 15 Article1. See e.g. Garib v. The Netherlands [GC] para 137.

[49] Garib v. The Netherlands [GC] para 137.

[50] Letsas (2006) page 706.

[51] Ibid. page 706.

[52] Klass and others v. Germany [Plenary] para 59.

[53] Kjølbro (2020) page 26.

[54] Hatton and others v. UK [GC] para 97.

[55] See e.g. López Ostra v. Spain para 51, Cordella et autres c. Italie (unofficial translation) para 158.

nature."[56] This might be relevant considerations and affect the margin of appreciation afforded to a State in cases concerning harm from anthropocentric climate change.[57]

Where there is an emerging consensus, the ECtHR has demonstrated willingness to restrict the margin of appreciation granted to States.[58] Subsequently, wide acceptance of a certain rule or practice by the Member States may be taken as support of a more dynamic interpretation of the Convention.[59] The existence of a "common ground" or "European consensus" "reflect[s] a reality that the Court cannot disregard when it is called upon to clarify the scope of a Convention provision that more conventional means of interpretation have not enabled it to establish with a sufficient degree of certainty".[60] Furthermore, the ECHR is not interpreted in a "vacuum" and is harmonized with general principles of international law, including "any relevant rules of international law applicable in the relations between the parties".[61] The Court considers it sufficient that:

> "the relevant international instruments denote a continuous evolution in the norms and principles applied in international law or in the domestic law of the majority of member States of the Council of Europe and show, in a precise area, that there is common ground in modern societies".[62]

Therefore, it is legitimate to consider more specialized legal instruments of international environmental law as a background to the rights contained in the Convention. In the context of climate change, one treaty is particularly important. The Paris Agreement, a legally binding international agreement on climate change under the United Nations Framework Convention on Climate Change (UNFCCC), is currently ratified by all 46 members of the Council of Europe, as well as by the European Union.[63] While it does not contain human rights obligations,[64] it can be considered to have implications relevant from a human rights perspective. For example, Preston argues that through the agreement it is acknowledged that increased GHG emissions are causing climate change.[65] Interpreting the Convention in light of the common-ground doctrine implies that the aim of limiting the increase in global temperature average to "well

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[56] Budayeva and others v. Russia para 135.

[57] Sandvig (2021) page 208.

[58] Tripkovic (2022) page 221, Hilson (2013) page 265.

[59] See e.g. Christine Goodwin v. UK [GC] para 74.

[60] Opuz v. Turkey para 184. See also Saadi v. the United Kingdom [GC] para 63.

[61] Neulinger and Shuruk v. Switzerland [GC] para 131, with reference to the VCLT Article31.3 (c).

[62] Demir and Baykara v. Turkey [GC] para 86. (my emphasis)

[63] United Nations Treaty Collection (2022).

[64] Except for a reference to the Parties "respective obligations on human rights" in paragraph 11 of the Preamble.

[65] Preston (2021) pages 229 – 230, with reference to Article4 (1) of the Paris Agreement.

below" 2º C,[66] as well as the scientific basis of the agreement may be considered relevant.[67] This aligns with the interpretations of The Dutch Supreme Court and the German Constitutional Court in recent systemic mitigation cases.[68]

Finally, general principles of international law can be of relevance to the discussions in this thesis. The principle of intergenerational equity, the principle of precaution, and the principle of the best interest of the child are introduced below.

1.5 General principles

In the context of climate change, intergenerational equity denotes the fact that current mitigation efforts might have effects for decades to come.[69] Although the boundaries of the principle are not settled under international environmental law, its essence is that the current civilization manages the planet on behalf of subsequent generations, too.[70] As a result, current decisions must not only account for present impacts but also future consequences. The principle has wide implications for possible rights holders, both spatially and temporally, and may be interpreted to include the interests of current younger generations.[71] Edith Brown Weiss highlights the duty to ensure non-discriminatory access to the use and benefits of natural resources as a fundamental part of the principle of sustainable development.[72] Equity from this perspective implies that emissions of GHGs are mitigated in such a way that younger generations are left a natural foundation of life that is no worse than the current one. As the consequences of the actions of today are far-reaching, the principle provides a supporting argument for the protection of human rights for younger generations.

An expression of the principle is found in Article 3.1 of the UNFCCC which states that "[t]he Parties should protect the climate system for the benefit of present and future generations of humankind […]".[73] In addition, the principle is highlighted in the preamble to the 2015 Paris Agreement.[74] Although not yet recognized by the ECtHR, the principle was recently addressed in *Duarte Agostinho,* in relation to the margin of appreciation in the environmental field.[75]

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[66] Paris Agreement Article2.1 (a).

[67] NNHRI (2021) section 5.2.6.

[68] See *The State of the Netherlands v. Urgenda* and *Neubauer et al v. Germany*.

[69] Voigt (2008) page 556.

[70] Sands (2018) page 221.

[71] Sulyok (2021) section III.8

[72] Weiss (2008) page 616.

[73] See also the 1972 Stockholm Declaration principle 1 and the 1992 Rio Declaration principle 3.

[74] Paris Agreement preamble paragraph 11.

[75] Duarte Agostinho and others v. Portugal and others (unofficial translation) question 3 to the parties.

Moreover, the principle can be identified as a factor in domestic jurisprudence.[76] Together, these points suggest that the principle is gaining normative strength and that it might serve as a contributing factor internationally.[77]

To achieve a more sustainable future for generations to come, action must be taken to mitigate greenhouse gas emissions now. Thus, the *precautionary principle*, a guiding principle in the context of climate change,[78] is pertinent to achieve intergenerational equity. The principle relates to the fact that the scientific uncertainties of threats from environmental hazards call for anticipatory action.[79] Though the principle has no coherent definition across international instruments,[80] the most conventional formulation arose in the 1992 Rio Declaration, emphasizing that a "lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation".[81] Although the principle remains controversial in the field of scholarly debate,[82] it holds a significant position in the European legal tradition. Based on Article 191(2) of the Treaty on the Functioning of the European Union (TFEU) the precautionary principle is recognized as a general principle of European environmental law in the EU.[83] Furthermore, the importance of the precautionary principle as enshrined in the Rio Declaration was recalled by the ECtHR in *Tătar*.[84] This indicates that the principle is a relevant consideration when interpreting the Convention.[85]

Finally, it should be recalled that the members of the cohort are children at present, and therefore that the principle of the *best interest of the child* might be relevant to consider.[86] Article 3.1 of the Convention on the Rights of the Child (CRC) states that "the best interest of the child shall be a primary consideration" in "all actions concerning children". Three aspects derive from this principle: i) a substantive right, ii) an interpretive principle, and iii) a procedural rule.[87]

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[76] Neubauer et al v. Germany para 192 – 193.

[77] For a general discussion of the normative strength of the principle of sustainable development, see e.g. Segger (2008).

[78] Voigt (2008) page 557.

[79] Peel (2021) page 302.

[80] Wiener (2016) page 165.

[81] 1992 Rio Declaration principle 15.

[82] Wiener (2016) page 169, Peel (2021) page 317.

[83] Case T-13/99, Pfizer Animal Health SA v Council of the European Union paras 114 and Case C-77/09 Gowan Comércio Internacional e Serviços Lda v Ministero della Salute paras 74 – 75. See also Dupuy (2018) page 73.

[84] Tătar c. Roumanie para 120 (unofficial translation).

[85] In the context of greenhouse gas emissions, the principle has also been referenced by the Court, see question 3 to the parties in the communicated case Duarte Agostinho and others v. Portugal and others (unofficial translation).

[86] See e.g. Popov v. France para 140.

[87] Committee on the Rights of the Child (2013) para 6.

The UN Committee on the Rights of the Child has interpreted the word "concerning" widely, stating that the obligation includes "measures that have an effect on an individual child, children as a group or children in general, even if they are not the direct targets of the measure".[88] As climate change definitively affects children,[89] it could be argued that insufficient measures to mitigate climate change are incompatible with the best interest of children.[90]

1.6 Outline

The following chapter provides the factual and legal context for the research questions of this thesis. Chapter 2.1 includes updated scientific finding that illustrate the impact of climate change on human rights – in particular for the European cohort born in 2020. Chapter 2.2 addresses legal prerequisites for the application of Article 14. The following chapters discuss the research questions of this thesis. Chapter 3 pertains to the question of whether "birth-cohort" can be considered a relevant basis of discrimination in climate cases. Chapter 4 discusses whether the effects of climate change can constitute prima facie discrimination, and whether this can be justified. Chapter 5 reflects some implications of the applicability of Article 14. Finally, chapter 6 presents concluding remarks.

2 Factual and legal prerequisites

2.1 The context of climate change

2.1.1 Introduction

There is a growing focus on the interlinkage between environmental law and human rights, especially in the context of anthropocentric climate change. As the UN High Commissioner for Human Rights submitted to the 21st Conference of the Parties to the UNFCCC:

> "It is now beyond dispute that climate change caused by human activity has negative impacts on the full enjoyment of human rights. Climate change has profound impacts on a wide variety of human rights, including the rights to life, self-determination, development, food, health, water and sanitation and housing. The human rights framework also requires that global efforts to mitigate and adapt to climate change should be guided by relevant human rights norms and principles including the rights to participation and information, transparency, accountability, equity, and nondiscrimination. Simply put,

[88] Ibid. para 19.

[89] See chapter 2.1.

[90] NNHRI (2022) page 4.

climate change is a human rights problem and the human rights framework must be part of the solution.".[91]

Furthermore, there is increasing recognition that the impacts of climate change are not distributed equally, with the most acute consequences for groups already vulnerable due to factors such as disability, gender, indigenous or minority status, geography, or age.[92] This vulnerability is exaggerated by both historical and present patterns of inequity and marginalization.[93] In calling the effects of climate change "inherently discriminatory", the UN Special Rapporteur on Human Rights and the Environment has emphasized the heightened protection owed to vulnerable groups in the adaptation and mitigation of climate change.[94] The increased risk of exposure for children in general has recently gained awareness.[95] Exposure to environmental harm such as pollution could have long-lasting impacts, with a subsequent heightened risk of diseases, making children the most vulnerable collective.[96] From a human rights perspective, climate change poses a threat to several fundamental rights, such as the rights to life and health.[97]

To exemplify the kinds of damage global warming causes and the expected trajectory given current efforts on climate change mitigation, this chapter will outline recent scientific findings, both generally on global warming and climate change, and specifically on the implications for the cohort of European children born in 2020. These findings provide the factual foundation for the thesis and are required to demonstrate the proposed disproportionate effects of climate change.

2.1.2 General scientific background

Updated scientific findings unequivocally state that human-induced climate change has caused "widespread adverse impacts and related losses and damages to nature and people, beyond natural climate variability".[98] There is increasing evidence that the anthropocentric destruction and degradation of ecosystems escalates the vulnerability of people, as the "loss of ecosystems and their services has cascading and long-term impacts".[99] The complexity of multiple simultaneously occurring climate hazards will result in "compounding overall risk and risks cascading

[91] OHCHR (2015) page 6.
[92] UNHRC (2009) page 1.
[93] IPCC (2022a) SPM.B.2.
[94] UNHRC (2016) paragraph 81.
[95] See e.g. UNHRC (2017) page 2, UNGA (2018) page 8.
[96] See e.g. UNHRC (2018) para 15.
[97] OHCHR (2017) paragraph 50.
[98] IPCC (2022a) SPM.B.1.
[99] IPCC (2022a) SPM.B.2.1.

across sectors and regions.".[100] To avoid a further increase in the threat to people, ecosystems and biodiversity, there is a need for "urgent, effective and equitable mitigation actions".[101]

The increasing concentrations of well-mixed greenhouse gases in the atmosphere are incontrovertibly caused by human activities.[102] Furthermore, it is *very likely*[103] that the concentration of greenhouse gasses has been the *main driver*[104] of tropospheric warming since 1979.[105] This is concerning, given that global surface temperature has risen faster in the last 50 years than in any other period in the two predating millennia.[106]

The IPCC projections of increased warming account for different emission scenarios, ranging from very high to very low greenhouse gas emissions.[107] None of the scenarios eliminate an increased global surface temperature until at least 2050.[108] Furthermore, warming will exceed 1.5 °C and 2 °C during the current century "unless deep reductions in CO_2 and other greenhouse gas emissions occur in the coming decades".[109] In fact, warming is limited to around 1.5°C only in the very-low emission scenario, which includes net zero global CO2 emissions around 2050.[110] This concurs with previous findings, stating that in a pathway "with no or limited overshoot of 1. 5°C, global net anthropogenic CO_2 emissions decline by about 45% from 2010 levels by 2030, […] reaching net zero around 2050".[111] This confirms that net zero CO_2 is a precondition for limiting global warming. All modelled pathways with a greater than 50% chance of limiting warming to between 1.5°C and 2°C (with no or limited overshoot) are contingent on rapid, deep and immediate mitigation across all sectors.[112] However, limiting global warming to close to 1.5°C will only mitigate the damage; it will not eliminate it.[113]

In line with this, the Paris Agreement aims to limit warming to "well below 2°C" and to pursue efforts to limit warming to 1.5°C compared to pre-industrial levels.[114] However, recent

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[100] IPCC (2022a) SPM.B.5.
[101] IPCC (2022b) SPM.D.1.1.
[102] IPCC (2021) SPM.A.1.
[103] (90 – 100 %), IPCC (2021) page 4 footnote 4.
[104] (Responsible for more than 50 % of the change), IPCC (2021) page 5, footnote 12.
[105] IPCC (2021) SPM.A.1.3.
[106] IPCC (2021) SPM.A.2.2.
[107] IPCC (2021) BOX.SPM.1.1.
[108] IPCC (2021) SPM.B.1.
[109] IPCC (2021) SPM.B1
[110] IPCC (2021) BOX.SPM.1.1.
[111] IPCC (2018) SPM.C.1.
[112] IPCC (2022b) SPM.C.3.
[113] IPCC (2022a) SPM.B.3.
[114] Paris Agreement Article2.1 (a).

monitoring reveals that current ambitions are insufficient to achieve this goal, and that "pathways consistent with NDCs announced prior to COP26 will likely exceed 1.5 °C during the 21st century.".[115] According to the IPCC, a cumulative carbon emission budget of 500 Gt from 2020 onwards is consistent with a 50 % chance of limiting warming to below 1.5 °C.[116] This budget is rapidly depleted. According to the UNFCCC, cumulative emissions based on the latest NDCs will likely consume 89% of this budget by 2030.[117] According to IEA estimates, the remaining carbon budget will last about 11 years at the current rate of emissions.[118] These findings highlight a temporal aspect that is particularly relevant in the context of this thesis. As stated by the UNFCCC:

> "If emissions are not reduced by 2030, they will need to be substantially reduced thereafter to compensate for the slow start on the path to net zero emissions.".[119]

Furthermore, if the pledges are considered isolated, the warming by the end of the century will be 2.4°C.[120] Even though the mitigation pledges for 2030 show progress, the United Nations Environment Programme (UNEP) describes the situation as insufficient.[121] As a result, there appears to be a global scientific consensus that the current course of action is insufficient to limit global warming in line with the targets expressed in the Paris agreement.

In sum, human activities and the current rate of emission-mitigation cause global warming at an unprecedented rate. What this implies for the European children born in 2020 is outlined below.

2.1.3 Implications for the 2020 cohort

Although climate change already affects human lives, the effects will intensify as time passes. After 2040, climate change will result in several risks both to natural and human systems, depending strongly on the extent of near-term mitigation and adaption measures.[122] In a European context,[123] the IPCC particularly highlights the risks to people and infrastructures due to

[115] IPCC (2022b) SPM.B.6.4.
[116] IPCC (2021) Table SPM.2.
[117] UNFCCC (2021) page 29.
[118] IEA (2021) page 109.
[119] UNFCCC (2021) page 29.
[120] CAT (2021) page 1.
[121] UNEP (2021) page 5.
[122] IPCC (2022a) SPM.B.4.
[123] Noting that within the region there are naturally certain variations.

flooding, mortality due to heat extremes and loss in crop production due to compound heat and drought.[124]

Recent studies place these general scientific findings into a more functional context. In a birth-cohort analysis, Thiery et al. combines the IPCC's global temperature trajectories with projections of extreme weather events, life expectancy, and population data.[125] At the regional level, this allows for a comparison of lifetime exposure to extreme climate hazards across birth-cohorts.[126] Exposure to extreme weather events is not directly translatable to the total hazardous impact on different generations because that will vary according to other factors, such as adaptive measures implemented. That being said, the study shows a drastically increased lifetime exposure to extreme events for younger generations in general.[127] Furthermore, it demonstrates the interconnected benefits of emission reductions in accordance with the Paris Agreement target in terms of lowering this exposure.[128]

Save the Children synthesized this information further by comparing the impacts of climate change on two groups: children born in 2020 and people born in 1960. Drawing insights from different scientific datasets, the report presents a conservative estimate for lifetime exposure to extreme climatic events in categories such as wildfires, drought, and heatwaves.[129] This form of cohort reading allows for a broader and more tangible basis of comparison for the purposes of this thesis.

One example is heatwaves. Looking at the last decade, extreme heat events occurred nearly thrice as often as in pre-industrial times.[130] Such events constitute a threat to human lives, especially to vulnerable groups of the population such as the elderly.[131] The IPCC considers it virtually certain that hot extreme weather incidents, like heatwaves, have intensified and become more frequent since 1950, and that the main driver of this change is human-induced climate change.[132] These findings are concerning, given that the number of recorded incidents per year (2005–2014) increased by 14% compared to the previous decade and nearly 50% compared to the decade before that.[133] In Europe, the cohort born in 2020 is projected to experience

[124] IPCC (2022a) Figure SPM.3.
[125] Thiery et al (2021). The analysis is also the scientific basis of the Report from Save the children (2021).
[126] Thiery et al (2021) page 158.
[127] Ibid. page 160.
[128] Ibid. page 160.
[129] Save the Children (2021) page 11.
[130] IEA (2021) page 35.
[131] Kenney et al (2014) page 1892.
[132] IPCC (2021) SPM.A.3.1.
[133] CRED and UNISDR (2015) page 5.

nearly five times as many heatwaves as the cohort born in 1960.[134] For other extreme events, the equivalent lifetime exposure projections include nearly double the increase in wildfire,[135] over double the increase in drought,[136] and 1.5 times the increase in river floods.[137]

The models of various extreme climatic events mentioned above highlight the severe consequences faced by children and younger generations now and in the coming decades. However, the synthesis also illustrates the impact of limiting global warming to 1.5 °C. If all other variables were constant, this could ensure a drastic reduction in the additional exposure across the lifetime of a child born in 2020. The most encouraging findings are that this could reduce exposure to heatwaves by 45%, droughts by 39%, and river floods by 38%. Yet, the projected reductions in wildfire exposure (10%) and crop failure (28%) are also noteworthy.[138]

To summarize, the consequences of overshooting the carbon budget cannot be overstated. The cumulative emissions corresponding to 2 °C warming "would spur “slow” feedbacks and eventual warming of 3–4 °C with disastrous consequences”.[139] Indeed, any further delay in action will “miss a brief and rapidly closing window of opportunity to secure a livable and sustainable future for all.”.[140] For the younger generations of today, it is imperative that actions intensify to avoid detrimental impacts. Given current scientific knowledge, it is not without reason that some argue that continued high emissions constitute intergenerational injustice.[141]

Taken together, the findings in this chapter underline three important aspects of generational disparities in the harm caused by climate change. First, children born in 2020 are more exposed to the impacts of climate change over the span of their lifetime because they will live longer. Second, the impacts of climate change will worsen over time, making the material interference with their fundamental rights more pronounced. Finally, the delay in mitigation efforts imposes a mitigation burden on the cohort to compensate for the lack of reductions today.[142]

2.2 The scope of Article 14

[134] Save the Children (2021) page 20.
[135] Ibid. page 13.
[136] Ibid. page 17.
[137] Ibid. page 18.
[138] Ibid. page 26.
[139] Hansen (2013) page 1.
[140] IPCC (2022A) SPM.D.5.3
[141] Save the children (2021) page 7, Hansen (2013) page 1, Meyer (2012) page 469.
[142] As denoted in chapter 1.1.

2.2.1 Accessory protection against discrimination

Being of an ancillary nature, Article 14 only prohibits discriminatory treatment "within the ambit of the rights and freedoms guaranteed" in the Convention.[143] Thus, the protection has a limited scope of application.[144] However, this precondition does not require a breach of the material right in question.[145] It is "necessary but it is also sufficient" that the factual issue falls within the ambit of one or more of the substantive rights of the Convention.[146]

For the purposes of this thesis, it is assumed that greenhouse gas emissions and the risks dangerous climate change poses to the rights to life and physical integrity fall within the ambit of Articles 2 and 8.[147] This interpretation is in line with the recent conclusions of the Dutch Supreme Court and the German Constitutional Court.[148] This also appears consistent with the Court's caselaw on environmental harm, where it states that "severe environmental pollution may affect individuals' well-being and prevent them from enjoying their homes in such a way as to affect their private and family life adversely.[149] Yet, the applicability of Articles 2 and 8 in the context of climate change has not to date been authoritatively established by the ECtHR. The question thus remains unsettled and subject to debate. Further discussions on these questions are beyond the scope of this thesis.[150]

2.2.2 Other prerequisites for applicability

Both climate change and its unevenly distributed risks of harm can be viewed as collectivistic issues. On the other hand, the Convention prescribes individual human rights which States are obliged to secure "within their jurisdiction".[151] As suggested by Boyle, the causes, effects, and those accountable for climate change might be "too numerous and too widely spread to respond usefully to individual human rights claims or to analysis by reference to particular human rights".[152] Similarly, Thornton suggests that there are an abundance of absurdities in attempting

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[143] Kjeldsen, Busk Madsen and Pedersen v. Denmark para 56.

[144] See e.g. Biao v. Denmark [GC] para 88.

[145] See e.g. Thlimmenos v. Greece [GC] para 40, Sahin v. Germany [GC] para 85.

[146] Biao v. Denmark [GC] para 88.

[147] Other substantive provisions such as P 1-1 and Articles 3, 6, and 13 could, in principle, also be relevant in the context of climate change. See NNHRI (2021) section 5.1.

[148] See *The State of the Netherland v. Urgenda* regarding Articles 2 and 8, and *Neubauer et al v. Germany* regarding largely overlapping constitutional provisions, cf. para 147.

[149] López Ostra v. Spain para 51. See also Budayeva and others v. Russia, Dubetska and others v. Ukraine, Tătar c. Roumanie (unofficial translation), Taşkin v. Turkey and Guerra and Others v. Italy [GC].

[150] See e.g. Peel and Osofsky (2017), Grant (2015), NNHRI (2021), Sandvig (2021) and Brænden (2021).

[151] ECHR Article1.

[152] Boyle (2018) page 777.

to apply human rights law within the context of climate change.[153] While there are cases at the national level suggesting possible resolutions to this "gordian knot", these do not resolve the question at the supranational level.[154]

The (in)admissibility of climate complaints before the ECtHR has been extensively debated.[155] General discussions of the procedural conditions in Articles 34 and 35 are incompatible with the scope of this thesis.[156] Moreover, the discussion is unnecessary to assess the applicability of the convention per se. Noting their indisputable practical implications, however, a central criterion will be outlined below – the "victim" requirement of Article 34.

In the context of dangerous climate change, the notion of victimhood is intricate, seeing as the risk of harm is challenging to individualize before it has materialized.[157] As a starting point, complaints "in abstracto" are inadmissible. [158] If not yet affected, a potential victim "must produce reasonable and convincing evidence of the likelihood that a violation affecting him or her personally will occur; mere suspicion or conjecture is insufficient.".[159] In contrast to an inadmissible "actio popularis" claim, [160] potential victims are thus recognized under certain circumstances.[161] There are conflicting views on whether the risks associated with dangerous climate change can justify potential victims' complaints, and this thesis does not suggest to settle this general debate.[162] However, it proposes that some aspects may be relevant for the decision given the context of this thesis.

The members of the cohort are currently children, which are recognized in some circumstances as vulnerable individuals by the Court.[163] The fact that members of the cohort, due to their young age, are part of "a class of people who risk being directly affected"[164] by insufficient mitigation measures could be a relevant consideration for admissibility. Similar considerations were expressed by the UN Committee on The Rights of the Child in *Sacchi et al*, stating that children are:

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[153] Thornton (2021) page 169.

[154] See e.g. The State of the Netherlands v. Urgenda and Neubauer et al v. Germany.

[155] See e.g. Thornton (2021), Boyle (2012), Peel and Osofsky (2018), NNHRI (2021).

[156] See COE (2022) for a general guide on the admissibility criteria.

[157] NNHRI (2021) section 5.9.1.

[158] Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania [GC] para 101.

[159] Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania [GC] para 101.

[160] Cordella et autres c. Italie (unofficial translation) para 100, Roman Zakharov v. Russia [GC] para 164.

[161] See e.g. Klass and others v. Germany [Plenary] paras 30 ff.

[162] See NNHRI (2021) section 5.9.1, Brænden (2021) page 24 ff.

[163] See e.g. O'Keeffe v. Ireland [GC] para 144.

[164] Burden v. UK [GC] para 34.

> "[…] particularly impacted by the effects of climate change, both in terms of the manner in which they experience such effects as well as the potential of climate change to affect them throughout their lifetime, in particular if immediate action is not taken [and that] states have heightened obligations to protect children from foreseeable harm.".[165]

Based, among other things, on this, the Committee concluded that the children had established their victim status.[166] Given that the decision also regarded ongoing harm, it is unclear how applicable the considerations are to future risks. However, recent developments might suggest a more situational assessment of who is considered "directly affected" in the context of the Convention. Considering inter alia the evolutive interpretation of the term "victim" previously upheld by the Court[167] and the admission of abstract complaints in cases regarding bulk surveillance,[168] some have implied that potential victims might be allowed in the context of harm from climate change.[169]

In a series of interim measures under Rule 39 of the Rules of the Court, concerning the "massive human rights violations being committed by the Russian troops in the course of the military aggression against the sovereign territory of Ukraine",[170] there are indications that the rights under the ECHR are interpreted to protect against dangers of a collective nature. The President of the Court held that the individual applications for interim measures covered:

> "[…] any request brought by persons falling into the above category of civilians who provide sufficient evidence showing that they face a serious and imminent risk of irreparable harm".[171]

Although these decisions concern a highly unusual circumstance, they resemble the conclusion in *Neubauer*, where the German Constitutional Court held that "[t]he mere fact that very large numbers of people are affected does not exclude persons from being individually affected in their own fundamental rights".[172] In the context of dangerous climate change, taken together with the need for a more teleological interpretation of the victim requirement,[173] these might be

[165] Sacchi et al v. Argentina et al para 10.14.
[166] Sacchi et al v. Argentina et al para 10.15.
[167] See e.g. Gorriaz Lizarraga and others v. Spain paras 37 – 38.
[168] See e.g. Centrum för Rättvisa v. Sweden [GC] paras 175 – 177.
[169] ENNHRI (2021b) page 2 – 4.
[170] Interim Meassures (Ukraine v. Russia) 1/3/2022.
[171] Interim Measures (Ukraine v. Russia) 4/3/2022.
[172] Neubauer et al v. Germany para 110.
[173] Winter (2020) point 6.2. referring to the admissibility criteria of the CJEU.

relevant considerations in a given complaint before the ECtHR. For the aforementioned reasons, these implications are not required to be conclusive for the purposes of this thesis.

Given the factual and legal prerequisites in this chapter, the research questions of this thesis are discussed below. Chapter 3 considers the question of the ground of birth-cohort and discusses whether this can be considered a relevant basis of discrimination in climate cases. Chapter 4 addresses the question of differential treatment and justification.

3 Whether "birth-cohort" can be a relevant basis of discrimination in climate cases

3.1 Introduction

The prohibition of discrimination only applies to differential treatment based on "an identifiable, objective or personal characteristic, or "status", by which persons or groups of persons are distinguishable from one another".[174] Birth-cohort has not yet been recognized as a relevant basis by the ECtHR, and none of the enumerated grounds in Article 14 is directly applicable. However, the list is non-exhaustive, indicated by the prefix "such as" and the phrase "other status". This widens the scope of application. The Court has stated that the question of the applicability of Article 14 is "[…] a matter to be assessed taking into consideration all of the circumstances of the case and bearing in mind that the aim of the Convention is to guarantee not rights that are theoretical or illusory but rights that are practical and effective".[175]

The following chapter discusses whether "birth-cohort" constitutes a relevant basis of discrimination under Article 14 of the Convention.

3.2 The basis of "birth"

Initially, the ground of "birth", interpreted as date-of-birth, may appear to be the most linguistically plausible approach for addressing *birth*-cohort discrimination claims. While there has been little research exploring this possibility,[176] one might suggest that the logical similarities between birthplace or birth-status and birthdate make it feasible. There are several aspects that can be said to fall within the natural meaning of the term "birth". From a legal perspective, the aspects of *where, when,* and by *whom* seem to have the most significant importance. These parameters influence questions like nationality, age, and parental status, which have

[174] See e.g. Kiyutin v. Russia para 56, Carson and Others v. the UK [GC] para 61.

[175] Clift v. UK para 60.

[176] See however Gosseries (2015) page 31, although he does not explore the concept in depth.

implications in various situations throughout the legal system. Conceptually, the status of when a person is born does not appear to be different from the status of where or by whom. The logical similarities between birth-year (as in the group sharing the year of birth) and birth-status (as in the group sharing the status of "illegitimate"), suggest that an interpretation of "birth" could include the notion of birth-cohort.

However, it is only in the latter meaning of the phrase that the Court has previously addressed discrimination on the ground of "birth". In *Marckx,* the Court for the first time ruled that the differential procedure for establishing maternal affiliation, and the difference related to inheritance status, based on whether a child was born in or outside of wedlock, violated Article 14 taken with Article 8.[177] Since then, the protection against discrimination on the ground of birth outside of marriage has consistently been upheld.[178] In *Fabris*, it was highlighted as a "fundamental principle" established as a "standard of protection of European public order", followed by a long lasting common ground within the member States.[179] Despite extending the ground to instances regarding voluntary testamentary dispositions,[180] there has not been considerable development within the ground over the years. This clearly indicates that the ground of birth is not applicable for differential treatment except for cases concerning birth-status.

Therefore, the question will be analyzed through the open-ended "other grounds" category. Birth-cohort, as a basis of distinction, can both be seen as "stretching" the ground of "age", or as an entirely separate "other status". Either way, the point of departure is whether the scope of "other status" can be interpreted in a way that includes protection against discrimination on the ground of "birth-cohort". Both alternatives are discussed below.

3.3 The basis of "other status"

Theorists have traditionally held that *any* ground of discrimination in principle can be included under the provision's open-ended basis of "other status".[181] In the case law of the ECtHR, it is often reiterated that the term has "generally been given a wide meaning […] and their interpretation has not been limited to characteristics which are personal in the sense that they are innate or inherent".[182] Age is recognized as a protected ground under "other status".[183]

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[177] Marckx v. Belgium [Plenary] para 43.

[178] See e.g. Sahin v. Germany [GC], Mazurek v. France, Inze v. Austria and Fabris v. France [GC].

[179] Fabris v. France [GC] paras 57 – 58.

[180] Pla and Puncernau v. Andorra.

[181] O'Connell (2009) page 222 argues that the scope includes "almost any distinction". See also Stavert (2010) page 144, Arnardóttir (2014) page 648, Harris (2018) page 771 and Jacobs (2021) pages 655 – 656.

[182] See e.g. Biao v. Denmark [GC] para 89.

[183] See e.g. Schwizgebel v. Switzerland and Carvalho Pinto de Sousa Morais v. Portugal.

Article 14 can hence be utilized to address the vulnerabilities related to the cohort's young age per se, i.e., the first effect denoted initially.[184] While some suggest that the scope of Article 14 might be wide enough to encompass birth-cohort related concerns,[185] i.e. the second and third effects, this remains more uncertain and will be discussed below.

3.3.1 The ground of "age"

While the Court has included "age" as a protected ground in relation to Article 14, the question remains whether the scope of the ground is wide enough to encompass concerns related to "birth-cohort". Age, as in the correlation between the day an individual was born and the present day, is a key trait of the category examined here, but it is not the whole picture. The premise of the differential effects of insufficient mitigation of climate change is not only that children born in 2020 are of a given age, but also when they are, and will be, at certain ages.

In *Carvalho Morais*, the applicant alleged that she was subjected to age and sex discrimination in the national court's reduction of damages following malfunctioning medical services. The fact that she was a 50-year-old mother of two was taken into account in the national decision, but in analogous cases involving males of the same age or younger women, the inability to have a healthy sexual life had resulted in higher damages awarded.[186] Thus, the Court held that there had been a violation of Article 14 based, inter alia, on the applicants' age.[187] The ECtHR has also considered age-related differential treatment in cases concerning children previously.[188]

Although a protected ground is not required to be innate,[189] such grounds are a fundamental part of the protection against discrimination. If defined as characteristics closely linked to one's personality and traits difficult to change,[190] age arguably qualifies. Not unlike previously accepted congenital characteristics,[191] age is a trait beyond what a person can control. Arguably, the immutable attribute of the cohort's given time of birth goes to the core of the protection under Article 14.[192] Recalling that the protection of individual human rights is a primary

[184] See chapter 1.1.

[185] Kaya (2020), Kaya (2019a) page 167, Gosseries (2015) page 32.

[186] Carvalho Pinto de Sousa Morais v. Portugal para 52 and 55.

[187] Carvalho Pinto de Sousa Morais v. Portugal paras 56.

[188] See e.g. Bouamar v. Belgium and D.G. v. Ireland.

[189] See e.g. Kiyutin v. Russia para 56.

[190] O'Connell (2009) page 223.

[191] See e.g. D.H and others v. The Czech Republic (ethnic origin), Belli and Arquier-Martinez v. Switzerland (hearing disability) and Çam v. Turkey (person with blindness).

[192] Schabas (2015) pages 574 – 575, Sandvig et al (2021).

purpose of the Convention,[193] as well as the cohort's increased risk of exposure to extreme weather events due to climate change,[194] suggests that "age" can be interpreted to include the aspect of birth-cohort.

This intergenerational aspect of age-discrimination has been recognized by the ECJ.[195] Although jurisprudence from the ECJ can be of relevance for the interpretation of the Convention,[196] a preliminary objection should be addressed. Primarily, the cases relate to direct age-discrimination in the form of retirement regulations, which is explicitly restricted within the EU.[197] As a result, the contexts are ostensibly unrelated.[198] Nonetheless, the argumentation may be relevant, given that the fundamental considerations behind age-discrimination remain interchangeable.

For instance, regulations on mandatory retirement ages may create inequal opportunities through disadvantaging certain generations or age-groups.[199] Addressing them as a form of age-discrimination allows for the consideration of equity between generations. In *Petersen*, the objective to share the opportunities of the profession "among the generations" was acknowledged in relation to a mandatory retirement age for dentists in Germany.[200] The concept of "balance between generations" was likewise supported in *Georgiev*[201] and *Commission v. Hungary*.[202] These cases suggests that the ECJ interprets "age" broadly, also including discrimination between birth-cohorts.[203]

A similar interpretation of "age" under ECHR Article 14 might be more uncertain in light of previous age-discrimination cases before the Court. Differential treatment based on age has not traditionally been highly scrutinized by the Court, which may be indicative of a restrictive

[193] See e.g. Soering v. UK [Plenary] para 87.

[194] See chapter 2.1.3.

[195] Sandvig et al (2021), with reference to, *inter alia,* Case C-286/12 European Commission v. Hungary.

[196] See e.g. Stec and others v. UK [GC] para 58 where the Court stated that "particular regard should be had to the strong persuasive value of the ECJ's finding" in a case concerning differential treatment related to pensions. See also chapter 1.4.

[197] Directive 2000/78/EC Article2.

[198] Case C-565/19 P Armando Carvalho and Others v. European Parliament and Council of the European Union, represents an example from a related context, but the case was declared inadmissible before it was decided on the merits.

[199] Goosey (2019) page 533.

[200] Case C-341/08 Dominica Petersen v. Berufungsausschuss für Zahnärzte für den Bezirk Westfalen-Lippe, para 65.

[201] Joined Cases C-250/09 and C-268/09 Vasil Ivanov Georgiev v. Tehnicheski universitet – Sofia, filial Plovdiv, para 42.

[202] Case C-286/12 European Commission v. Hungary, paras 78 – 79.

[203] Gosseries (2015) page 34, Gosseries (2014) page 76, Sandvig et al (2021).

interpretation.[204] In *British Gurkha Welfare Society*, the Court even emphasized that the ground of age should not be "equated with other "suspect" grounds of discrimination.".[205] A possible explanation for this stance might be that, unlike other innate grounds, ageing is a universal occurrence which affects everyone equally.[206] This is plausible, if taken as an acknowledgement that age might be an accepted differentiating factor because it affects everyone equally, but at different times of their lives – like, for instance, age limits do in society. Under this stipulation, such an interpretation may not apply to the context of climate change for two reasons: i) climate change does not affect everyone equally,[207] and ii) the effects are in constant correlation with a cohort's time of birth, i.e., the effects do not even out across lifetimes. The particular context of climate change might therefore suggest a dynamic interpretation of the basis of age.

For once, the fact that societal development can support a dynamic interpretation of the convention might imply an expansive approach to the preexisting ground of age. The Court has in previous situations reviewed its interpretation in light of changing views of society, for example regarding the legal recognition of transgendered people among the member States.[208] The broad consensus of the Paris Agreement,[209]and the growing recognition of younger generations climate-related vulnerability[210] suggest a more dynamic interpretation of age that also encompasses birth-cohort aspects of the effects of climate change.

Furthermore, this interpretation aligns with the overarching principle of intergenerational equity, which in light of the particular impacts of insufficient mitigation on the cohort's rights may be a relevant consideration.[211] What is more, an interpretation that includes the whole range of effects on young cohorts could ensure effective protection against insufficient mitigation policies, in line with the best interests of children.[212] The opposite, not recognizing the cohort-aspects closely linked to a person's age would not include the full impact for the cohort – and provide a less effective protection against differential effects.

In light of the Convention as a "living instrument" which aims to provide protection against modern threats to human rights, there are reasons to believe that age can be interpreted to

[204] See e.g. Schwizgebel v. Switzerland paras 92 – 93.

[205] British Gurkha Welfare Society and others v. UK para 88.

[206] Hurford (2014) page 42.

[207] See chapter 1.2., 2.1.2 and 2.1.3.

[208] See e.g. Christine Goodwin v. UK [GC] para 74, compared to Sheffield and Horsham v. UK [GC] which only four years earlier dismissed similar arguments.

[209] See chapter 1.4.

[210] See chapter 2.1.1.

[211] See chapter 1.5.

[212] See chapter 1.5.

include cohort-aspects in the context of climate change. Seeing as this is not confirmed, the closely related but distinct possibility of a ground of birth-cohort will additionally be discussed below.

3.3.2 A ground of "birth-cohort"?

The main considerations mentioned above may be equally applicable to the possibility of a separate status for birth-cohort. In light of the doctrine of the Convention as a "living instrument",[213] this interpretation can ensure that Article 14 remains "practical and effective" rather than "theoretical and illusory".[214] The de facto situation that insufficient mitigation is disproportionately affecting some cohorts indicates such an interpretation in the context of climate change.[215] However, some concerns may be raised. While it is the responsibility of the Court to maintain an effective and cohesive protection against discrimination, a too progressive interpretation of Article 14 might create challenges to its legitimacy.[216]

The general debate about the role of the ECtHR in climate matters complicates this further.[217] Recalling that the Convention does not contain environmental rights,[218] the protection it provides remains indirect.[219] Additionally, international courts are particularly responsive to legal and political criticism,[220]which sometimes implies a restrictive interpretation at the subsidiary level. At the same time, it may be argued that because of the implications for the enjoyment of human rights, the Court can provide the necessary enforcement and monitoring of the environmental obligations that States have undertaken. The Court can draw attention to the protection of an underrepresented group in current decision-making and thus address the law's "presentist bias".[221] Seen in the context of the prohibition on discrimination, which aims to ensure equality, this can be considered within the mandate of the Court. This would, moreover, appear consistent with its duty to ensure that the State's decisions are within the bounds of the Convention's rights.[222] From this perspective, the Court does not impose policies through adjudication.

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[213] See e.g. Demir and Baykara [GC] para 146.

[214] Demir and Baykara [GC] para 66.

[215] See chapter 1.2. and 2.1.3.

[216] O'Cinneide (2011) page 13 – 14.

[217] This debate is closely related to the general discussion on the role of domestic courts in climate litigation, addressed by e.g. Burgers (2020), Shelton (2018), and (2015), and Bogojević (2020).

[218] See e.g. Hatton and others v. UK [GC] para 96, and Kyrtatos v. Greece para 52.

[219] Müllerová (2015) page 87.

[220] Voigt (2019) page 9.

[221] Hiskes (2016) page 230.

[222] ECHR Article19. At the domestic level, this has been recognized in several cases, see e.g. The State of the Netherlands v. Urgenda para 8.3.2, and Neubauer et al v. Germany para 152.

Rather, it serves to crystallize the content of the State's human rights obligations by establishing their limitations to environmental decision-making.[223]

The ECtHR has previously provided comprehensive protection against discrimination by assessing differential treatment on a variety of different grounds. There are even examples in early case law indicating that it is not always necessary to determine the exact basis of distinction. In *Rasmussen*, in reference to the non-exhaustive character of Article 14, the Court did not explicitly question what ground the differential treatment was based on.[224] Instead, it stated that there were different time-limits for contesting parental status for fathers and mothers under national legislation, and that there was "no call to determine on what ground this difference was based".[225] This may appear to diverge from the traditional approach under Article 14, but it nonetheless illustrates a potential application. As a result, the inclusion of the ground of birth-cohort could seem to be consistent with the established interpretation of "other status".

At the same time, there are examples in the Court's jurisprudence that indicate that not all disparities amount to a protected "other status".[226] Read in isolation, these suggests that some grounds are not protected under Article 14. Upon closer examination, however, the cases can be taken as examples that illustrate that differential treatment in some instances can be justified.[227] In *Gerger*, the criteria for automatic parole for different groups of prisoners was not considered a form of discrimination contrary to the Convention, because the distinction was made based on different types of offence and not based on different types of persons.[228] Arguably, this does not imply that the scope of "other status" is limited as such. Rather, the opposite can be presumed based on the large number of different distinctions previously inquired under Article 14.[229] Accordingly, this contention is not decisive on the question of whether birth-cohort can constitute a relevant status.[230]

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[223] Shelton (2018) page 106.

[224] Rasmussen v. Denmark para 34.

[225] Rasmussen v. Denmark para 34.

[226] See e.g. Springett and Others v. UK (status of right to welfare benefit), Alatulkkila and Others v. Finland (distinction of fishing rights), De Jong, Baljet and Van den Brink v. the Netherlands (distinction of military missions) and Swedish Engine Drivers' Union v. Sweden (distinction based on the size of union).

[227] See Alatulkkila and Others v. Finland para 70, Swedish Engine Drivers' Union v. Sweden paras 47 – 48, and De Jong, Baljet and Van den Brink v. the Netherlands para 62.

[228] Gerger v. Turkey [GC] para 69. See in comparison Vool and Toomik v. Estonia.

[229] See e.g. Paulik v. Slovakia (paternity status), Stubbings v. UK and Mizzi v. Malta (distinction for different litigants), Rainys and Gasparavicius v. Lithuania (distinction based on former membership of security service) and Chassagnou v. France [GC] (hunting rights based on status of land).

[230] However, the discretion afforded to the State in the justification of a differential treatment may prove decisive for the overall question of the applicability of Article14 in the context of climate change. See chapter 4.3.

Another point to consider is how the Court has previously dealt with issues involving a certain group of people, both in terms of time and place. In *Brincat,* the Court considered complaints under Articles 2 and 8 related to harm from exposure to asbestos. The exposure was confined to a certain group of workers active in a certain time-period.[231] Although not decided under Article 14, the case illustrates an approach that addresses a particular group's environmental-related risk in isolation. If the effects of insufficient mitigation efforts, such as the increased risk of extreme weather exposure, are recognized as particularly affecting certain birth-cohorts,[232] a similar assessment under Article 14 may therefore include distinctive effects on this basis.

Finally, it is recalled that the ECtHR does not interpret the Convention in a "vacuum",[233] and that general principles of international law may be relevant for the interpretation of the term "other status". In decisions concerning children, it is recognized that their best interests "must be paramount".[234] Additionally, the Court has recalled the importance of the precautionary principle in relation to environmental harm.[235] Including birth-cohort as a protected status resonates with these principles, as it would allow for an intergenerational approach to the differential effects caused by climate change.

3.4 Summary

In conclusion, a dynamic interpretation of the Convention and the previously admitted grounds indicates that "birth-cohort" can constitute a relevant status under Article 14. Even though there is some uncertainty regarding the previously disallowed grounds under "other status", the recognition of the convention as a "living instrument" indicates an expansive interpretation in the context of climate change. In view of society's changing need for protection of some groups, this might be claimed to broaden the scope of the protected grounds.

Likewise, the cohort-effects on younger groups can be interpreted to fall within the existing ground of age. While age remains an underdeveloped basis of discrimination, not yet equated with other protected grounds under Article 14,[236] the object and purpose of the provision may indicate a less restrictive approach in climate cases. Especially recalling principles of international law and the broad scientific recognition of young people as particularly exposed to

[231] Brincat and others v. Malta para 104.

[232] See chapter 2.1.3 and 1.2.

[233] Neulinger and Shuruk v. Switzerland [GC] para 131.

[234] See e.g. Popov v. France para 140, see also CRC Article3.1.

[235] Tătar c. Romanie (unofficial translation) para 120.

[236] British Gurkha Welfare Society and others v. UK para 88.

climate harm.[237] Even though there is no prerequisite for a ground to be characterized as innate and personal to be accepted under the words "other status",[238] the protection against discrimination based on such grounds falls within the core area of Article 14. Thus, it can be argued that a recognition of birth-cohort, as an advancement of the grounds for discrimination, aligns with the established practice of the ECtHR.[239]

4 Differential treatment and justification

4.1 Introduction

Assuming that birth-cohort is considered a protected ground,[240] there are two main questions that affect the applicability of Article 14 to climate cases. The first is whether the increased risk-exposure to extreme weather events can be considered differential treatment based on age-related grounds. If confirmed, the second question is whether this can be reasonably and objectively justified. The objective is to assess (i) whether the disadvantage is attributable to the protected ground,[241] and (ii) whether the State has reached a fair balance between the interests of the disadvantaged person and the legitimate aim pursued. These questions will be discussed below.

4.2 Differential treatment

4.2.1 Comparison

The traditional notion of inequality presupposes a commensurable, more advantageous comparator, or an ongoing or past disadvantage vis-à-vis a cognate group.[242] Under Article 14 this is normally referred to as the comparator-test. The question is whether there are people more favorably treated than the applicant in an "analogous or relevantly similar situation".[243] In this assessment, the particular nature of the complainant's situation must be taken into consideration, wherein the States enjoy a margin of appreciation varying according to the specific circumstances and the background of the case.[244]

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[237] See chapter 1.2 and 2.1.

[238] Clift v. UK para 56.

[239] ENNHRI (2021a) page 34.

[240] Either through an expansive interpretation of age or through a separate "other status" of birth-cohort, collectively referred to as age-related grounds.

[241] Jacobs (2021) page 657.

[242] Khaitan (2016) page 28.

[243] See e.g. Konstantin Markin v. Russia [GC] para 125, Biao v. Denmark [GC] para 89.

[244] Fábián v. Hungary [GC] paras 113 - 114.

The most direct comparator to one cohort born in 2020 would perhaps be another coexisting cohort born at the same time. The groups could be distinguished along the lines of gender, geographic region, or by personal characteristics such as disability. The vulnerability of certain sub-groups has been suggested to hold a heightened protection under ECHR Article 14,[245] and the varying vulnerability has been highlighted by the OHCHR in relation to differential impacts for groups of children.[246] Nonetheless, all sub-cohorts born in 2020 are more negatively affected by insufficient mitigation policies than older cohorts.[247] This suggests that the scope does not have to be confined to direct comparators within the 2020-cohort.

A more general comparison of the 2020-cohort to older cohorts, such as the one born in 1960, might raise objections. While the reports on lifetime exposure to extreme weather events, for example, indicates a more favorable situation for the older cohort,[248] the situations may still be considered incomparable because of the temporal aspect. The increased risks associated with the younger cohort can be viewed as a result of time passing, and that different generations, from different eras, face different challenges.[249] However, this is not the only point of view. Given that the actions or omissions made today have long-term consequences, they impact younger birth-cohorts disproportionately negatively in comparison with present-living older cohorts. For instance, regarding the future infringements on rights that plausibly will be necessary in the name of environmental protection,[250] which presumably will be considered legitimate,[251] the cohort is also disparately affected. This suggests that the effects of the efforts made today are different while the situations are still comparable.

The Court's jurisprudence indicates an acceptance of this point of view. In *Rasmussen*, the Court considered it unnecessary to resolve the question of whether the applicant and his former wife were "placed in analogous situations".[252] This implies that a strict comparator is not required in all cases.[253] Furthermore, the same tendency can be recognized in more recent cases. In *Carvalho Morais*, the Court emphasized both the disadvantages vis-à-vis men of the same age and women of different ages, showing the possible applicability of different comparators.[254]

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[245] Arnardóttir (2017) page 166.
[246] OHCHR (2017) paragraphs 20, 27 and 51.
[247] See chapter 2.1.3 and 1.2.
[248] See chapter 2.1.3.
[249] Sandvig (2021) page 209.
[250] See e.g. Neubauer et al v. Germany para 195.
[251] See e.g Chapman v. UK [GC] para 92, Hatton and others v. UK [GC] paras 99 – 101.
[252] Rasmussen v. Denmark paras 35 – 37.
[253] Harris (2018) page 766.
[254] Carvalho Pinto de Sousa Morais v. Portugal paras 51 – 53.

Yet, the Court did not explicitly address the question of comparability, which implicitly suggests a shift away from a strict comparator approach.[255] However, the approach remains subject to debate.[256]

Conversely, the Court upheld the notion of comparability in a similar case relating to a difference in sentencing regulations for men and women.[257] While the applicants were found to be in "analogous situations" to the other offenders, the difference in treatment was considered sufficiently justified.[258] Thus, the duality in the application of the comparator-test might be linked to the level of scrutiny different grounds of discrimination are subjected to.[259] The question of comparability and the question of justification are closely connected, and the "elements which characterize different situations, and determine their comparability, must be assessed in the light of the subject-matter and purpose of the measure which makes the distinction in question".[260] This underlines a contextual understanding of the discrimination-test under Article 14.

Depending on the specifics of the case, a suitable older group still connected geographically or otherwise, might therefore be said to be in a comparable situation to the 2020-cohort. One example can be illustrative. The Portuguese 2020-cohort faces 1.8 times the lifetime exposure to wildfire than the older cohort born in 1960.[261] Both cohorts are exposed to the risk of dangerous climate change. However, the younger cohort is disproportionately affected. The situation is thus distinguishable from cases like *Fredin* where the measure in question only affected the applicant, and therefore, the companies whose permits were not revoked were not in a relevantly similar situation.[262] Previous cases of indirect discrimination, where the need for a comparator is understated, further illustrate that the question of comparability may not be decisive.[263]

Accordingly, insufficient mitigation efforts could be recognized as disproportionate effects based on the ground of birth-cohort.

4.2.2 Causation

[255] Henningsen (2022) page 24.

[256] See for instance the concurring opinion of judge Yudkivska in conjunction with the joint dissenting opinion of judges Ravarani and Bošnjak both in *Carvalho Pinto de Sousa Morais v. Portugal.*

[257] Khamtokhu and Aksenchik v. Russia [GC] para 64.

[258] Khamtokhu and Aksenchik v. Russia [GC] paras 80 – 81.

[259] Arnardóttir (2014) page 648.

[260] Fábián v. Hungary [GC] para 121.

[261] Save the Children (2021) page 12. For other examples see chapter 2.1.3.

[262] Fredin v. Sweden (No. 1) para 61.

[263] See e.g. D.H. and others v The Czech Republic [GC] para 175, and Jacobs (2021) page 659.

Closely linked to the question of comparison is the question of causation. Causation presents a fundamental challenge in addressing greenhouse gas mitigation efforts through human rights since the relationship between emissions, climate change, and harm is complex.[264] Under Article 14, the question of causation is related to establishing *prima facie* evidence of differential treatment.[265] This proof may follow from "the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact".[266] Moreover, the Court has held that, while not sufficient in and of themselves, statistical findings can be used to prove that a *de facto* situation is discriminatory.[267] To prove that mitigation efforts of today are discriminatory, the Court would therefore have to consider predictions relating to the increased risk of interference with the cohort's rights.[268] This chapter illustrates this by the lifetime risk-exposure to extreme weather events for younger cohorts.[269] Conveyed to this example, causation requires proof of the following: (i) that a State's actions or omissions contribute to climate change; (ii) that this causes an increased risk of extreme weather events; and (iii) that such events infringe a human right.[270]

While the Court has previously stated that natural disasters are "beyond human control",[271] this point of view may be considered obsolete in light of recent scientific and societal developments. Preston suggests that significant aspects related to causation are accepted through the Paris Agreement, such as the fact that greenhouse gas emissions are causing climate change,[272] and that human activities are the main contributor.[273] While this link is increasingly recognized, the causal link between a specific extreme weather event and the emissions of a country remains more challenging to establish due to a lack of scientific methods.[274] As a general frame of reference, this seems consistent with previous cases before the Court. However, the example in question is not concerned with one specific event but with the disproportionately increased risk of extreme weather events resulting from insufficient mitigation efforts. This may suggest a different result. The Paris Agreement explicitly acknowledges that the "adverse effects of climate change" include *inter alia* "extreme weather events and slow onset

[264] See e.g. Shelton (2018) page 106, NNHRI (2021) section 5.4.3, Dupuy (2018) pages 396 – 397.
[265] Jacobs (2021) page 674.
[266] D.H and others v. The Czech Republic [GC] para 178.
[267] Zarb Adami v. Malta para 76.
[268] E.g. the kind exemplified in chapter 2.1.3 and 2.1.2.
[269] See chapter 2.1.3.
[270] Modelled after "basic causality inquiries" in Dupuy (2018) page 396, figure 10.4.
[271] Budayeva and others v. Russia para 174.
[272] With reference to Article4 (1) of the Paris Agreement.
[273] Preston (2021) pages 229 – 230.
[274] Ibid. page 236, and Dupuy (2018) page 397.

events".[275] The same has been recognized in domestic jurisprudence.[276] This indicates a consensus among the Parties to the Convention that may contribute to establishing causation.

The ECtHR has not yet decided complaints regarding greenhouse gas emissions, and the question of causation for future harm remains debated.[277] However, some guidance might be found in caselaw concerning the prevention of risk related to environmental harm. The Court has previously relied on the precautionary principle to establish that an exposure to cyanide-pollution represented a "serious and substantial risk" to the applicants' health, although the causal link between the exposure and the harm was not proven.[278] In *Fadeyeva,* a presumption of causation between the applicant's cancer and pollution from a steel plant was created, based on the combined weight of indirect evidence on the increased risks, taken together with the State exceeding the legislatively defined "safe" concentration of toxic pollution.[279]

In conclusion there are indications of a more precautionary approach to causation in regarding future risk in environmental cases. Additionally, the international scientific consensus on projected impacts of climate change may be considered relevant. Together with the fact that the ECtHR allows for statistical evidence to prove *prima facie* discrimination,[280] this suggests that causation might be more feasible under Article 14 in climate cases.

In the following discussion, it is assumed that the disparate effects of insufficient climate change mitigation can be considered *prima facie* discrimination.

4.3 Justification

4.3.1 General principles

The question of an objective and reasonable justification is frequently phrased as whether the differential treatment "pursue[s] a legitimate aim" and if there is a "reasonable relationship of proportionality" between the measures and the objective.[281] Differential effects do not constitute discrimination when they are "founded on an objective assessment of essentially different factual circumstances and which, being based on the public interest, strike a fair balance

[275] Article8 (1). See also Preston (2021) page 236, and Dupuy (2018) page 397.

[276] See HR-2020-2472-P para 52-53, The State of the Netherlands v. Urgenda paras 4.1 – 4.8, Neubauer et al v. Germany para 20.

[277] See e.g. Thornton (2021) page 159, and Voigt (2015) page 135.

[278] Tătar c. Roumanie para 106 – 107 (unofficial translation). See NNHRI (2021) section 5.4.3.

[279] Fadeyeva v. Russia paras 87 – 88.

[280] See e.g. Zarb Adami v. Malta para 76 – 77, and Hoogendijk v. The Netherlands.

[281] See e.g. D.H. and others v. the Czech Republic [GC] § 196, Stec and others v. UK [GC] para 51.

between the protection of the interests of the community and respect for the rights and freedoms safeguarded by the Convention".[282] This assessment accounts for the State's margin of appreciation, which varies "according to the circumstances, the subject matter and its background".[283]

In complex fields of regulation, with considerable socio-economic implications, the State has traditionally been afforded a wide discretion, also in decisions with implications for the environment.[284] In *Hatton,* the economic interests of the private sector as well as of the "country as a whole" was considered a legitimate policy aim.[285] Seen in conjunction with the tendency that the aim proposed by the State is generally accepted,[286] this implies that a number of public interests can constitute legitimate aims. When assessing whether the "disadvantage suffered by the applicant is excessive in relation to the legitimate aim pursued",[287] a decisive aspect is what level of scrutiny can be expected in the Court's review.

While the ECtHR upholds the possibility of justification even in the core area of protection against discrimination, a proposed justification is not equally scrutinized in all cases.[288] Two initial reasons indicate that a State's reasons for mitigation efforts that lead to disproportionate impacts to the cohort will not be particularly scrutinized. Firstly, age-related grounds are not considered suspect,[289] which implies that the review would not be particularly assertive.[290] Secondly, the consequences are in part the effect of the sum of all decisions with implications for the environment. This complexity usually translates to a wide discretion for the State.[291] However, there are tendencies that, when combined, may indicate a more assertive approach. In the following chapter these will be discussed as a possible environmental vulnerability approach.

Environmental vulnerability is hard to precisely define, as all people are susceptible to climate harm. In addition, there is no confined list of indicators to determine what renders a group vulnerable in a particular context.[292] There are certainly other identifiable groups that could be

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[282] Kafkaris v. Cyprus [GC] para 161.

[283] Kafkaris c. Cyprus [GC] para 161, Rasmussen v. Denmark para 40

[284] Hatton and others v. UK [GC] para 100.

[285] Hatton and others v. UK [GC] para 121. While the case related to Article8, the aim would presumably be legitimate under Article14 given that the "maintenance of economic stability" was considered legitimate in Mamatas and others v. Greece (unofficial translation) para 103.

[286] Harris (2018) page 773, Jacobs (2021) page 660.

[287] National Belgian Police v. Belgium [Plenary] para 49.

[288] See e.g. Sejdić and Finci v. Bosnia and Herzegovina [GC] para 44 compared to Rasmussen v. Denmark para 40. See also Fredman (2016) page 280.

[289] British Gurkha Welfare Society and others v. UK para 88.

[290] Arai-Takahashi (2002) page 223.

[291] See e.g. Hatton and others v. UK [GC] para 100. See also Hilson (2013) 266 – 267.

[292] Peroni (2013) page 1064.

considered particularly disadvantaged in the context of climate change, e.g. the elderly or disabled people.[293] For the purposes of this thesis, the vulnerability of young birth-cohorts is examined below.[294]

4.3.2 An environmental vulnerability approach?

Scholars have held that a vulnerability approach is emerging in the ECtHR, recognizing that the justification of differential treatment on some grounds requires particularly convincing reasons.[295] These "elevated" or "suspect" grounds, commonly relate to groups that have traditionally been stigmatized or disadvantaged in one way or another.[296] Several vulnerable groups have been accentuated in previous caselaw, such as women,[297] ethnic minorities,[298] asylum seekers,[299] and persons with disabilities[300] or certain medical conditions.[301] While children are also recognized as vulnerable individuals,[302] this is usually not related to cases of discrimination.[303] Therefore, a review of recent jurisprudence was conducted to examine whether there are developments consistent with identifying children as a particularly vulnerable group under Article 14 in recent jurisprudence.[304]

Recent caselaw maintains an elevated focus on the vulnerability and stereotyping of certain groups in cases of differential treatment based on "suspect" grounds. The characteristics

[293] Although Article14 is not invoked, the facts of the cases *Klimaseniorinnen v. Switzerland* and *Mex M. v. Austria* illustrate the vulnerability of these groups.

[294] See chapters 2.1. and 1.2.

[295] Arnardóttir (2017), O'Connell (2009), Kim (2021).

[296] Arnardóttir (2017) page 155.

[297] See e.g. Opuz v Turkey and Eremia v. Moldova.

[298] See e.g. D.H. and others v. The Czech Republic [GC].

[299] See e.g. M.S.S v. Belgium and Greece [GC].

[300] See e.g. Alajos Kiss v. Hungary.

[301] See e.g. Kiyutin v. Russia.

[302] See e.g. Popov v. France para 91, A v. UK para 22, and O'Keeffe v. Ireland [GC] para 144.

[303] See however Çam v. Turkey para 67, where the "particular vulnerability" of children with disabilities was emphasized in relation to Article14.

[304] Replicating the parameters found in Arnardottir (2017) page 158, a HUDOC search confined to judgements delivered between 1/9/2017 and 23/3/2022 resulted in 42 cases. (34 cases [vulnerabl* + A14], and an additional 8 noncongruent cases [sterotyp* + A14]). Upon further analysis, the Court explicitly referenced the vulnerability or stereotyping of certain groups in 21 and 3 cases, respectively.

emphasized are gender,[305] sexual orientation,[306] ethnicity,[307] and disability.[308] The stable development implies that age-related grounds are not considered suspect, which is not unexpected. There are legitimate objections to the possibility of broadening the scope of protection in this way. Like Arnardóttir has suggested, it can weaken the effectiveness of Article 14 in protecting the most disadvantaged groups.[309] Moreover, this is in line with the restrictiveness shown outside the abovementioned grounds. For instance, the Court did not apply the approach with regard to the ground of age, but instead explicitly noted the "very weighty reasons" required to justify differential treatment based on gender-stereotypes in *Carvalho Morais*.[310] Thus tentatively, children are generally not considered a vulnerable group under Article 14. That being said, this does not account for the specific context of climate change. A contextual vulnerability approach may still be considered applicable.

The possibility of a more individualized vulnerability approach has been suggested for cases of discrimination based on non-suspect grounds, such as age.[311] As the Court repeatedly emphasizes the vulnerability of children in various situations,[312] it can be argued that the situational vulnerability of children related to climate change legitimize a dynamic application of the concept. This could provide a method for a differentiated approach under Article 14, by elevating the protection of particularly affected groups, not unlike the broader concept of vulnerability recognized under other Articles of the Convention.[313] In the context of increased exposure to extreme weather events, addressing the particular vulnerability of some age-groups aligns with the view of the traditional vulnerability approach as a tool to "single out" the most disadvantaged sub-groups.[314]

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[305] See Tunikova a.o. v. Russia, Tkhelide v. Georgia, Yocheva and Ganeva v. Bulgaria and Volodina v. Russia. As well as Tapayeva a.o. v. Russia, Leonov v. Russia and Jurčić v. Croatia para 83 referring to stereotypical gender-roles.

[306] See Association accept and others v. Romania, Berkman v. Russia, Beizaras and Levickas v. Lithuania and Zhdanov and others v. Russia.

[307] See Budinova and Chaprazov v. Bulgaria, Behar and Gutman v. Bulgaria, Hudorovič and Others v. Slovenia, Burlya and others v. Ukraine, and M.F. v. Hungary.

[308] See Strøbye and Rosenlind v. Denmark para 113, G.I. v. Italy para 54, J.D. and A v. UK para 89, Enver Şahin v. Turkey, Cînța v. Romania, Popovic and others v. Serbia see the dissenting opinions of judges Ravarani and Schukking, Belli and Arquier-Martinez v. Switzerland see dissenting opinion of judge Serghides para 12, and Caamaño Valle v. Spain see dissenting judge Lemmens para 1.

[309] Arnardottir (2017) page 168.

[310] Carvalho Pinto de Sousa Morais v. Portugal para 46.

[311] Arnardóttir (2017) page 167 suggests that this possibility is not precluded. See also Kim (2021) page 626, stating that the "spectrum of vulnerable groups is prone to be applied expansively by the Court".

[312] See e.g. O'Keeffe v. Ireland [GC] para 145 with reference to the child's special vulnerability in a situation where it is under the "exclusive control of the authorities". See also O'Mahony (2019).

[313] Arnardóttir (2017) page 166.

[314] Ibid. page 169.

Previous expansions of the approach to new groups, however, have not been introduced without friction. The growing recognition of the vulnerability of persons with disabilities,[315] especially in cases involving mental disability, has revealed conflicting views among judges of the Court. While some suggest the need for an updated interpretation of Article 14 in light of the particular vulnerability of persons with mental disabilities,[316] others reject the vulnerability approach in favor of a formal interpretation.[317] Moreover, this fragmentation can be difficult to align with the objective of a universal protection of human rights.[318] The shift towards an elevated protection of some groups poses a legitimacy challenge, as it may be hard to predict which groups will attain the status of particular vulnerability in a given instance.[319] Foreseeability is important as it ensures that the development does not go beyond the intensions originally agreed to by the Parties.[320] Stretching the rights of the Convention too far, without fair warning, increases the risk of denouncement.[321]

These objections suggest a restrictive approach, and careful consideration must be made when proposing an expansive application. At the same time, the Court's approach must adapt to present-day challenges, such as climate change. In *Demir,* it was stated that "a failure by the Court to maintain a dynamic and evolutive approach would risk rendering it a bar to reform or improvement".[322] In light of this the contextual vulnerability of the cohort might be of significance.

In the context of climate change younger cohorts are vulnerable for several reasons illustrated throughout this thesis.[323] The cohort's young age, in and of itself, is only part of their environmental vulnerability.[324] Yet, their combined vulnerability can be described as a matter of innate vulnerability of belonging to a later born birth-cohort,[325] which is intricately linked to their age. This suggests that the ECtHR´s recognition of children´s innate vulnerability can be applied to the situation in question here.[326]

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[315] See e.g. Belli and Arquier-Martinez v. Switzerland para 100.

[316] See the dissenting opinions of judge Serghides in *Belli and Arquier-Martinez v. Switzerland* para 12, of judges Ravarani and Schukking in *Popovic and others v. Serbia,* as well as judge Lemmens in *Caamaño Valle v. Spain* para 1.

[317] See the dissenting opinion by judges Wojtyczek and Pejchal in *Cînța v. Romania.*

[318] As enshrined in the phrase "secure to everyone" in ECHR Article1.

[319] Bossuyt (2015) page 40.

[320] See e.g. Hale (2011) page 540.

[321] Letsas (2006) page 730.

[322] Demir and Baykara v. Turkey [GC] para 153.

[323] See chapter 1.2 and chapter 2.1.3 particularly.

[324] Sandvig et al (2021).

[325] Ibid.

[326] Kaya (2019a) page 170.

Previously, the Court has identified the "extreme" or "particular" vulnerability of children in the context of, inter alia, domestic violence,[327] education,[328] and asylum-seeking.[329] Arguably, there are substantial discrepancies between these examples and the environmental vulnerability of children. For one, the selected cases portray children as vulnerable due to their dependence on the protection of adults or systems. While the circumstances creating a need for protection are exogenous, they appear closely related to the limited autonomy of the child.[330] Under Article 14, age-related discrimination of children has generally been justified due to similar considerations. For example, because the difference in treatment originated from "the protective regime [...] applied [...] to minors in the applicant's position.".[331] In the context of climate change, however, these considerations might imply the opposite, as the need for protection would suggest a narrower discretion for the State.[332]

The lack of opportunities to influence the decisions leading to emissions, e.g. the reduction targets or other environmental policies, represents an additional aspect of the cohort's vulnerability.[333] It could therefore be argued that the judicial review counterbalances the limits within which the State can prioritize short-term policy objectives at the expense of measures that would avert the risk of harm from climate change.[334] Noting that national policy decisions, representing the majority view, are usually not scrutinized by the Court,[335] the judiciary could provide a mean for marginalized groups to be heard.[336] In addition, this would align with the aim to ensure access to justice in environmental cases as enshrined in Article 1 of the Aarhus Convention.

Furthermore, determining which groups are particularly vulnerable to contemporary challenges, such as the harm caused by climate change, cannot be decided without considering relevant instruments of international law. Internationally, there is a growing scientific consensus that children are particularly exposed to risks of climate related harm.[337] It therefore resonates with the principle enshrined in CRC Article 3.1, as well as the principle of intergenerational equity, to show attentiveness to their situational vulnerability.

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[327] A v. UK para 22.

[328] Çam v. Turkey para 67, O'Keeffe v. Ireland [GC] para 144.

[329] Tarakhel v. Switzerland [GC] para 119.

[330] Kaya (2019a) page 170.

[331] D.G. v. Ireland para 115.

[332] Kaya (2019a) page 170.

[333] ENNHRI (2021) page 34. See also chapter 1.2

[334] Wewerinke-Singh (2018) page 79.

[335] See e.g. Chapman v. UK [GC] para 94, stating that its role is "a strictly supervisory one".

[336] Bogojević (2020) p. 194.

[337] See e.g. IPCC (2022c) Question 3. See also chapter 2.1.

Another tendency that may indicate an elevated scrutiny, is the consensus that climate change is caused by human activities.[338] Recalling *Budayeva,* where the Court emphasized the wide discretion of the State related to responsibility for harm from events "beyond human control",[339] it can be argued that the anthropocentric nature of climate change suggests a reduced discretion.[340] A similar observation can be made from previous caselaw under Article 14 in environmental cases outside the ground of age. In *Moldovan and others,* the unsanitary living conditions and the effects on the applicant's health and well-being, taken together with the attitude of the government towards the Roma minority, was considered discriminatory.[341] In the assessment of the proportionality, the State was only afforded a "certain" margin of appreciation.[342] This indicates a more scrutinizing review when a vulnerable group is affected than in environmental cases overall. While not directly applicable to age-related grounds, it may suggest that the Court is attentive to a certain group's vulnerability in an environmental context. As a result, it can be argued that it facilitates similar arguments in cases of age-related environmental discrimination.[343]

Taken together, the tendencies discussed do not predetermine a heightened scrutiny of a proposed justification by the State. Nonetheless, they expose certain aspects of the recognition of vulnerability within the Court's well-established jurisprudence. Overall, the emphasis on children's vulnerability in previous instances is recalled. Paired with overarching principles of international law such as the principle of the best interest of the child and intergenerational equity, this implies an attentive review. Moreover, the context of climate change substantiates this argument. A contextual approach can encompass the vulnerability of the cohort related to climate change, indicating a possible environmental vulnerability approach.

[338] See chapter 2.1.1.

[339] Budayeva and others v. Russia para 134.

[340] Sandvig (2021) page 208, ENNHRI (2021b) para 14. See also López Ostra v. Spain para 51, where the State was afforded a "certain" margin of appreciation in the assessment of whether the interference with Article8 was justifiable.

[341] Moldovan and others v. Romania (No. 2) para 140, cf. paras 110 and 113.

[342] Moldovan and others v. Romania (No. 2) para 137.

[343] Kaya (2021) page 214.

4.4 Summary

To summarize, the disparate effects of insufficient mitigation of climate change can be considered as differential treatment. However, a number of policy-aims may be considered relevant and legitimate to account for this difference. The possibility of justification of differential effects, and the scope of the State's margin of appreciation to be expected therein, therefore, has the potential to determine the impact of Article 14.[344] Although conceptually and morally possible to view the different grounds under Article 14 as equivalent,[345] and while some argue that the ground of age is quickly climbing the hierarchy of protected grounds,[346] this is not yet reflected in the jurisprudence of the Court. Climate change nevertheless affects groups such as the cohort of children born in 2020 disparately. This could indicate a heightened level of scrutiny, even if "age" itself is not considered a "suspect" ground.[347] Moreover, the context of climate change possibly narrows the margin of appreciation afforded to States in the justification of prima facie discriminatory effects of inadequate mitigation efforts.

5 Some implications of applicability

5.1 General principles

Preconditioned that the Court finds a breach of Article 14, the ordinary mean for reparation offered is just satisfaction for suffered damage.[348] While States have an obligation to abide by judgements,[349] the Court cannot nullify domestic legislation or decisions, or prescribe how a breach should be repaired.[350] In the case of a past or ongoing violation this is comprehensible, implying an obligation "[...] to put an end to the breach and make reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach".[351] However, if the harm has yet to fully materialize, as in the case of climate change, the concept of reparation is inadequate. This underlines a most important aspect of State responsibility in the context of climate change – the need for preventive action.[352] Thus, the possibility of

[344] O'Connell (2009) page 212.

[345] O'Cinneide (2011) page 18.

[346] Schutter (2005) page 15.

[347] Hurford (2014) page 43. See also British Gurkha Welfare Society and others v. UK para 88.

[348] ECHR Article 41.

[349] ECHR Article 46.

[350] Kjølbro (2020) page 189.

[351] See e.g. Chiragov and others v. Armenia [GC] para 53. For just satisfaction in cases of materialized environmental harm see e.g. Budayeva and others v. Russia para 202 ff, Öneryildiz v. Turkey [GC] para 161 ff.

[352] Wewerinke-Singh (2018) page 78.

imposing a duty to prevent ongoing and future climate harm is frequently debated.[353] Preventive obligations are not per se a remedy or reparation, but seeing as climate harm is characterized by a delay between the cause and effect, the functions are arguably similar.[354]

While Article 14 has traditionally been viewed as a negative obligation to refrain from discrimination based on protected grounds, positive obligations to protect are included in the scope.[355] However, given its dependent character, the aspect does not prevail in the Court's jurisprudence.[356] Situations where the Court has recognized positive obligations under Article 14, include cases of domestic violence,[357] hate speech,[358] and racially motivated violence.[359] Such situations do not initially appear in conformity with the circumstances of climate change. That being said, some implications may be suggested when considering Article 14 in conjunction with the positive obligations under Articles 2 and 8 in environmental cases.[360]

5.2 An obligation to assess the long-term impacts of climate change?

The link between the protection of human rights and prior environmental risk-assessment is recognized through the procedural aspect[361] of the State's positive obligations in the Convention.[362] In *Taşkin,* the Court reiterated that:

> "Where a State must determine complex issues of environmental and economic policy, the decision-making process must firstly involve *appropriate investigations and studies* in order to allow them to *predict and evaluate in advance the effects* of those activities which might damage the environment and infringe individuals' rights and to enable them to strike a fair balance between the various conflicting interests at stake.".[363]

The aforementioned can be taken in conjunction with what some claim to be a growing emphasis on procedural justice in the Court's review.[364] One of the main applications of an elevated

[353] See e.g. Wewerinke-Singh (2018), Sandvig et al (2021), Brænden (2021), NNHRI (2021).

[354] See e.g Taşkin and others v. Turkey para 113, referencing the obligations function to ensure that the applicants rights would not be "set at naught".

[355] Kjølbro (2020) page 1277.

[356] Jacobs (2021) page 648, Kjølbro (2020) page 1277.

[357] See e.g. Opuz v. Turkey.

[358] See e.g. Beizaras and Levickas v. Lithuania.

[359] See e.g. Abdu v. Bulgaria.

[360] Assuming that the obligations apply to the risks posed by climate change, see chapter 2.2.1.

[361] The substantive aspect will not be discussed due to the scope of the thesis. See e.g. Brænden (2021).

[362] Sands (2018) page 676.

[363] Taşkin and others v. Turkey para 119 (emphasis added). See also Hardy and Maile v. UK para 220.

[364] Harris (2018) page 41, Nussberger (2017) page 172.

procedural review are cases of complex socio-economic policy.[365] Pertaining to the particular procedural review:

> "[…] the Court will examine whether the authorities conducted sufficient studies to evaluate the risks of a potentially hazardous activity, […] whether, on the basis of the information available, they have developed an adequate policy vis-à-vis polluters and whether all necessary measures have been taken to enforce this policy in good time".[366]

This resembles the well-established approach in a broader European context, which regards the precautionary principle as integral to assessing environmental risks.[367] The approach presupposes the "identification of potentially negative consequences" as well as a "comprehensive assessment of the risk" considering available scientific knowledge.[368]

Assuming that a duty to assess impacts can be applied to climate mitigation cases, the question is what the possible implications are of applying Article 14 in conjunction with such an obligation.

Sandvig et al. have argued that, taken together with Article 14, this may oblige States to assess the effects of dangerous climate change on children in a lifetime-perspective before permitting potentially harmful activities.[369] Similar arguments have been asserted with regard to the rule of procedure under the principle in UNCRC Article 3.1.[370]

On the outset it could appear as though the application of Article 14 is superfluous. The vulnerability of children may be relevant regardless of the applicability of Article 14, in the sense that they are "individuals" protected by the procedural obligations discussed above. Inter alia, the decision-making process is reviewed by the Court "to ensure that due weight has been accorded to the interests of the individual".[371] Recalling the discussion of age-related environmental vulnerability, this may suggest a more assertive review of the process leading up to decisions with impacts on the rights of younger cohorts.[372]

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[365] Gerards (2017) page 146.

[366] Dubetska and others v. Ukraine para 143.

[367] See chapter 1.5.

[368] Case C-77/09, Gowan Comércio Internacional e Serviços Lda v Ministero della Salute para 75.

[369] Sandvig et al (2021).

[370] NNHRI (2022) page 5.

[371] Hatton and others v. UK [GC] para 99. See also Taşkin and others v. Turkey para 118.

[372] See chapter 4.3.2.

However, climate change is, as illustrated throughout this thesis, a long-term issue, and the actions taken today have impacts across the lifetimes of younger generations that are potentially irreversible.[373] Additionally, as a result of measures taken to mitigate and adapt to climate change, the possibility of future infringement on their rights will increase.[374] An assessment accounting for the lifetime impacts on young cohorts could provide a greater recognition of these effects in decisions which are generally based on short-term priorities.[375] Recalling that the cohort formally does not have the ability to influence the decision-making process until 2038 at the earliest,[376] one might presume that their long-term interests will continue to be overlooked without precise procedural obligations.[377]

Applying Article 14, this position might have a possible temporal benefit. Assuming that discriminatory effects under Article 14 can be based on cohort-status, this suggests that more long-term impacts could be considered relevant "interests". In turn, this could perhaps increase the visibility of such interests in the decision-making process, facilitating a potential for participation.

What these interests are, however, cannot be determined in general or abstract terms but must be assessed in connection to the circumstances in a given instance. In relation to what is the "best interests" of children, NNHRI has suggested that "it is in children's best interest that climate change is limited to 1.5°C and that net zero emissions is achieved as fast as possible.".[378] Considering the factual background of this thesis, one could certainly concur with similar interpretations under ECHR.

At the same time, legitimate interests of the society as a whole, such as economic stability, need not be incompatible with the of the interests of the individual to have their basic needs met. What is more, environmental protection might in some cases directly conflict with the interests of individuals.[379] Thus, the balancing of interests is particularly complex in the context of climate change. For example, Eicke notes that "the voluntary nature of the measures to achieve the temperature objective identified in the Paris Agreement makes this not only inherently more difficult but potentially a wholly different exercise".[380]

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[373] IPCC (2022a) page 7.

[374] See e.g. Neubauer et al v. Germany paras 192 – 194.

[375] See e.g. Neubauer et al v. Germany para 205 - 206.

[376] See chapter 1.2.

[377] NNHRI (2022) page 5.

[378] NNHRI (2022) page 4.

[379] See e.g. HR-2021-1975-S para 151, where the establishment of wind turbines was concluded to infringe ICCPR Article27.

[380] Eicke (2022) page 15.

In sum, it is thus unclear what the possible implication of applying Article 14 are. In its essence, the Court's review of a State's compliance with the Convention is to counterbalance the decisions of the majority, which some argue is unachievable through procedural review alone.[381] At least considered from the perspective of young birth-cohorts, it can perhaps be suggested that the application of Article 14 could be helpful in exposing the long-term impacts of climate change in decision-making processes.

6 Concluding remarks

The applicability of the Convention to the risk of harm from dangerous climate change has yet to be authoritatively determined. Seeing as Article 14 depends on the scope of the other substantive rights, the discussions in this thesis might appear premature. In addition, the applicability of Article 14 does not eliminate the preexisting procedural difficulties before a case can proceed to the merits.[382] At the same time, scientific findings emphasize that it is quickly becoming too late to mitigate climate harm. In sum, human influence causes global warming at an unprecedented rate which has potentially irreversible effects on the enjoyment of human rights. This holds especially true for the youngest generations. As stated by the IPCC, the impacts of global warming will increase under any further delay of emission reduction:

> "[A]ffecting the lives of today's children tomorrow, and those of their children much more than ours. But science is also clear: with immediate action now, drastic impacts can still be prevented.".[383]

The scientific observations that form the background for the underlying question of this thesis are unequivocal. Climate change has caused, causes, and will continue to cause disparate impacts on the most vulnerable groups in society. This thesis underlines this through European children born in 2020. Based on their year of birth, these children face disparate impacts of insufficient mitigation efforts because of their young age and longer life expectancy which implies a disproportionate interference with their human rights. The intertwined relationship between the latent and long-reaching consequences of climate change over time, and the diminishing timeframe to prevent the most severe impacts further stresses the intergenerational disparities.

[381] Nussberger (2017) page 167.

[382] See chapter 2.2.2.

[383] IPCC (2022c) Question 3, page 4.

Yet, not all disparities are a matter for the law to address. In order to determine if ECHR Article 14 may be applied to the disparate effects on the basis of birth-cohort in cases of inadequate mitigation efforts, the thesis sought to examine the context of climate change through the lens of discriminatory effects.

Regarding the first research question, the conclusion was that, considering a dynamic interpretation of the convention, the court's previously admitted grounds, and general principles of international law – birth-cohort can be a relevant basis of discrimination under Article 14 in climate cases.

As for the second research question, the conclusion was that the increased risks of climate harm can be considered discriminatory effects of the State's inadequate action to mitigate emissions, and that there are indications of a more precautionary approach to the question of causation for such risk. Upon this assertion, the question of justification was discussed. By analyzing recent vulnerability jurisprudence compared with the environmental vulnerability of the cohort, it is suggested that the justification of the discriminatory effects might be more scrutinized than initially assumed.

In relation to these findings, the thesis addressed some implications of applicability. This intended to show how a potential application of Article 14 to the procedural obligation of preventive risk assessment could suggest an elevated emphasis on long-term impacts of insufficient mitigation of climate change.

Overall, the argument set out in this thesis is that the context of climate change could indicate a different perspective on indirect age-related discrimination of the European birth-cohort born in 2020. This would align with the reoccurring emphasis on the contextual vulnerability of certain groups, including children, in the in the well-established caselaw of the ECtHR. Thus, this implies that the development and further conceptualization of younger generations' vulnerability relating to climate harm might prove decisive for the furtherance and realization of intergenerational equity under ECHR Article 14.

References

Literature

Arai-Takahashi (2002) — Arai-Takahashi, Yutaka. *The Margin of Appreciation Doctrine and the Principle of Proportionality in the Jurisprudence of the ECHR.* Antwerp-Oxford-New York: Intersentia Publishers, 2002.

Arnardóttir (2014) — Arnardóttir, Oddný Mjöll. "The Differences that Make a Difference: Recent Developments on the Discrimination Grounds and the Margin of Appreciation under Article 14 of the European Convention on Human Rights" *Human Rights Law Review* Volume 14, Issue 4 (2014) p. 647 – 670. https://doi.org/10.1093/hrlr/ngu025

Arnardóttir (2017) — Arnardóttir,Oddný Mjöll. "Vulnerability under Article 14 of the European Convention on Human Rights – Innovation or Business as Usual?" in *Oslo Law Review* Volume 4, Issue 3 (2017) p. 150 – 171. https://doi.org/10.18261/issn.2387-3299-2017-03-03

Blaker Strand (2019) — Blaker Strand, Vibeke. "Interpreting the ECHR in its normative environment: interaction between the ECHR, The UN Convention on the elimination of all forms of discrimination against women and the UN convention on the rights of the child" *The International Journal of Human Rights* Volume 24, Issue 7 (2019) p. 979 – 992. https://doi.org/10.1080/13642987.2019.1574423

Bogojević (2020) — Bogojević, Sanja. "Human rights of minors and future generations: Global trends and EU environmental law particularities" *RECIEL* Volume 29, Issue 2 (2020) p. 191 – 200. https://doi.org/10.1111/reel.12345

Bossuyt (2015) — Bossuyt, Marc. "Judicial Activism in Strasbourg" in *International Law in Silver Perspective: Challenges Ahead.* Edited by Karel Wellens. Nijhoff Law Specials, Volume 90, 2015, p. 31 – 56. https://doi.org/10.1163/9789004271685_003

Boyle (2012) — Boyle, Alan. "Human Rights and the environment: Where Next?" European Journal of International Law Volume 23, Issue 3 (2012) p. 613 - 642. https://doi.org/10.1093/ejil/chs054

Boyle (2018) Boyle, Alan. "Climate Change, The Paris Agreement and Human Rights" *International and Comparative Law Quarterly* Volume 67, Issue 4 (2018) p. 759 – 777. doi:10.1017/S0020589318000222.

Brænden (2021) Brænden, Hannah Cecilie. *The European Convention on Human Rights and Climate Change*, 2021. http://urn.nb.no/URN:NBN:no-90411 (accessed 10.04.2022)

Bugge (2021) Bugge, Hans Chr. "Hva er klimarett? Introduksjon til et nytt rettsfelt» In *Klimarett Internasjonal, europeisk og norsk klimarett mot 2030*. Edited by Hans Chr. Bugge, Oslo: Universitetsforlaget, 2021, p. 27 – 54.

Burgers (2020) Burgers, Laura. "Should Judges Make Climate Change Law?" *Transnational Environmental Law* Volume 9, Issue 1 (2020) p. 55 – 75. doi:10.1017/S2047102519000360.

Chalifour (2021) Chalifour, Nathalie J; Jessica Earle; Laura Macintyre, "Coming of Age in a Warming World: The Charter's Section 15(1) Equality Guarantee and Youth-Led Climate Litigation," *Journal of Law & Equality* Volume 1, Issue 17 (2021) p. 1 – 104. https://heinonline.org/HOL/P?h=hein.journals/jleq17&i=1 (accessed 03.04.2022)

Collins (2018) Collins, Hugh and Tarunabh Khaitan. "Indirect Discrimination law: Controversies and Critical Questions" In *Foundations of Indirect Discrimination Law*. Edited by Collins and Khaitan, Oxford: Hart Publishing, 2018, p. 1-30.

Dupuy (2018) Dupuy, Pierre-Marie, and Jorge E. Viñuales. *International Environmental Law*. Second edition. Cambridge: Cambridge University Press, 2018.

Eicke (2022) Eicke, Tim. "Climate Change and the Convention: Beyond Admissibility" *European Convention on Human Rights Law Review,* Volume 3, Issue 1 (2022) p. 8 – 16. https://doi.org/10.1163/26663236-bja10033

Fredman (2016)	Fredman, Sandra. "Emerging from the Shadows: Substantive Equality and Article 14 of the European Convention on Human Rights" in *Human Rights Law Review* Volume 16, Issue 2. (2016) p. 273-301. https://doi: 10.1093/hrlr/ngw001.
Gerards (2017)	Gerards, Janneke. "Procedural Review by the ECtHR: A Typology." In *Procedural Review in European Fundamental Rights Cases*, edited by Janneke Gerards and Eva Brems. Cambridge: Cambridge University Press, 2017, 127–60. doi:10.1017/9781316874844.006.
Gibbons (2014)	Gibbons, Elizabeth D. «Climate Change, Children's Rights, and the Pursuit of Intergenerational Climate Justice" *Health and Human Rights Journal* Volume 16, Issue 1 (2014) p. 19 – 31. https://heinonline.org/HOL/P?h=hein.journals/harhrj16&i=21 (accessed 25.03.2022)
Goosey (2019)	Goosey, Stuart. "Is age discrimination a less serious form of discrimination?" *Legal Studies (Society of Legal Scholars)* Volume 39, Issue 3 (2019) p. 533 – 549. https://doi.org/10.1017/lst.2019.7
Gosseries (2014)	Gosseries, Axel. "What Makes Age Discrimination Special? A Philosophical Look at the ECJ Case Law." *Netherlands Journal of Legal Philosophy* Volume 43, Issue 1 (2014) p. 59 – 80. https://heinonline.org/HOL/P?h=hein.journals/njlp43&i=61 (accessed 15.04.2022)
Gosseries (2015)	Gosseries, Axel. "Environmental Degradation as Age Discrimination" in *e-Pública* Volume II, No. 2 (2015) p. 25 - 39. https://scielo.pt/pdf/epub/v2n2/v2n2a03.pdf (accessed 15.04.2022)
Grant (2015)	Grant, Evadne. "Re-imagining adjudication: human rights courts and the environment" In *Thought, Law, Rights and Action in the Age of Environmental Crisis.* Edited by Anna Grear and Evadne Grant, Edward Elgar Publishing, 2015, p. 155 – 188. https://doi.org/10.4337/9781784711337

Hale (2011) Hale, Baroness. "Common law and Convention law: the limits to interpretation" *European Human Rights Law Review* Volume 5 (2011) p. 534 – 543. https://uk.westlaw.com/Document/IE9DD9002FB9711E0B1A5F5A7CA799C9A/View/FullText.html (accessed 05.04.2022)

Hansen (2013) Hansen J, Kharecha P, Sato M, Masson-Delmotte V, Ackerman F, Beerling DJ, et al. "Assessing "Dangerous Climate Change": Required Reduction of Carbon Emissions to Protect Young People, Future Generations and Nature." in *PLOS ONE* Volume 8, Issue 12, December 2013. https://doi.org/10.1371/journal.pone.0081648

Harris (2018) Harris, David J., M. O'Boyle, and Colin Warbrick. *Law of the European Convention on Human Rights*. Fourth Edition, Edited by David Harris et al. Oxford: Oxford University Press, 2018.

Henningsen (2022) Henningsen, Liv N. "The Emerging Anti-Stereotyping Principle under Article 14 ECHR – Towards a Multidimensional and Intersectional Approach to Equality" *European Convention on Human Rights Law Review* (In press 2022) https://doi.org/10.1163/26663236-bja10038

Hilson (2013) Hilson, Chirs. "The Margin of Appreciation, Domestic Irregularity and Domestic Court Rulings in ECHR Environmental Jurisprudence: Global Legal Pluralism in Action" *Global Constitutionalism* Volume 2, Issue 2 (2013) p. 262 – 286. https://heinonline.org/HOL/P?h=hein.journals/globc2&i=280 (accessed 10.04.2022)

Hiskes (2016) Hiskes, Richard. "Introduction: The intergenerational promise of environmental human rights" *Journal of Human Rights* Volume 15, Issue 2 (2016) p. 229 – 230. https://doi.org/10.1080/14754835.2015.1118342

Hurford (2014) Hurford, James. ""An Aspect of Ordinariness": Is Age a "Suspect Ground" under Article 14 ECHR?" *Judicial Review* Volume 19, Issue 1 (2014) p. 39 – 45. https://doi.org/10.1080/10854681.2014.11426817

Ippolito (2015)	Ippolito, Francesca. "(De)Constructing Children's Vulnerability under European Law" In *Protecting Vulnerable Groups*. Edited by Ippolito and Sànchez. Oxford and Portland, Oregon: Hart Publishing, 2015, p. 23 – 48.
Jacobs (2021)	Jacobs, Francis G. et al. *The European Convention on Human Rights.* Eight Edition, edited by Bernadette Rainey, Pamela McCormick, and Clare Ovey. Oxford: Oxford University Press, 2021.
Kaya (2019a)	Kaya, Refia. "Environmental vulnerability, age and the promises of anti-age discrimination law" in *Rewiev of European, Comparative & International Environmental Law* Volume 28, Issue 2 (2019) p. 162 – 174. https://doi.org/10.1111/reel.12279
Kaya (2019b)	Kaya, Refia. "EUROPEAN COURT OF HUMAN RIGHTS ON ADDRESSING ENVIRONMENTAL DISCRIMINATION AGAINST COLLECTIVITIES" *International Journal for Legal Research* Volume 9, Issue 4 (2019) p. 283-298. https://tlq.ilaw.cas.cz/index.php/tlq/Article/viewFile/368/362 (accessed 15.04.2022)
Kaya (2020)	Kaya, Refia. "What do we mean by "disparate impact of climate change"?". 22. January 2020. https://blogdroiteuropeen.com/2020/01/22/on-challenging-the-disparate-impacts-of-climate-change-through-european-discrimination-law-by-refia-kaya/ (accessed 03.02.2022)
Kaya (2021)	Kaya, Refia. "CHALLENGING ENVIRONMENTAL EXPOSURES THROUGH DISCRIMINATION LAW IN EUROPE" *Ankara Review of European Studies* Volume 20, Issue 1 (2021) p. 195-219. https://doi.org/10.32450/aacd.995897
Kenney et al (2014)	Kenney, Larry W., Daniel H. Craig and Lacy M. Alexander. "Heat waves, aging and human cardiovascular health". *Medicine and Science in Sports and Exercise* Volume 46, Issue 10 (2014) p. 1891 – 1899. DOI: 10.1249/MSS.0000000000000325

Khaitan (2016) — Khaitan, Tarunabh. *A Theory of Discrimination Law*. Oxford: Oxford University Press, 2016.

Kim (2021) — Kim, So Yeon. "Les vulnérables: evaluating the vulnerability criterion in Article 14 cases by the European Court of Human Rights" *Legal Studies (Society of Legal Sccholars)* Volume 41, Issue 4 (2021) p. 617 – 632. doi:10.1017/lst.2021.21

Kjølbro (2020) — Kjølbro, Jon Fridrik. *Den Europæiske Menneskerettighetdskonvention - for praktikere*. 5th edition, København: Jurist- og Økonomiforbundets Forlag, 2020.

Letsas (2006) — Letsas, George. "Two Concepts of the Margin of Appreciation" *Oxford Journal of Legal Studies* Volume 26, Issue 4 (2006) p. 705 – 732. https://doi.org/10.1093/ojls/gql030

Lewis (2018) — Lewis, Bridget. "Challenges Confronting a Human Rights-Based Approach to Climate change" in *Environmental Human Rights and Climate Change.* Singapore: Springer Singapore, 2018, p. 171 – 199. https://doi.org/10.1007/978-981-13-1960-0_8

Maxwell (2021) — Maxwell, Lucy, Sarah Mead, and Dennis Van Berkel. "Standards for Adjudicating the Next Generation of Urgenda-Style Climate Cases" *Journal of Human Rights and the Environment* Special Issue (Alabrese, Savaresi and Scott eds) 'Climate Change Litigation and Human Rights: Stocktaking and a Look at the Future' (Forthcoming). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3955144 (accessed 15.04.2022)

Meyer (2012) — Meyer, Lucas H., and Dominic Roser. "Climate justice and historical emissions" in *Intergenerational Justice,* Edited by Lucas H. Graham. Farmham: Ashgate, 2012, p.469 – 494.

Müllerová (2015) — Müllerová, Hana. "Environment Playing Short-handed: Margin of Appreciation in Environmental Jurisprudence of the European Court of Human Rights" *RECIEL* Volume 24, Issue 1 (2015) p. 83 – 92. https://doi.org/10.1111/reel.12101

Nifosi-Sutton (2017) — Nifosi-Sutton, Ingrid. *The Protection of Vulnerable Groups under International Human Rights Law*. London and New York: Routledge, 2017.

Nussberger (2017) — Nussberger, Angelika. "Procedural Review by the ECHR: View from the Court." In *Procedural Review in European Fundamental Rights Cases*, edited by Janneke Gerards and Eva Brems. Cambridge: Cambridge University Press, 2017, p. 161–76 doi:10.1017/9781316874844.007.

O'Cinneide (2011) — O'Cinneide, Colm. "The Uncertain Foundations of Contemprary Anti-Discrimination Law" *International Journal of Discrimination and the Law* Volume 11, Issue 1-2 (2011) p. 7 – 28. https://heinonline.org/HOL/P?h=hein.journals/ijdisclw11&i=10 (accessed 25.03.2022)

O'Connell (2009) — O'Connell, Rory. "Cinderella comes to the Ball: Art 14 and the rights to non-discrimination in the ECHR" in *Legal Studies* Volume 29, Issue 2 (2009) p. 211 – 229. https://doi.org/10.1111/j.1748-121X.2009.00119.x

O'Mahony (2019) — O'Mahony, Conor. "Child Protection and the echr", *The International Journal of Children's Rights* Volume 27, Issue 4 (2019): 660 – 693. https://doi.org/10.1163/15718182-02704003

Peel (2021) — Peel, Jaqueline. "Precaution". In *The Oxford Handbook of International Environmental Law*. Edited by Lavanya Rajamani and Jaqueline Peel, 2nd Edition, Oxford: Oxford University Press, 2021, p. 302 – 318. DOI: 10.1093/law/9780198849155.001.0001

Peel and Osofsky (2018) — Peel, Jequeline and Hari M. Osofsky. "A Rights Turn in Climate Change Litigation?" *Transnational Environmental Law* Volume 7, Issue 1 (2018) p. 37 – 67. https://doi.org/10.1017/S2047102517000292

Peroni (2013) — Lourdes Peroni and Alexandra Timmer. "Vulnerable groups: The promise of an emerging concept in European Human Rights

Convention law" *International Journal of Constitutional Law*, Volume 11, Issue 4, 2013, p. 1056–1085, https://doi.org/10.1093/icon/mot042

Preston (2021) — Preston, Brian J. "The Influence of the Paris Agreement on Climate Litigation: Causation, Corporate Governance and Catalyst (Part II)" *Journal of Environmental Law,* Volume 33, Issue 2 (2021) p. 227 – 256. https://doi.org/10.1093/jel/eqaa021

Sands (2018) — Sands, Phillippe, and Jacqueline Peel. *Principles of International Environmental Law* (4th edition), Cambridge: Cambridge University Press, 2018.

Sandvig (2021) — Sandvig, Jenny. «Menneskerettigheter og klima. Klimarettssaker» In *Klimarett Internasjonal, europeisk og norsk klimarett mot 2030*. Edited by Hans Chr. Bugge, Oslo: Universitetsforlaget, 2021, p. 190 – 220.

Sandvig et al (2021) — Sandvig, Jenny, Peter Dawson and Marit Tjelmeland. "Can the ECHR Encompass the Transnational and Intertemporal Dimensions of Climate Harm?". EJIL:Talk! (2021). https://www.ejiltalk.org/can-the-echr-encompass-the-transnational-and-intertemporal-dimensions-of-climate-harm/ (accessed 15.04.2022)

Schabas (2015) — Schabas, Willian A. *The European Convention on Human Rights: A Commentary.* Oxford: Oxford University Press, 2015. DOI: 10.1093/law/9780199594061.001.0001

Schapper (2018) — Schapper, Andrea. "Climate justice and human rights" International Relations (London) Volume 32, Issue 3 (2018) p. 275 - 295. https://doi.org/10.1177/0047117818782595

Schutter (2005) — Schutter, Olivier De. "The Prohibition of Discrimination under European Human Rights Law Relevance for EU Racial and Employment Equality Directives" Luxembourg: Office for Official Publications of the European Communities, 2005. https://www.equalrightstrust.org/

ertdocumentbank/The%20prohibition%20of%20Discrimination%20under%20Human%20Rights%20Law.pdf (accessed 10.04.2022).

Segger (2008) Segger, Marie-Claire Cordonier. "Sustainable Development in International Law" In *Sustainable Development in International and National Law.* Hans Chirstian Bugge and Christina Voigt (eds.), Gröningen: Europa Law Publishing, 2008, p. 87 – 178.

Shelton (2015) Shelton, Dinah. "Legitimate and Necessary: Adjudicating Human Rights Violations Related to Activities Causing Environmental Harm or Risk." *Journal of Human Rights and the Environment* Volume 6, Issue 2 (2015) p. 139 – 155. https://doi-org.ez-proxy.uio.no/10.4337/jhre.2015.02.01

Shelton (2018) Shelton, Dinah. "Complexities and Uncertainties in Matters of Human Rights and the Environment – Identifying the Judicial Role" In *The Human Right to a Healthy Environment.* Edited by John H. Knox and Ramin Pejan, Cambridge: Cambridge University Press, 2018, p. 97 – 121. https://doi.org/10.1017/9781108367530.006

Stavert (2010) Stavert, Jill. "Glor v. Switzerland: Article 14 ECHR, Disability and Non-Discrimination," *Edinburgh Law Review* Volume 14, Issue 1 (2010) p. 141 – 146. https://heinonline.org/HOL/P?h=hein.journals/edinlr14&i=144 (accessed 15.03.2022)

Thiery et al (2021) Thiery, Wim, Stefan Lange, Joeri Rogel et al. «Intergenerational inequities in exposure to climate extremes" *SCIENCE* Volume 374, Issue 6564 (2021) p. 158 – 160. DOI: 10.1126/science.abi7339

Thornton (2021) Thornton, Fanny. "The Absurdity of Relying on Human Rights Law to Go After Emitters.". In *Debating Climate Law*, edited by Benoit Mayer and Alexander Zahar. Cambridge: Cambridge University Press, 2021, p. 159 – 169. doi:10.1017/9781108879064.013.

Tripovic (2022) Tripovic, Bosko. "A New Philosophy for the Margin of Appreciation and European Consensus" *Oxford Journal of Legal Studies* Volume 42, Issue 1 (2022) p. 207 – 234. https://doi.org/10.1093/ojls/gqab031

Voigt (2008)	Voigt, Christina. "Climate Change and the Mandate of Sustainable Development: Observations from a Legal Perspective" In *Sustainable Development in International and National Law*. Hans Chirstian Bugge and Christina Voigt (eds.), Gröningen: Europa Law Publishing, 2008, p. 547 – 567.
Voigt (2015)	Voigt, Christina and Evadne Grant. "Editorial: The legitimacy of human rights courts in environmental disputes" *Journal of Human Rights and the Environment* Volume 6, Issue 2 (2015) p. 131 – 138. https://doi.org/10.4337/jhre.2015.02.00
Voigt (2019)	Voigt, Christina. "International Courts and the Environment: The Quest for Legitimacy" in *International Judicial Practice on the Environment*. Edited by Christina Voigt. Cambridge: Cambridge University Press, 2019, p. 1 – 22. doi:10.1017/9781108684385.001
Weiss (2008)	Weiss, Edith Brown. "Climate Change, Intergenerataional Equity, and International Law". *Vermont Journal of Environmental Law* Volume 9, Issue 3 (2008) p. 615 - 628. https://heinonline.org/HOL/P?h=hein.journals/vermenl9&i=621 (accessed 05.04.2022)
Wewerinke-Singh (2018)	Margaretha Wewerinke-Singh. "State Responsibility for human right violations associated with climate change" in *Routledge Handbook of Human Rights and Climate Governance,* edited by Sébastien Duyck, Sébastien Jodoin, Alyssa Johl, Routledge, 2018, p. 75 – 89. https://doi-org.ezproxy.uio.no/10.4324/9781315312576
Wiener (2016)	Wiener, Jonathan. "Precaution and Climate Change". In *The Oxford Handbook of International Climate Change Law*. Edited by Kevin R. Gray, Richard Tarasofsky and Cinnamon Carlane, Oxford: Oxford University Press, 2016, p. 164 - 185. DOI: 10.1093/law/9780199684601.003.0008
Winter (2020)	Winter, Gerd. "Armando Carvalho and Others v. EU: Invoking Human Rights and the Paris Agreement for Better Climate Protection

Legislation" in *Transnational Environmental Law* Volume 9, Issue 1 (2020) p. 137 – 164. https://doi.org/10.1017/S2047102520000072

Wordland (2020) Wordland, Justin. "2020 Is Our Last, Best Chance to Save the Planet" *TIME*, 9/7/2020, https://time.com/5864692/climate-change-defining-moment/, (accessed 17.3.2022)

Reports and guides

CAT (2021) Climate Action Tracker (CAT). *Warming Projections Global Update November 2021.* https://climateactiontracker.org/documents/997/CAT_2021-11-09_Briefing_Global-Update_Glasgow2030CredibilityGap.pdf (accessed 25.02.2022)

COE (2021) Council of Europe. "Guide to the case-law of the European Court of Human Rights – Environment". 31.12.2021. https://echr.coe.int/Documents/Guide_Environment_ENG.pdf (accessed 17.04.2022).

COE (2022) Council of Europe. "Practical Guide on Admissibility Criteria". 1.02.2022. https://www.echr.coe.int/documents/admissibility_guide_eng.pdf (accessed 17.04.2022)

CRED and UNISDR (2015) Centre for Research on the Epidemiology of Disasters (CRED) and The United Nations Office for Disaster Risk Reduction (UNISDR). *The Human Cost of Wheather Related Disasters 1995-2015.* Brussels and Geneva: 2015. https://reliefweb.int/sites/reliefweb.int/files/ resources/COP21_WeatherDisastersReport_2015_FINAL.pdf (accessed 25.02.2022)

ENNHRI (2021a) European Network of National Human Rights Institutions. *Climate Change and Human Rights in the European Context.* Brussels: 6th of May 2021. https://ennhri.org/wp-content/uploads/2021/05/ENNHRI-Paper-Climate-Change-and-Human-Rights-in-the-European-Context_06.05.2020.pdf (accessed 15.04.2022)

ENNHRI (2021b) European Network of National Human Rights Institutions. *Written observations in application no. 53600/20 Verein Klimaseniorinnen Schweiz et autres c. la Suisse.* 2021. https://ennhri.org/wp-content/uploads/2021/09/Third-Party-Intervention-Klimaseniorinnen-_-website.pdf (accessed 17.04.2022)

IEA (2021) International Energy Agency. *World Energy Outlook 2021. https://iea.blob.core.windows.net/assets/4ed140c1-c3f3-4fd9-acae-789a4e14a23c/WorldEnergyOutlook2021.pdf (accessed 25.02.22)*

IPCC (2018) IPCC, 2018. *Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty. https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf (*accessed 15.02.2022)

IPCC (2021) IPCC, 2021: *Summary for Policymakers. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change. https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM_final.pdf* (accessed 10.04.2022)

IPCC (2022a) IPCC, 2022: *Summary for Policymakers. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change. https://report.ipcc.ch/ar6wg2/pdf/IPCC_AR6_WGII_SummaryForPolicymakers.pdf* (accessed 10.04.2022)

IPCC (2022b) IPCC, 2022: *Summary for Policymakers. In: Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change. https://report.ipcc.ch/ar6wg3/pdf/IPCC_AR6_WGIII_SummaryForPolicymakers.pdf* (accessed 10.04.2022)

IPCC (2022c) IPCC, 2022. Overarching Frequently Asked Questions and Answers. Sixth Assessment Report: Working Group II: Impacts, Adaptation, and Vulnerability. 28 February 2020. https://www.ipcc.ch/report/ar6/wg2/downloads/faqs/IPCC_AR6_WGII_Overaching_OutreachFAQs.pdf (accessed 20.04.2022).

NNHRI (2021) Norwegian National Human Rights Institution. *Climate and Human Rights.*19/05/2021. https://www.nhri.no/en/report/climate-and-human-rights/ (accessed 20.02.2022)

NNHRI (2022) Norwegian National Human Rights Institution. *Submission to the UN Committee on the Rights of the Child regarding the General Comment no. 26 on Children's Rights and the Environment with a Special Focus on Climate Change.* 04/03/2022. https://www.nhri.no/wp-content/uploads/2022/03/NIM_Sumbission-to-CRC-General-Comment-no.-26-.pdf (accessed 13.04.2022)

OHCHR (2015) Office if the High Commissioner of Human Rights. *Understanding Human Rights and Climate Change.* [Submission of the Office of the High Commissioner for Human Rights to the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change]. 2015. https://www.ohchr.org/Documents/Issues/ClimateChange/COP21.pdf (accessed 26.02.2022)

OHCHR (2017) United Nations Office of the High Commissioner on Human Rights. *Analytical study on the relationship between climate change and the full and effective enjoyment of the rights of the child.* A/HRC/35/13. 4/5/2017. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/110/91/PDF/G17__11091.pdf?OpenElement (accessed 26.02.2022)

Save the Children (2021) Save the Children International. *Born Into the Climate Crisis – Why we must act now to secure children's rights.* London: September 2021. https://resourcecentre.savethechildren.net/document/born-climate-crisis-why-we-must-act-now-secure-childrens-rights (accessed 01.04.2022)

UNEP (2021) United Nations Environmental Programme (UNEP). *Emissions Gap Report 2021: The Heat Is On – A World of Climate Promises Not Yet Delivered – Executive Summary.* Nairobi: October 2021. https://wedocs.unep.org/bitstream/handle/20.500.11822/36991/EGR21_ESEN.pdf (accessed 15.02.2022)

UNFCCC (2021) United Nations Framework Convention on Climate Change (UNFCCC). *Nationally determined contributions under the Paris Agreement – Revised synthesis report by the secretariat.* FCCC/PA/CMA/2021/8/Rev.1. New York: October 25th 2021. https://unfccc.int/sites/default/files/resource/cma2021_08r01_E.pdf (accessed 29.02.2022)

UNGA (2018) United Nations General Assembly (UNGA). *Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.* A/73/188. New York: 19/7/2018. https://ap.ohchr.org/documents/dpage_e.aspx?si=A/73/188 (accessed 25.02.2022)

UNHRC (2009) United Nations Human Rights Council. *Resolution 10/4. Human rights and climate change.* A/HRC/RES/10/4. 25/03/2009. https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/10/4 (accessed 26.02.2022)

UNHRC (2016) United Nations 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.* A/HRC/31/52. 1/2/2016. https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/31/52 (accessed 29.02.2022)

UNHRC (2017) United Nations Human Rights Council (UNHRC). *Human rights and the environment.* A/HRC/RES/34/20. 6/4/2017. https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/34/20 (accessed 25.02.2022)

UNHRC (2018) United Nations Human Rights Council (UNHRC). *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.* A/HRC/37/58. 24/1/2018. https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/37/58 (accessed 22.02.2022)

Other Sources

Merriam-Webster (2022a) — Merriam Webster "generation" (2022). https://www.merriam-webster.com/dictionary/generation. Accessed 14.03.2022.

Merriam-Webster (2022b) — Merriam Webster "cohort" (2022). https://www.merriam-webster.com/dictionary/cohort. Accessed 14.03.2022.

Eurostat (2021a) — Eurostat. "Fertility Statistics" (March 2021) https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Fertility_statistics Accessed 29.03.2022.

Eurostat (2021b) — Eurostat. "Mortality and life expectancy statistics" (May 2021) https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Mortality_and_life_expectancy_statistics accessed 29.03.2022.

CIA (2022) — CIA "Suffrage – The World Factbook" https://www.cia.gov/the-world-factbook/field/suffrage/ Accessed 10.04.2022.

ECtHR Jurisprudence

A v. The United Kingdom — Case of A v. The United Kingdom, no. 25599/94, 02/06/2004.

Abdu v. Bulgaria — Case of Abdu v. Bulgaria, no. 26827/08, 11/03/2014.

Alajos Kiss v. Hungary — Case of Alajos Kiss v. Hungary, no. 38832/06, 20/05/2010.

Alatulkkila and Others v. Finland	Case of Alatulkkila and Others v. Finland, no. 33538/96, 28/07/2005.
Association accept and others v. Romania	Case of Association accept and others v. Romania, 19237/16, 01/06/2021.
Behar and Gutman v. Bulgaria	Case of Behar and Gutman v. Bulgaria, no. 29335/13, 16/02/2021.
Beizaras and Levickas v. Lithuania	Case of Beizaras and Levickas v. Lithuania, no. 41288/15, 14/01/2020.
Belgian Linguistic Case [Plenary]	Case Relating to certain aspects of the laws on the use of languages in education in Belgium [Plenary] (MERITS), no(s). 1474/62, 1677/62, 1691/62, 1769/63, 1994/63 and 2126/64. 23/07/1968.
Belli and Arquier-Martinez v. Switzerland	Case of Belli and Arquier-Martinez v. Switzerland, no. 65550/13, 11/12/2018.
Berkman v. Russia	Case of Berkman v. Russia, no. 46712/15, 01/12/2020.
Biao v. Denmark [GC]	Case of Biao v. Denmark [GC], no. 38590/10, 24/05/2016.
Bouamar v. Belgium	Case of Bouamar v. Belgium, no. 9106/80, 27/06/1988.
Brincat and others v. Malta	Case of Brincat and others v. Malta, no(s). 60908/11, 62110/11, 62129/11, 62312/11 and 62338/11, 24/07/2014.
British Gurkha Welfare Society and others v. The United Kingdom	Case of British Gurkha Welfare Society and Others v. The United Kingdom, no.44818/11, 15/09/2016.

Budayeva and others v Russia	Case of Budayeva and Others v Russia, no. 15339/02, 20/03/2008.
Budinova and Chaprazov v. Bulgaria	Case of Budinova and Chaprazov v. Bulgaria, no. 12567/13, 16/02/2021.
Burden v. UK [GC]	Burden v. UK [GC] no. 13378/05, 29/04/2008.
Burlya and others v. Ukraine	Case of Burlya and others v. Ukraine, no. 3289/10, 06/11/2018.
Caamaño Valle v. Spain	Case of Caamaño Valle v. Spain, no. 43564/17, 11/05/2021.
Çam v. Turkey	Case of Çam v. Turkey, no. 51500/08, 23/02/2016.
Carson and Others v. The United Kingdom [GC]	Case of Carson and Others v. The United Kingdom [GC], no. 42184/05, 16/03/2010.
Carvalho Pinto de Sousa Morais v. Portugal	Case of Carvalho Pinto de Sousa Morais v. Portugal, no. 17484/15, 25/07/2017.
Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania [GC]	Case of Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania [GC], 47848/08, 17/07/2014.
Centrum för Rättvisa v. Sweden [GC]	Case of Centrum för Rättvisa v. Sweden [GC], no. 35252/08, 25/05/2021.
Chapman v. The United Kingdom [GC]	Case of Chapman v. The United Kingdom [GC], no. 27238/95, 18/01/2001.
Chassagnou v. France [GC]	Case of Chassagnou v France [GC], no (s). 25088/94, 28331/95 and 28443/95, 29/04/1999.
Chiragov and others v. Armenia [GC]	Case of Chiragov and others v. Armenia [GC], 13216/05, 16/06/2015.

Christine Goodwin v. The United Kingdom [GC]	Case of Christine Goodwin v. the United Kingdom [GC], no. 28957/95, 11/07/2002.
Cînța v. Romania	Case of Cînța v. Romania, no. 3891/19, 18/02/2020.
Clift v. The United Kingdom	Case of Clift v. The United Kingdom, no. 7205/07, 13/07/2010.
Cordella et autres c. Italie (unofficial translation)	Affaire Cordella et autres c. Italie, no(s). 54414/13 and 54264/15, 24/01/2019. (unofficial translation)
D.G. v. Ireland	Case of D.G. v. Ireland, no. 39474/98, 16/05/2002.
D.H. and others v. The Czech Republic [GC]	Case of D.H. and others v. the Czech Republic [GC], no. 57325/00, 13/11/2007.
De Jong, Baljet and Van den Brink v. the Netherlands	Case of De Jong, Baljet and Van den Brink v. the Netherlands, no(s). 8805/79, 8806/79 and 9242/81, 22/05/1984.
Demir and Baykara v. Turkey [GC]	Case of Demir and Baykara v. Turkey [GC], no. 34503/97, 12/11/2008.
Duarte Agostinho and others v. Portugal and others (unofficial translation).	Case of Duarte Agostinho and Others v. Portugal and others, no. 39371/20, 13/11/2020. (unofficial translation accessed through NHRI) https://www.nhri.no/wp-content/uploads/2020/11/DUARTE-AGOSTINHO-and-others-vs-PORTUGAL-and-32-others-unofficial-translation-fr.en_.pdf
Dubetska and others v. Ukraine	Case of Dubetska and others v. Ukraine, 30499/03, 10/02/2011.

Enver Şahin v. Turkey	Case of Enver Şahin v. Turkey, no. 23065/12, 30/01/2018.
Eremia v. The Republic of Moldova	Case of Eremia v. The Republic of Moldova, no. 3564/11, 28/05/2013.
Fábián v. Hungary [GC]	Case of Fábián v. Hungary [GC], no. 78117/13, 05/09/2017.
Fabris v. France [GC]	Case of Fabris v. France [GC], no. 16574/08, 07/02/2013.
Fadeyeva v. Russia	Case of Fadeyeva v. Russia, no. 55723/00, 09/06/2005.
Fredin v. Sweden (No. 1)	Case of Fredin v. Sweden (No. 1), 12033/86, 18/02/1991.
G.I. v. Italy	Case of G.I. v. Italy, no. 59751/15, 10/09/2020.
Gäfgen v. Germany [GC]	Case of Gäfgen v. Germany [GC], 22978/05, 01/06/2010.
Garib v. The Netherlands [GC]	Case of Garib v. The Netherlands [GC], no. 43494/09, 06/11/2017.
Gerger v. Turkey [GC]	Gerger v. Turkey [GC], no. 24919/94, 08/07/1999.
Gorriaz Lizarraga and others v. Spain	Case of Gorriaz Lizarraga and others v. Spain, no. 62543/00, 27/04/2004.
Greenpeace Nordic and Others v. Norway	Case of Greenpeace Nordic and Others v. Norway, no 34068/21, communicated 16/12/2021.
Guerra and others v. Italy [GC]	Case of Guerra and others v. Italy [GC], no. 14967/89, 19/02/1998.
Hardy and Maile v. The United Kingdom	Case of Hardy and Maile v. The United Kingdom, no. 31965/07, 14/02/2012.

Hatton and others v. The United Kingdom [GC]	Case of Hatton and others v. The United Kingdom [GC], no. 36022/97, 08/07/2003.
Hoogendijk v. The Netherlands	Case of Hoogendijk v. The Netherlands, no. 58641/00, 06/01/2005.
Hudorovič and Others v. Slovenia	Case of Hudorovič and Others v. Slovenia, no(s). 24816/14;25140/14, 10/03/2020.
Interim measures (Ukraine v. Russia) 1/3/2022	ECtHR press release, "The Court grants urgent interim measures in application concerning Russian military operations on Ukrainian territory". 1/3/2022. https://hudoc.echr.coe.int/eng-press?i=003-7272764-9905947 (accessed 15.04.2022)
Interim measures (Ukraine v. Russia) 4/3/2022.	ECtHR press release, "Decision of the Court on requests for interim measures in individual applications concerning Russian military operations on Ukrainian territory". 4/3/2022. https://hudoc.echr.coe.int/eng-press?i=003-7277548-9913621 (accessed 15.04.2022)
Interim measures (Ukraine v. Russia) 1/4/2022.	ECtHR press release, "Expansion of interim measures in relation to Russian military action in Ukraine". 1/4/2022. https://hudoc.echr.coe.int/eng-press?i=003-7300828-9953996 (accessed 15.04.2022)
Inze v. Austria	Case of Inze v. Austria, no. 8695/79, 28/10/1987.
Jurčić v. Croatia	Case of Jurčić v. Croatia, no. 54711/15, 04/02/2021.
Kafkaris v. Cyprys [GC]	Case of Kafkaris v. Cyprys [GC], no. 21906/04, 12/02/2008.
Khamtoku and Aksenchik v. Russia [GC].	Case of Khamtoku and Aksenchik v. Russia [GC], no(s). 60367/08 and 961/11, 24/01/2017.

Kiyutin v. Russia	Case of Kiyutin v. Russia, no. 2700/10, 10/03/2011.
Kjeldsen, Busk Madsen and Pedersen v. Denmark	Case of Kjeldsen, Busk Madsen and Pedersen v. Denmark, no(s). 5095/71, 5920/72 and 5926/72, 07/12/1976.
Klass and others v. Germany [Plenary]	Case of Klass and others v. Germany [Plenary], no. 5029/71, 06/09/1978.
Konstantin Markin v. Russia [GC]	Case of Konstantin Markin v. Russia [GC], 30078/06, 22/03/2012.
Kyrtatos v. Greece	Case of Kyrtatos v. Greece, 41666/98, 22/05/2003.
Leonov v. Russia	Case of Leonov v. Russia, no. 77180/11, 10/04/2018.
López Ostra v. Spain	Case of López Ostra v. Spain, no. 16798/90, 09/12/1994.
M.F. v. Hungary	Case of M.F. v. Hungary, 45855/12, 31/10/2017.
M.S.S v. Belgium and Greece [GC]	Case of M.S.S v. Belgium and Greece [GC], 30696/09, 21/01/2011.
Mamatas and others v. Greece	Case of Mamatas and others v. Greece, no(s). 63066/14, 64297/14 and 66106/14, 21/07/2016.
Marckx v. Belgium [Plenary]	Case of Marckx v. Belgium [Plenary], no. 6833/74, 13/06/1979.
Mazurek v. France	Case of Mazurek v. France no. 34406/97, 01/02/2000.
Mex M. v. Austria	Mex M. v. Austria (application pending) filed 03/25/2021. http://climatecasechart.com/climate-change-litigation/non-us-case/mex-m-v-austria/
Mizzi v. Malta	Case of Mizzi v. Malta, no. 26111/02, 12/01/2006.

Moldovan and Others v. Romania (No. 2)	Moldovan and Others v. Romania (No.2), no(s). 41138/98 and 64320/01, 12/07/2005
National Belgian Police v. Belgium [Plenary]	Case of National Belgian Police v. Belgium [Plenary], no. 4464/70, 27/10/1975.
Neulinger and Shuruk v. Switzerland [GC]	Case of Neulinger and Shuruk v. Switzerland [GC], no. 41615/07, 06/07/2010.
O'Keeffe v. Ireland [GC]	Case of O'Keeffe v. Ireland [GC], no. 35810/09, 28/01/2014.
Öneryildiz v Turkey [GC]	Case of Öneryildiz v Turkey [GC], no. 48939/99, 30/11/2004.
Opuz v. Turkey	Case of Opuz v. Turkey, no. 33401/02, 09/06/2009.
Paulik v. Slovakia	Case of Paulik v. Slovakia, no. 10699/05, 10/10/2006.
Petrovic v. Austria	Case of Petrovic v. Austria, no. 20458/92, 27/03/1998.
Pla and Puncernau v. Andorra	Case of Pla and Puncernau v. Andorra, no. 69498/01, 13/07/2004.
Popov v. France	Case of Popov v. France, no(s). 39472/07 and 39474/07, 19/01/2012.
Popovic and others v. Serbia	Case of Popovic and others v. Serbia, no. 26944/13;14616/16;14619/16;22233/16, 30/06/2020.
Rainys and Gasparavicius v. Lithuania	Case of Rainys and Gasparavicius v. Lithuania, no(s). 70665/01 and 74345/01, 07/04/2005.
Rasmussen v. Denmark	Case of Rasmussen v. Denmark, no. 8777/79, 28/11/1984.
Roman Zakharov v. Russia [GC]	Case of Roman Zakharov v. Russia [GC], no. 47143/06, 04/12/2015.

S. V. and A vs Denmark [GC]	Case of S. V. and A vs Denmark [GC], no(s). 35553/12, 36678/12 and 36711/12, 22/10/2018.
S.A.S v. France [GC]	Case of S.A.S v. France [GC], no. 43835/11, 01/07/2014.
Saadi v. the United Kingdom [GC]	Case of Saadi v. the United Kingdom [GC], 13229/03, 29/01/2008.
Sahin v. Germany [GC]	Case of Sahin v. Germany [GC], no. 30943/96, 08/07/2003.
Sampanis v. Greece	Case of Sampanis v. Greece, no. 32526/05, 25/6/2008.
Schwizgebel v. Switzerland	Case of Schwizgebel v. Switzerland. No. 25762/07, 10/06/2010.
Sejdić and Finci v Bosnia and Herzegovina [GC]	Case of Sejdić and Finci v Bosnia and Herzegovina [GC], no(s). 27996/06 and 34836/06, 22/12/2009.
Selmouni v. France [GC]	Case of Selmouni v. France [GC], no. 25803/94, 28/07/1999.
Sheffield and Horsham v. The United Kingdom [GC]	Case of Sheffield and Horsham v. The United Kingdom [GC], no(s). 22985/93 and 23390/94, 30/07/1998.
Soering v. The United Kingdom [Plenary]	Case of Soering v. The United Kingdom [Plenary], no. 14038/88, 07/07/1989.
Springett and Others v. the United Kingdom	Case of Springett and Others v. the United Kingdom, no(s). 34726/04, 14287/05 and 34702/05, 27/04/2010.

Stec and Others v. The United Kigdom [GC]	Case of Stec and others v. the United Kingdom [GC], no(s). 65731/01 and 65900/01, 12/04/2006.
Strøbye and Rosenlind v. Denmark	Case of Strøbye and Rosenlind v. Denmark, no(s). 25802/18;27338/18, 02/02/2021.
Stubbings v. United Kingdom	Case of Stubbings v United Kingdom, no(s). 22083/93 and 22095/93, 22/10/1996.
Swedish Engine Drivers' Union v. Sweden	Case of Swedish Engine Drivers' Union v. Sweden, 5614/72, 06/02/1976.
Tapayeva and others v. Russia	Case of Tapayeva and others v. Russia, no. 24757/18, 23/11/2021.
Tarakhel v. Switzerland [GC]	Case of Tarakhel v. Switzerland [GC], no. 29217/12, 04/11/2014.
Taşkin and others v. Turkey	Case of Taşkin and others v. Turkey, no. 46117/99, 10/11/2004.
Tătar c. Roumanie (unofficial translation)	Affaire Tătar c. Roumanie, no. 67021/01, 27/01/2009. (unofficial translation)
Thlimmenos v. Greece [GC]	Case of Thlimmenos v. Greece [GC], no. 34369/97, 06/04/2000.
Tkhelide v. Georgia	Case of Tkhelide v. Georgia, no. 33056/17, 08/07/2021.
Tunikova and others v. Russia	Case of Tunikova and others v. Russia, no(s). 55974/16;53118/17;27484/18;28011/19, 14/12/2021.
Tyrer v. The United Kingdom	Case of Tyrer v. The United Kingdom, no. 5856/72, 25/04/1978.

Verein Klimaseniorinnen Schweiz and Others v. Switzerland	Case of Verein Klimaseniorinnen Schweiz and Others v. Switzerland, no. 53600/20, communicated 17/03/2021.
Vilho Eskelinen and others v. Finland [GC]	Case of Vilho Eskelinen and others v. Finland [GC], no. 63234/00, 19/04/2007.
Volodina v. Russia	Case of Volodina v. Russia, no. 41261/17, 09/07/2019
Vool and Toomik v. Estonia	Case of Vool and Toomik v. Estonia, no(s). 7613/18 and 12222/18, 29/03/2022.
Yocheva and Ganeva v. Bulgaria	Case of Yocheva and Ganeva v. Bulgaria, no(s). 18592/15;43863/15, 11/05/2021.
Zarb Adami v. Malta	Case of Zarb Adami v. Malta, no. 17209/02, 20/06/2006.
Zhdanov and others v. Russia	Case of Zhdanov and others v. Russia, no(s). 12200/08;35949/11;58282/12, 16/07/2019.

Other Jurisprudence

ECJ

Case C-341/08 Dominica Petersen v Berufungsausschuss für Zahnärzte für den Bezirk Westfalen-Lippe.	ECLI:EU:C:2010:4

Case C-286/12 European Commission v Hungary.	ECLI:EU:C:2012:687
Joined Cases C-250/09 and C-268/09 Vasil Ivanov Georgiev v Tehnicheski universitet – Sofia, filial Plovdiv.	ECLI:EU:C:2010:699
Case C-565/19 P Armando Carvalho and Others v European Parliament and Council of the European Union.	ECLI:EU:C:2021:252
Case T-13/99, Pfizer Animal Health SA v Council of the European Union.	ECLI:EU:T:2002:209
Case C-77/09, Gowan Comércio Internacional e Serviços Lda v Ministero della Salute.	ECLI:EU:C:2010:803

National Cases

Neubauer et al v. Germany	BVerfG, Order of the First Senate of 24 March 2021 - 1 BvR 2656/18. (Official English translation) http://www.bverfg.de/e/rs20210324_1bvr265618en.html (accessed 15.04.2022)

The State of the Netherlands v. Urgenda	The State of the Netherlands v. Urgenda, the Supreme Court of the Netherlands, Judgment of 20 December 2019, ECLI:NL:HR:2019:2007. https://www.urgenda.nl/wp-content/uploads/ENG-Dutch-Supreme-Court-Urgenda-v-Netherlands-20-12-2019.pdf (accessed 15.04.2022)
Environnement Jeunesse v. Canada	Environnement Jeunesse v. Canada, decision of the Superior Court of Quebec, July 11, 2019. http://climatecasechart.com/climate-change-litigation/wp-content/uploads/sites/16/non-us-case-documents/2019/20190711_500-06-000955-183_decision-2.pdf (Unofficial translation, accessed 10.04.2022)
HR-2020-2427-P	[Read in Lovdata]
HR-2021-1975-S	[Read in Lovdata]
The Norwegian Election Act	Lov 28. Juni 2002 nr. 57 om valg til Stortinget, fylkesting og kommunestyrer (valgloven).

Treaties and Instruments

ECHR	The European Convention for the Protection of Human Rights and Fundamental Freedoms, Rome 4 November 1950.
Protocol No. 15	Protocol No. 12 amending the Convention on the Protection of Human Rights and Fundamental Freedoms, Strasbourg 26 June 2013.
Protocol No. 12	Protocol No. 12 to the Convention for the Protection on Human Rights, Rome 4. November 2000.

VCLT	The Vienna Convention on the Law of Treaties, Vienna 23 May 1969.
ICCPR	The International Covenant on Civil and Political Rights, New York, 16 December 1966.
The Aarhus Convention	The Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. Aarhus, 25 June 1998.
TFEU	Treaty on the Functioning of the European Union, Lisbon, 13 December 2007.
Directive 2000/78/EC	Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.
UNFCCC	The United Nations Framework Convention on Climate Change. New York, 9 May 1992.
The Paris Agreement	Paris Agreement. Paris, 12 December 2015.
United Nations Treaty Collection (2022)	United Nations Treaty Collection. "Paris Agreement". https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-7-d&chapter=27&clang=_en (accessed 10.04.2022).
The Stockholm Declaration	The United Nations Conference on the Human Environment. Stockholm, 16 June 1972.

The Rio Declaration	The United Nations Conference on the Human Environment. Rio, 12 August 1992.
UNCRC	The United Nations Convention on the Rights of the Child. New York, 20 November 1989.
Committee on the Rights of the Child (2013)	UN Committee on the Rights of the Child. General Comment No. 14 on the right of the child to have his or her best interests taken as primary consideration (art. 3, para. 1). CRC/C/GC/14. (2013). https://digitallibrary.un.org/record/778523
Sacchi et al v. Argentina et al	Committee on the Rights of the Child. *Sacchi et al v. Argentina et al.* CRC/C/88/D/104/2019 (08.10.2021). https://tbinternet.ohchr.org/Treaties /CRC/Shared%20Documents/ARG/CRC_C_88_D_104_2019_33020_S.pdf