EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

DECISION

Application no. 40054/23
Peter FLIEGENSCHNEE and Others
against Austria

The European Court of Human Rights (Fourth Section), sitting on 1 July and 18 November 2025 as a Chamber composed of:

Lado Chanturia*, President*,
Jolien Schukking,
Lorraine Schembri Orland,
Anja Seibert-Fohr,
Anne Louise Bormann,
Sebastian Răduleţu,
András Jakab*, judges*,

and Simeon Petrovski, *Deputy Section Registrar,*

Having regard to the above application lodged on 7 November 2023,

Having regard to the decision to grant priority to the above application under Rule 41 of the Rules of Court,

Having deliberated, decides as follows:

INTRODUCTION

1. The case concerns complaints raised primarily under Articles 2 and 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") about the refusal by Austria's Federal Minister for Digital and Economic Affairs to grant the applicants' request for a ban on the sale of fossil fuels to mitigate the effects of climate change.

THE FACTS

2. The first, second and third applicants are individuals who live in Austria. The fourth applicant is an association registered in Austria and recognised as an "environmental organisation" (*Umweltorganisation*) under section 19(1)(7) of the Environmental Impact Assessment Act

(*Umweltverträglichkeitsprüfungsgesetz* – see paragraphs 12 and 13 below). A list of the applicants is set out in the appendix.

3. The facts of the case, as submitted by the applicants, may be summarised as follows.

A. Request lodged by the applicants

4. On 11 May 2021 the applicants lodged a request with the Federal Minister for Digital and Economic Affairs (formerly the Federal Minister of Science, Research and Economy – hereinafter "the Federal Minister") for an ordinance (*Verordnung*) to be issued, based on section 69 of the Trade Act (*Gewerbeordnung*), which would authorise measures to prevent risks to human life and health as well as to prevent environmental pollution caused by products produced or sold by businesses (see paragraph 10 below). Specifically, the applicants sought an order banning the sale of fossil fuels by mineral oil and petroleum distributors from specific dates in the future, such as from 2025 for solid fossil fuels or from 2040 for fossil fuels used in aviation. Alternatively, they asked the Federal Minister to introduce "other appropriate and equally effective measures". They argued that the greenhouse gas ("GHG") emissions released by burning those fossil fuels were the primary cause for the rise in the global average temperature, which in turn had led to an increase in heat-related deaths, the spread of infectious diseases, droughts, extreme weather events and natural catastrophes. According to the applicants, those effects adversely impacted the environment and would endanger the life and health of the first applicant owing to his old age, his heart disease, a previous pulmonary infarction and a heart attack; of the second applicant owing to her young age and thus prolonged exposure in the future; and of the general public whose interests the fourth applicant, an environmental organisation, maintained that it represented. In addition, the effects threatened the economic existence of the third applicant, a farmer, owing to crop shortfalls. According to the applicants, Austria had failed to comply with its obligation under European Union (EU) Regulation 2018/842 ("Effort Sharing Regulation") to reduce its emissions by 36% by 2030 (see paragraph 19 below; see also *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, § 208, 9 April 2024); its obligation under the Paris Agreement to limit the increase in global temperature to 1.5°C (see paragraphs 17-18 below); and its obligation under Articles 2 and 8 of the Convention to protect the individual applicants' lives and health. The applicants argued that, based on those instruments, they had an individual right (*subjektives Recht*) to have an ordinance issued banning the sale of fossil fuels under section 69 of the Trade Act (see paragraph 10 below) or have other equally effective measures introduced under that provision. According to the applicants, the obligation to reduce GHG emissions was further comparable to air pollution monitoring obligations under EU law; the

Supreme Administrative Court (*Verwaltungsgerichtshof*) had held that those obligations under EU law had created individual rights enforceable through a request for an ordinance (see paragraph 15 below).

B. Decision of the Federal Minister

5. On 13 July 2021 the Federal Minister refused the request for lack of competence. According to the Minister, in essence, the applicants' request was aimed at enforcing a transition from fossil fuels to clean energy. She referred to the Constitutional Court (*Verfassungsgerichtshof*) which had clarified in its case-law that the legislative competence in matters relating to trade and industry under Article 10 § 1(8) of the Federal Constitution (see paragraph 9 below) was limited to typical trade-law measures, such as measures to protect trade and to prevent dangers directly emanating from trade for employees, customers, consumers, other businesses or other persons directly affected such as neighbours (see paragraph 14 below). The Federal Minister thus concluded that the Trade Act (see paragraph 10 below) only granted her the authority to exercise her functions specifically in the fields of trade regulation and security, which did not encompass the enforcement of a transition from fossil fuels to clean energy. Irrespective of whether the risks posed by climate change and an individual right to an ordinance, as asserted by the applicants (see paragraph 4 above), could be regarded as sufficiently established, it was evident from the constitutionally defined competencies that the Federal Minister did not have the power to authorise the requested measure. The same was valid for the alternative request made by the applicants for other appropriate and equally effective measures, which also lacked substantiation. The applicants lodged a complaint against the Federal Minister's decision (*Bescheidbeschwerde*) with the Vienna Regional Administrative Court (*Landesverwaltungsgericht Wien*).

C. Decision of the Vienna Regional Administrative Court on the applicants' complaint

6. On 25 April 2022 the Vienna Regional Administrative Court upheld the Federal Minister's decision (see paragraph 5 above), confirming that she lacked the competence to order the requested measure and holding that no individual right to such a measure arose from the legal instruments relied on by the applicants (see paragraph 4 above). The applicants' contention that the EU Effort Sharing Regulation or EU environmental law were intended to grant EU citizens an individual right to particular measures was unfounded. The cited case-law of the Supreme Administrative Court (see paragraph 4 *in fine* above and paragraph 15 below) similarly did not support that contention as it related to the implementation of a directive on air quality and was not applicable here. As concerns the right to life under Article 2 of the

Convention, it could not be established that there was a legally tangible direct nexus (*rechtlich fassbarer unmittelbarer Zusammenhang*) between the global climatic changes and the positive obligations under that Article. Furthermore, while Article 2 did include an obligation to protect lives by preventing natural disasters and environmental risks, that obligation only applied to geographically limited risks. Lastly, the Vienna Regional Administrative Court referred to the Constitutional Court's case-law finding that legislative inaction could not be remedied through complaints to the Constitutional Court and concluded that, like the Constitutional Court, administrative courts did not have the power to force the adoption of a specific law or the issuance of a specific ordinance in the context of the present case.

D. Decision of the Constitutional Court on the applicants' complaint

7. On 10 June 2022 the applicants lodged a complaint with the Constitutional Court against the decision of the Vienna Regional Administrative Court (*Erkenntnisbeschwerde*), repeating their previous arguments (see paragraph 4 above). They further argued that the Vienna Regional Administrative Court had not convincingly explained why there was no legal nexus between climate change and the positive obligations of States under the Convention or why the latter would only apply to geographically limited environmental hazards. Science clearly established that climate change was anthropogenic and manifested itself in natural catastrophes and risks. They referred to recent rulings of the Federal Constitutional Court of Germany and the Supreme Court of the Netherlands that States had a duty to protect the life and health of their populations in the face of climate change (for summaries of that case-law, see *Verein KlimaSeniorinnen Schweiz and Others*, cited above, §§ 254-57 and 260-61). They argued that they had also requested the issuance of other appropriate and equally effective measures which the Vienna Regional Administrative Court could have approved in the alternative.

8. On 27 June 2023 the Constitutional Court (E 1517/2022-14) rejected the applicants' complaint (see paragraph 7 above) against the decision of the Vienna Regional Administrative Court (see paragraph 6 above), confirming that neither EU law, nor the Convention, nor the Trade Act granted the applicants a right to an ordinance. While Articles 2 and 8 of the Convention entailed positive obligations in connection with serious environmental impacts, States enjoyed a wide margin of appreciation in the fulfilment of those obligations, although that margin did not extend to a complete lack of adequate protection measures or measures which were manifestly inadequate to achieve the protective aim. However, no right to a particular measure existed. The Constitutional Court consequently concluded that no right to an issuance of an ordinance under the Trade Act could be derived from the Convention.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

A. Domestic law and practice

1. The Federal Constitution

9. Article 10 § 1 of the Federal Constitution (*Bundes-Verfassungsgesetz*) lists the areas that fall within the legislative and executive competence of the Federal Government (*Bund*). The relevant part reads as follows:

Article 10

"(1) The Federal Government is responsible for legislation and enforcement in the following matters:

...

8. Matters relating to trade and industry; public agencies and private business intermediaries; combating unfair competition; antitrust law; patents and the protection of designs, trademarks and other designations of goods; matters relating to patent lawyers; engineering and civil engineering; chambers of commerce, trade and industry; and to the establishment of professional representations, in so far as they extend to the entire territory, with the exception of those in the agricultural and forestry sector."

2. The Trade Act

10. The Austrian Trade Act (*Gewerbeordnung*) governs the exercise of commercial activities. Under the heading "Protective provisions", section 69 of the Trade Act provides as follows:

"(1) The Federal Minister of Science, Research and Economy may, by ordinance, determine which measures are to be taken by persons carrying out a trade in the exercise of their commercial activity to prevent risks to human life or health or environmental pollution with regard to the establishment of their business premises, the goods produced, sold or brokered, equipment in use or stored for use, or with regard to services provided ...

(3) The provisions of paragrap[h] 1 ... shall not apply to the areas of healthcare, food safety, drug inspection, poison information services and occupational safety ..."

11. Section 69a of the Trade Act further provides:

"Environmental pollution that is to be avoided by ordinances pursuant to section 69 § 1 ... shall in any case include any adverse effects capable of causing permanent damage, in particular to soil, plants or animals."

3. The Environmental Impact Assessment Act

12. The Environmental Impact Assessment Act (*Umweltverträglichkeitsprüfungsgesetz* – "the EIAA") requires environmental impact assessments with the participation of the public for certain large-scale projects. In 2004 the EIAA was amended to improve

public participation in environmental matters ahead of Austria's ratification of the Aarhus Convention (see paragraph 16 below; see also the explanatory notes to the draft amendment, *Erläuterungen zur Regierungsvorlage* 648 BlgNR, 22. GP, p. 1). The newly added section 19(1)(7) of the EIAA now grants standing as a party to EIAA proceedings to "environmental organisations", which, by a decision of the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology, have been recognised as meeting the requirements laid down in section 19(6) of the EIAA. That provision reads as follows:

> "An environmental organisation is an association or a foundation
>
> 1. whose primary objective is the protection of the environment according to the association's statutes or the foundation's charter;
>
> 2. that is non-profit oriented ...; and
>
> 3. that has been in existence and has pursued the objective identified in point 1 for at least three years before submitting the application ...
>
> The association shall have at least one hundred members ..."

13. The status of "environmental organisation" under the EIAA is also used to grant participation rights in proceedings under other sectoral laws, such as the Waste Management Act (*Abfallwirtschaftsgesetz*) and the Trade Act (see paragraph 10 above).

4. Domestic case-law

14. In a decision of 15 March 1986 (G60/82), the Constitutional Court repealed a provision of the Trade Act (see paragraphs 10 above) which set out certain energy efficiency standards for products, services and equipment used in trade. The Constitutional Court held that the provision had been enacted on the sole basis of the legislative competence for matters relating to trade and industry under Article 10 § 1(8) of the Federal Constitution. However, that competence was limited to typical trade-law measures (*Maßnahmen typisch gewerberechtlicher Art*), such as measures to protect trade and to prevent dangers directly emanating from trade for employees, customers, consumers, other businesses or other persons directly affected such as neighbours. The contested provisions stated that energy-saving standards could not be classified as typical trade measures, as the failure to meet such standards did not pose particular risks usually prevented by trade regulations. In terms of their objective, content and effect, such measures went beyond her functions in the fields of trade-specific hazard prevention and trade regulation and security.

15. On 28 May 2015 the Supreme Administrative Court delivered a judgment in a case (Ro 2014/07/0096) in which the appellants had asked a regional authority to introduce comprehensive traffic measures to comply with the emission limits for fine particulate matter (*Feinstaub*). The authority

rejected the request as inadmissible for lack of standing, arguing that the appellants had no individual and enforceable legal right to specific measures under the Austrian Air Emission Protection Act (*Immissionsschutzgesetz – Luft*) or the underlying EU law on air quality. The Supreme Administrative Court held that according to EU law and the case-law of the Court of Justice of the European Union, member States had an obligation to provide effective remedies for rights guaranteed by EU law. Where an individual right to the issuance of a regulation could be derived from EU law, the situation was comparable to when the national legal system recognised such a right. The principle of *effet utile* (effectiveness of EU law) required national authorities to issue an ordinance when the conditions were met or to refuse the request when they were not. In the particular case, the Supreme Administrative Court did not consider the regional authority's reasoning that neither the Air Emission Protection Act nor Austrian law generally granted an individual right to request an ordinance sufficient to justify the refusal of such a request when it was well-founded in EU law.

B. International law

1. The Aarhus Convention

16. The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters ("the Aarhus Convention") entered into force on 30 October 2001 and was ratified by Austria on 17 January 2005. A detailed description of the relevant legal provisions of the Aarhus Convention on the participation of the public, including through non-governmental organisations, in environmental matters may be found in *Verein KlimaSeniorinnen Schweiz and Others* (cited above, §§ 141-43).

2. The Paris Agreement

17. The Paris Agreement – adopted at the United Nations Climate Change Conference (COP21) in Paris on 12 December 2015 and ratified by Austria on 5 October 2016 – is an international treaty setting out the overarching goal of GHG emissions reduction owing to – as acknowledged in its preamble – "the need for an effective and progressive response to the urgent threat of climate change on the basis of the best available scientific knowledge" (see also *Verein KlimaSeniorinnen Schweiz and Others*, cited above, § 136).

18. The Paris Agreement provides, in so far as relevant, as follows:

Article 2

"1. This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:

(a) Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;

(b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low [GHG] emissions development, in a manner that does not threaten food production; and

(c) Making finance flows consistent with a pathway towards low [GHG] emissions and climate-resilient development.

2. This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances."

Article 3

"As nationally determined contributions to the global response to climate change, all Parties are to undertake and communicate ambitious efforts ... with the view to achieving the purpose of this Agreement as set out in Article 2 ..."

Article 4

"1. In order to achieve the long-term temperature goal set out in Article 2, Parties aim to reach global peaking of [GHG] emissions as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science, so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty.

2. Each Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions."

C. European Union law

19. Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 "on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No. 525/2013" (OJ 2018/L 156, pp. 26-42), in short the "Effort Sharing Regulation", defines the obligations of member States in the fulfilment of the EU's GHG emission reduction target of 30% below 2005 levels in 2030 in specific sectors, such as domestic transport (excluding aviation), buildings, agriculture, small industry and waste management. Article 4 § 1 of the Effort Sharing Regulation provides that each member State will, by 2030, limit its GHG emissions at least by the percentage set out in Annex I for that member State in relation to its GHG emissions in 2005. The minimum percentage of GHG emission reduction for Austria was 36% by 2030 as compared to 2005.

20. The Regulation was amended in 2023 by Regulation (EU) 2023/857 of the European Parliament and of the Council of 19 April 2023 amending Regulation (EU) 2018/842 "on binding annual greenhouse gas emission reductions by member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement, and Regulation (EU) 2018/1999" (OJ L 111, pp. 1-14). The 2023 amendment included new emission reduction targets to be achieved by 2030, such as a reduction of 48% compared to 2005 levels for Austria.

COMPLAINTS

21. The applicants complained under Articles 2 and 8 of the Convention that the Federal Minister's refusal to order the requested ban on the sale of fossil fuels from future dates, or to take other appropriate and equally effective measures under the Trade Act (see paragraphs 4, 5 and 10 above), and the Austrian courts' subsequent confirmation of that refusal (see paragraphs 6 and 8 above) constituted a breach of the respondent State's obligations to protect the life and health of the individual applicants and the general public in Austria, whose interests were represented by the fourth applicant. The fourth applicant submitted that it had standing, relying on Article 9 § 3 of the Aarhus Convention (see paragraph 16 above). The third applicant additionally complained under Article 1 of Protocol No. 1 that her economic livelihood had been endangered by droughts affecting her crops.

THE LAW

A. The applicants' complaints under Articles 2 and 8 of the Convention

22. The applicants argued that anthropogenic GHG emissions had led to a significant rise in the global average temperature. Reports by the Intergovernmental Panel on Climate Change indicated that if an increase of the global average temperature by more than 1.5°C above pre-industrial levels was reached, which could already happen in 2026, tipping points would be crossed, making the Earth largely uninhabitable in the medium term. The applicants referred to the 2023 Climate Protection Report by the Austrian Environment Agency (*Umweltbundesamt*), a government-owned limited liability company providing expert advice on environmental matters, which had noted that the average temperature in Austria had already risen by 2°C and had led to heat waves, droughts and extreme weather incidents. The report also concluded that with existing measures Austria would only reach a GHG emissions reduction of 27% between 2005 and 2030 in the sectors governed by the EU Effort Sharing Regulation (see paragraphs 19-20 above).

23. According to the applicants, Austria had thus failed to comply with its obligation under the Paris Agreement (see paragraphs 17-18 above) to halt the rise of the average global temperature to well below 2°C and to take efforts to limit it to 1.5°C, and with its obligation under the amended EU Effort Sharing Regulation (see paragraph 20 above) to reduce its emissions by 48% between 2005 and 2030. While admitting that States enjoyed a wide margin of appreciation in the choice of measures to fulfil their positive obligations under the Convention, the applicants argued that this margin did not extend to a complete lack of appropriate protective measures or measures which were inadequate to achieve the goal. According to the applicants the latter was the case here as demonstrated by the Environment Agency's 2023 report (see paragraph 22 above). The applicants had therefore requested a concrete measure, or alternatively other measures with equal effect, which the Federal Minister had been competent to take under section 69 of the Trade Act since they related to risks arising from products sold by mineral oil and petroleum distributors governed by that Act (see paragraphs 4 and 10 above). The present application was directed against the Federal Minister's refusal of that request and her inaction despite being responsible for the enforcement of the Trade Act (see paragraph 5 above).

1. General principles

24. The Court notes at the outset that the general principles applicable to complaints under the Convention concerning climate change have been set out by the Grand Chamber in its judgment in *Verein KlimaSeniorinnen Schweiz and Others* (cited above, §§ 410-503, 506-20 and 538-54).

25. In particular, the Court reiterates that, in order to claim victim status under Article 34 of the Convention in the context of complaints concerning harm or risk of harm resulting from alleged failures by the State to combat climate change, an individual applicant needs to show that (a) he or she is subject to a high intensity of exposure to the adverse effects of climate change, that is, the level and severity of (the risk of) adverse consequences of governmental action or inaction affecting the applicant must be significant; and (b) that there is a pressing need to ensure the applicant's individual protection, owing to the absence or inadequacy of any reasonable measures to reduce harm (see ibid., §§ 487-88). An association can be recognised as having *locus standi* to lodge an application under Article 34 of the Convention for complaints concerning climate change when it can demonstrate that it is (a) lawfully established in the jurisdiction concerned or has standing to act there, (b) pursues a dedicated purpose in accordance with its statutory objectives in the defence of human rights of its members or other affected individuals within the jurisdiction concerned – including against threats arising from climate change – and (c) is genuinely qualified and representative to act on behalf of members or other affected individuals within that jurisdiction who are subject to specific threats or adverse effects

of climate change on their lives, health or well-being as protected under the Convention (ibid., § 502).

26. The Court reiterates that in order for Article 2 to apply in the context of climate change, there needs to be a serious, genuine and sufficiently ascertainable threat to life, containing an element of material and temporal proximity of the threat to the harm complained of by the applicant. The applicability of Article 2 would thus only be triggered if such a serious risk of a significant decline in a person's life expectancy owing to climate change has been established (ibid., § 513). The Court has previously recognised that Article 8 encompasses a right for individuals to effective protection by the State authorities from serious adverse effects of climate change on their life, health, well-being and quality of life (ibid., § 519). However, in this context, the question of "actual interference" or the existence of a relevant and sufficiently serious risk entailing the applicability of Article 8 essentially depends on the assessment of criteria similar to those used to examine the victim status of individuals and the *locus standi* of associations (see paragraph 25 above). These criteria are therefore also determinative for establishing whether Article 8 rights are at stake and whether this provision applies (see ibid., §§ 502 and 520).

27. As to the content of States' obligations in the context of climate change, the Court notes that – in the light of the above-mentioned right for individuals to enjoy effective protection by the State authorities from serious adverse effects of climate change on their life, health, well-being and quality of life – the State's obligation under Article 8 is to do its part to ensure such protection. The State's primary duty in this context is to adopt, and to effectively apply in practice, regulations and measures capable of mitigating the existing and potentially irreversible, future effects of climate change (ibid., §§ 544-45).

28. However, the Court also emphasises that, in accordance with the principle of subsidiarity, the national authorities have the primary responsibility to secure the rights and freedoms defined in the Convention, and in doing so they enjoy a margin of appreciation, subject to the Court's supervisory jurisdiction (ibid., § 541). In the specific context of climate change, a distinction must be drawn between the scope of the margin as regards, on the one hand, a State's commitment to the necessity of combating climate change and its adverse effects, and the setting of the requisite aims and objectives in this respect, and, on the other hand, the choice of means designed to achieve those objectives (ibid., § 543). While a reduced margin of appreciation applies for States regarding the former aspect, they are accorded a wide margin of appreciation as regards the latter, namely their choice of means, including operational choices and policies adopted in order to meet internationally anchored targets and commitments in the light of priorities and resources (ibid.).

29. The Court has further clarified that an examination of whether a State has remained within its margin of appreciation in principle entails an overall assessment of whether the competent domestic authorities have had due regard to the need to (a) adopt general measures specifying a target timeline for achieving carbon neutrality and the overall remaining carbon budget for the same time frame, or another equivalent method of quantification of future GHG emissions, in line with the overarching goal for national and/or global climate-change mitigation commitments; (b) set out intermediate GHG emissions reduction targets and pathways (by sector or other relevant methodologies) that are deemed capable, in principle, of meeting the overall national GHG reduction goals within the relevant time frames undertaken in national policies; (c) provide evidence showing whether they have duly complied, or are in the process of complying, with the relevant GHG reduction targets (see sub-paragraphs (a)-(b) above); (d) keep the relevant GHG reduction targets updated with due diligence, and based on the best available evidence; and (e) act in good time and in an appropriate and consistent manner when devising and implementing the relevant legislation and measures. A shortcoming in one particular respect alone will not necessarily entail that the State would be considered to have overstepped its relevant margin of appreciation (ibid., §§ 550-51).

2. Application of the above principles to the present case

30. Turning to the present case, the Court observes that the applicants' complaints under Articles 2 and 8 of the Convention were directed against the Federal Minister's refusal, confirmed by the Austrian courts (see paragraphs 6 and 8 above), to order a measure they had requested under section 69 of the Trade Act (see paragraphs 4, 5, 10 and 23 *in fine* above), and rested on the assumption that they had an individual right to the issuance of an ordinance under the Trade Act (see paragraph 4 *in fine* above). The Court reiterates the need for a serious, genuine and sufficiently ascertainable threat to life for the applicability of Article 2 (see paragraph 26 above) and the especially high threshold for fulfilling the victim status criteria in cases involving harm or risk of harm resulting from alleged failures by the State to combat climate change (see *Verein KlimaSeniorinnen Schweiz and Others*, cited above, § 488). It is questionable whether the alleged shortcomings by the respondent State in its measures to combat the adverse effects and threats of climate change on human health had such life-threatening consequences for the applicants such as to trigger the applicability of Article 2 of the Convention (compare ibid., § 536). The Court therefore considers it appropriate to examine the applicants' complaints under Article 8 of the Convention alone (ibid., § 537).

31. The Court notes at the outset that while the individual applicants alleged that the adverse effects of climate change endangered their lives and health generally – especially owing to their medical conditions and ages (see

paragraph 4 above) – they have provided neither any details as to whether and how they have been affected personally nor any evidence to substantiate the alleged vulnerabilities that would render them particularly at risk. As concerns the second and third applicants, the grounds based on which they considered themselves affected by climate change are, on the face of it, insufficient to meet the criteria for victim status of individuals addressed above (see paragraph 25 above). The 28-year-old second applicant complained that her health was endangered by the effects of climate change because of her young age and her thus lengthy exposure to those effects in the future. However, the Court recently found that even where applicants are considered to belong to a group particularly susceptible to the effects of climate change, such as older people, a particular level and severity of adverse consequences affecting them must be established to give rise to a pressing need to ensure their individual protection (see ibid., §§ 527 and 531-535). The third applicant has not put forward any particular vulnerability that would lead the Court to conclude that there was a high intensity of her exposure to the adverse effects of climate change and a pressing need to ensure her individual protection (ibid., §§ 487-88 and 520). As concerns the first applicant, he has not submitted to the Court any evidence in support of his alleged medical conditions, including heart disease, a previous pulmonary infarction and a heart attack. The Court thus does not consider that the first, second and third applicants have shown that they satisfy the victim-status criteria set out above (see the case-law cited in paragraph 25 above), and consequently concludes that they cannot claim to be victims within the meaning of Article 34 of the Convention as regards risks allegedly arising from the effects of climate change. Accordingly, their complaints under Article 8 of the Convention must be declared inadmissible pursuant to Article 35 §§ 3(a) and 4 of the Convention for being incompatible *ratione personae* with the provisions of the Convention.

32. As concerns the fourth applicant, the Court observes that it is not only an association incorporated under Austrian law but also one that is recognised as an environmental organisation under section 19(6) of the EIAA (see paragraphs 12-13 above). The Court is satisfied that, in principle, this recognition under Austrian domestic law is sufficient to show that the fourth applicant is lawfully established within that jurisdiction and has standing to act there, and that it pursues a dedicated purpose, based on its statutes, for the protection of the environment (see the requirement in section 19(6)(1) of the EIAA, paragraph 12 above). Whether the fourth applicant also, as required under the Court's case-law (see paragraph 25 above), has a dedicated purpose in the defence of human rights in the context of the protection of the environment and whether it can be regarded as representative to act on behalf of members or other affected individuals within the jurisdiction who are subject to specific threats or adverse effects of climate change on their lives, health or well-being as protected under the Convention is, however, unclear

as no detailed information on its membership nor its statutes have been submitted to the Court. In any event, the Court does not consider it necessary to decide whether the fourth applicant enjoys *locus standi* to bring the complaints at issue as they are inadmissible for the following reasons.

33. Having regard to the general principles summarised above (see paragraphs 26-29 above), the Court cannot subscribe to the fourth applicant's view that Article 8 of the Convention grants a right to the particular measure sought here, that is a ban on the sale of fossil fuels or other equally effective measures by the Federal Minister for Economic and Digital Affairs under the Trade Act. It is inherent in the principle of subsidiarity and the wide margin of appreciation accorded to States with respect to the choice of means to achieve their climate change goals (see paragraph 28 above) that Article 8 cannot be read to guarantee a right to a particular mitigation measure by a specific State body under a certain sectoral law of an applicant's choice. This is even less so where, as in the present case, according to the national law as interpreted by the domestic courts (see paragraphs 6, 9, 10 and 14 above), the measure lies outside the competence of the particular authority engaged.

34. The Court also notes that in its application to the Court, apart from referring to the 2023 report by the Austrian Environment Agency (see paragraphs 22-23 above), the fourth applicant did not substantiate how, in its view, the respondent State had failed to devise a regulatory framework setting the requisite objectives and goals in the context of climate change, or why the existing regulatory activity was to be considered insufficient. While the Court accepts that the Environment Agency, a government-owned expert organisation, has concluded that with existing measures Austria will not be capable of complying with its GHG emissions reduction targets by 2030, the applicant's mere reference to that finding is insufficient for the overall assessment that the Court must carry out in this context (see paragraph 29 above). In this connection, the Court attaches particular weight to the fact that the fourth applicant did not state that it had attempted to initiate any remedies other than requesting a measure from the Federal Minister of Digital and Economic Affairs under the Trade Act, or that there had been a lack of appropriate remedies by which to pursue its complaint.

35. In view of the foregoing, the Court concludes that the fourth applicant's complaints under this head are manifestly ill-founded and must thus be rejected pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

B. The third applicant's complaints under Article 1 of Protocol No. 1 to the Convention

36. The third applicant complained that her economic existence as a farmer, and consequently her right to protection of her property under Article 1 of Protocol No. 1 to the Convention, had been endangered because

of droughts caused by climate change. She argued that droughts would lead to an increase in crop shortfalls and a decrease in her agricultural productivity.

37. The Court notes that it has so far not applied Article 1 of Protocol No. 1 in the context of climate change and that its applicability does not follow from the current case-law. Even if Article 1 of Protocol No. 1 were applicable in the context of climate change, the third applicant's complaint under Article 1 of Protocol No. 1 would suffer from the same defect as her complaints under Article 8 of the Convention. Despite the Court's established case-law to the effect that, in order to be able to lodge an application under Article 34 of the Convention, an individual must be able to show that he or she was directly or indirectly affected by the alleged violation, or that he or she runs the risk of being directly affected by producing reasonable and convincing evidence of the likelihood that a violation affecting him or her personally will occur (see *The J. Paul Getty Trust and Others v. Italy*, no. 35271/19, § 225, 2 May 2024; *Mittendorfer v. Austria* (dec.), no. 32467/22, § 28, 4 July 2023; and *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 101, ECHR 2014), the third applicant has failed to discharge this burden. The Court further reiterates that, in the particular context of climate change, an especially high threshold has to be met to fulfil the criteria for victim status under Articles 2 and 8 of the Convention (see *Verein KlimaSeniorinnen Schweiz and Others*, cited above, § 488).

38. Accordingly, this complaint must be declared inadmissible pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 11 December 2025.

Simeon Petrovski Deputy Registrar	Lado Chanturia President

APPENDIX

List of applicants:

No.	Applicant's Name	Year of birth/ registration	Nationality	Place of residence
1.	Peter FLIEGENSCHNEE	1940	Austrian	Vienna
2.	Klara Kornelia BUTZ	1997	Austrian	Vienna
3.	Monika JASANSKY	1963	Austrian	Walpersbach
4.	Umweltschutzorganisation Global 2000	1982	Austrian	Vienna