



Grand Chamber hearing in the case of Duarte Agostinho and Others v. Portugal and 32 Others

The European Court of Human Rights is holding a **Grand Chamber¹** hearing today **Wednesday 27 September 2023 at 9.15 a.m.** in the case of **Duarte Agostinho and Others v. Portugal and 32 Others** (application no. 39371/20).

The case concerns the greenhouse gas emissions from 33 member States, which in the applicants' view contribute to the phenomenon of global warming resulting, among other things, in heatwaves affecting the applicants' living conditions and health.

A recording of the hearing will be available on the Court's Internet site (www.echr.coe.int). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.

The applicants are Portuguese nationals aged between 11 and 24.

The applicants claim that the forest fires that have occurred in Portugal each year since 2017 are a direct result of global warming. They allege a risk to their health on account of these fires, and assert that they have already experienced disrupted sleep patterns, allergies and respiratory problems, which are aggravated by the hot weather. The fifth and sixth applicants stress that climate disruption is causing very powerful storms in winter and maintain that their house, which is situated near the sea in Lisbon, is potentially at risk of damage from the storms.

The applicants also assert that they experience anxiety caused by these natural disasters and by the prospect of spending their whole lives in an increasingly warm environment, affecting them and any future families they might have.

The applicants complain that the 33 States concerned are failing to comply with their positive obligations under Articles 2 (right to life) and 8 (right to respect for private and family life) of the Convention, read in the light of their undertakings under the 2015 Paris Agreement on climate change (COP 21). They also raised an issue under Article 3 (prohibition of ill-treatment) of the Convention.

The applicants further allege a violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 2 and/or Article 8 of the Convention, arguing that global warming affects their generation particularly and that, given their age, the interference with their rights is greater than in the case of older generations.

They claim that the above-mentioned provisions of the Convention should be read in the light of Article 3 (1) of the United Nations Convention on the Rights of the Child. They also rely on the principle of intergenerational equity referred to in a number of international instruments including the 1992 Rio Declaration on Environment and Development, the Preamble to the Paris Agreement and the 1992 United Nations Framework Convention on Climate Change.

¹ Under Article 30 of the European Convention on Human Rights, "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber."

The applicants take the view that the member States have failed to fulfil their obligations under the above-mentioned provisions of the Convention, read in particular in the light of the international climate treaties, which require signatory States to take steps to adequately regulate their contributions to climate change. They claim that the lack of adequate measures to limit global emissions constitutes a breach of the States' obligations.

Procedure

The application was lodged with the European Court of Human Rights on 7 September 2020.

On 13 November 2020 the Governments concerned were given [notice](#)² of the application, with questions from the Court. The Chamber also decided to deal with this case as a matter of priority, in accordance with Rule 41 of the Rules of Court.

The Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber on 28 June 2022.

The following organisations were granted leave to intervene in the written proceedings as third parties: the Commissioner for Human Rights; ALL-YOUTH research project and Tampere University Public Law research group; the UN Special Rapporteur on human rights and the environment and the UN Special Rapporteur on toxics and human rights; Save the Children International; Amnesty International and 16 other interveners; ESCR-Net; Climate Action Network Europe (CAN-E); Center for International Environmental Law, Greenpeace International and the Union of Concerned Scientists; the European Commission; Notre Affaire à Tous (NAAT); Our Children's Trust, OXFAM International, Centre for Climate Repair at Cambridge and Centre for Child Law; European Network of National Human Rights Institutions (ENNHRI).

Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Síofra O'Leary (Ireland), *President*,
Georges Ravarani (Luxembourg),
Marko Bošnjak (Slovenia),
Gabriele Kucsko-Stadlmayer (Austria),
Pere Pastor Vilanova (Andorra),
Arnfinn Bårdsen (Norway),
Armen Harutyunyan (Armenia)
Pauliine Koskelo (Finland),
Tim Eicke (the United Kingdom),
Darian Pavli (Albania),
Raffaele Sabato (Italy),
Lorraine Schembri Orland (Malta),
Anja Seibert-Fohr (Germany),
Peeter Roosma (Estonia),
Ana Maria Guerra Martins (Portugal),
Mattias Guyomar (France),
Andreas Zünd (Switzerland), *judges*,
Alena Poláčková (Slovakia),
Jovan Ilievski (North Macedonia),

² In accordance with Rule 54 of the Rules of Court, a Chamber of seven judges may decide to bring to the attention of a Convention State's Government that an application against that State is pending before the Court (the so-called "communications procedure"). Further information about the procedure after a case is communicated to a Government can be found in the Rules of Court.

Kateřina řimáčková (the Czech Republic),
Lado Chanturia (Georgia),
Péter Paczolay (Hungary), *substitute judges*,

and also Søren Prebensen, *Deputy Grand Chamber Registrar*.

Representatives of the parties

Government

The following representatives of the Governments will address the Court:

United Kingdom – Mr Sudhanshu Swaroop KC, *Counsel*;

Belgium – Ms Isabelle Niedlispacher, *Agent*;

Portugal – Mr Ricardo Matos, *Agent*;

The Netherlands – Mr Vincent de Graaf, *Deputy Agent*;

Türkiye – Mr Hacı Ali Açıkğül, *Agent*.

The following persons will also attend the hearing:

Austria – Ms Brigitte Ohms, *Deputy Agent* – **Belgium** – Mr Henri Kevers, Ms Leen Chanet, Ms Sophie Thys, *Advisers* – **Bulgaria** – Ms Iva Stancheva-Chinova, Ms Veselina Hristova, *Agents* – **Croatia** – Ms řtefica Stažnik, *Agent*; Mr David Adesola Bankole, *Adviser* – **Cyprus** – Ms Theodora Christodoulidou, *Agent*; Ms Leto Cariolou, *Adviser* – **Czech Republic** – Mr Petr Konůpka, *Agent*; Ms Jana Martinková, *Adviser* – **Denmark** – Mr Allan R. Jacobsen, *Ministry of Foreign Affairs*; Ms Emilie Mariendal, *Ministry of Climate, Energy and Utilities* – **Estonia** – Mr Tim Kolk, *Agent*; Ms Helen-Brigita Sillar, Ms Triin Nymann, *Advisers* – **Finland** – Ms Krista Oinonen, *Agent*; Ms Karoliina Anttonen, Ms Pilvi Rämä, *Advisers* – **France** – Mr Tanguy Stehelin, *Co-Agent*; Ms Paloma Reparaz, Ms Charlotte Blondel, *Advisers* – **Germany** – Dr Hans-Jörg Behrens, Dr Nicola Wenzel, *Agents*; Ms Dr Kathrin Mellech, *Adviser* – **Greece** – Ms Vasileia Pelekou, *State’s Legal Counsel*; Ms Aikaterini Magrippi, *Adviser* – **Hungary** – Mr Zoltán Tallódi, *Agent*; Mr Dávid Oravec, *Permanent Representation of Hungary to the Council of Europe* – **Ireland** – Ms Catherine Donnelly, Mr David Fennelly, *Counsel*; Mr Barra Lysaght, *Agent*; Mr Patrick Rooney, *Adviser* – **Italy** – Mr Lorenzo D’Ascia, *Agent*; Ms Ludovisa Chiussi Curzi, Mr Alessandro Dinisi, *Advisers* – **Latvia** – Ms Elīna Luīze Vītola, *Deputy Agent* – **Lithuania** – Ms Karolina Bubnytė-řirmenė, *Agent* – **Luxembourg** – Ms Cathy Wiseler, *Agent*; Ms Roberta Spoto, Mr Dylan Siry, *Advisers* – **Malta** – Dr Julian Vella, *Agent* – **The Netherlands** – Mr Floris Tan, Ms Michelle Duin, *Advisers* – **Norway** – Ms Henriette Busch, *Acting Agent*, Ms Ane Rostrup Gabrielsen, *Senior Adviser, Ministry of Climate and Environment*, Mr Dag Erlend Henriksen, *Deputy Director General, Ministry of Petroleum and Energy*, Mr Gøran Østerman Thengs, *Advisers* – **Poland** – Mr Jan Sobczak, *Agent* – **Portugal** – Ms Ana Garcia Marques, Ms Joana Veloso, *Head of the Department for Climate Change of the Portuguese Environmental Agency, Advisers* – **Romania** – Ms Oana-Florentina Ezer, *Agent*; Mr Simion-Adrian Purza, Ms Adriana-Mihaela Bărbieru, *Co-Agents*; Mr Ion Jinga, *Ambassador, Permanent Representation of Romania to the Council of Europe* – **Slovak Republic** – Ms Miroslava Bálintová, *Agent*; Ms Eva Vančová, *Adviser* – **Slovenia** – Ms Bojana Jovin Hrastnik, Ms Tjaša Mihelič Žitko, *Agents*; Mr Helmut Hartman, *Co-Agent*; Ms Ana Kerševan, *Adviser* – **Spain** – Mr Alfonso Brezmes Martínez de Villarreal, *Agent*; Mr Luis Vacas Chalfoun, *Co-Agent* – **Sweden** – Ms Elinor Hammarskjöld, *Agent*; Mr Daniel Gillgren, Ms Anna Uppfeldt, *Advisers* – **Switzerland** – Mr Alain Chablais, *Agent*; Ms Maya Beeler-Sigron, *Adviser* – **Türkiye** – Mr Hacı Ali Açıkğül, *Co-Agent*; Mr Ahmet Müşerref Yakişik, Ms Ferda Yildirim, Ms Emel Ünal, *Advisers* – **United Kingdom** – Ms Sarah Macrory, *Agent*; Ms Penelope Nevill, *Adviser*; Ms Virginia Bennett, *Department for Energy Security and Net Zero, Adviser*.

Ukraine and the Russian Federation: these Governments will not participate in the hearing.

Applicants

The following representatives of the applicants will address the Court:

Ms Alison Macdonald KC, *Counsel*;

Ms Amy Sander, *Counsel*.

The following will also attend the hearing: Mr Luke Tattersall, Mr Joshua Jackson, Mr Paul Clark, Mr Richard Reynolds, *Advisers*.

Applicants

Cláudia Duarte Agostinho, Catarina dos Santos Mota, Martim Duarte Agostinho, Sofia dos Santos Oliveira, André dos Santos Oliveira, Mariana Duarte Agostinho.

Third parties

The representatives of the following third parties will address the Court:

Office of the Commissioner for Human Rights

Ms Dunja Mijatović, Council of Europe Commissioner for Human Rights

The following will also attend the hearing: Mr Andrzej Mancewicz, Mr Matthieu Birker, *Advisers*.

European Commission

Mr Daniel Calleja Crespo, Director General of the Legal Service, European Commission

The following will also attend the hearing: Ms Klara Talabér-Ritz, Ms Mihaela Carpus-Carcea, *Advisers*.

ENNHRI

Ms Adele Matheson Mestad, Director of the Norwegian National Human Rights Institution, *Counsel*.

The following will also attend the hearing: Ms Katalin Sulyok, Chair of ENNHRI's Working group on Climate Crisis and Human Rights; Ms Hannah C. Brænden, Mr Peter William Dawson, *Advisers*.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR_CEDH](https://twitter.com/ECHR_CEDH).

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.