



## Complaints about Austria's refusal of a request to ban sale of fossil fuels rejected as inadmissible

In its decision in the case of [Fliegenschnee and Others v. Austria](#) (application no. 40054/23) the European Court of Human Rights has, unanimously, declared the application inadmissible. The decision is final.

The case concerned the Austrian Federal Minister for Economic and Digital Affairs' refusal to ban the sale of fossil fuels to mitigate the impact of climate change as she was not competent in that regard.

The Court found that the three individual applicants who had brought the case had not provided evidence to show that they had been personally affected by climate change, either because of their age or health issues or owing to crop shortfalls caused by drought. They could not therefore claim to be victims of a violation of Article 8 (right to respect for private and family life) or Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights and those complaints were inadmissible.

As concerned the remaining applicant, Umweltschutzorganisation Global 2000, the Court considered that it was not necessary to decide whether it had standing to bring its complaints under Article 8 of the European Convention because they were inadmissible as manifestly ill-founded. In particular Article 8 did not guarantee the right to a specific measure, namely a ban on the sale of fossil fuels under the Austrian Trade Act.

The Court noted the general principles for complaints under the Convention concerning climate change set out in the 2024 Grand Chamber judgment [Verein KlimaSeniorinnen Schweiz and Others v. Switzerland](#). For more information see [Questions and Answers on the rulings in three cases concerning climate change](#).

### Principal facts

The applicants are three Austrian nationals, Peter Fliegenschnee, Klara Kornelia Butz and Monika Jasansky, who were born in 1940, 1997 and 1963, respectively, and either live in Vienna or Walpersbach (Austria); and, an association, Umweltschutzorganisation Global 2000, which is based in Vienna and recognised as an "environmental organisation" under Austrian law.

In May 2021 the applicants lodged a request with the Federal Minister for Digital and Economic Affairs for an ordinance under section 69 of the Trade Act (*Gewerbeordnung*), banning the sale of solid fossil fuels from 2025 and of fossil fuels used in aviation from 2040. They argued that they had a right, under European Union law and the European Convention on Human Rights, to have an ordinance issued banning the sale of fossil fuels or, alternatively, to have other equally effective measures introduced to mitigate the impact of climate change.

They submitted in particular that the burning of fossil fuels was the primary cause of the rise in the global average temperature, which adversely impacted the environment and endangered lives and health. They argued that the general public, whose interests the applicant association represented, was at risk, as was Mr Fliegenschnee because of his advanced age and heart disease and Ms Butz because of her young age and thus future prolonged exposure. Ms Jasansky, a farmer, maintained that her financial existence was at risk as a result of crop shortfalls because of droughts caused by climate change.

The Federal Minister refused the request, concluding that she did not have authority to enforce the transition to clean energy, under the Trade Act she only had authority in the fields of trade regulation and security.

The applicants lodged complaints in the courts, which all upheld the Minister's decision. In particular, in 2023 the Constitutional Court ultimately confirmed that neither EU law, nor the European Convention, nor the Trade Act granted the applicants a right to an ordinance.

## Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 7 November 2023.

Relying on Article 2 (right to life) and Article 8 (right to respect for private and family life), the applicants alleged that the Federal Minister's refusal to order the ban had been in breach of Austria's obligation to protect their life and health as well as that of the general public, whose interests were represented by the applicant association. Ms Jasansky, a farmer, additionally complained under Article 1 of Protocol No. 1 (protection of property) that her livelihood was in danger because of droughts caused by climate change affecting her crops. They argued in particular that Austria had failed to comply with its obligations under international law to reduce greenhouse gas emissions and to limit the increase in global temperature to 1.5°C.

The decision was given by a Chamber of seven judges, composed as follows:

Lado **Chanturia** (Georgia), *President*,  
Jolien **Schukking** (the Netherlands),  
Lorraine **Schembri Orland** (Malta),  
Anja **Seibert-Fohr** (Germany),  
Anne Louise **Bormann** (Denmark),  
Sebastian **Rădulețu** (Romania),  
András **Jakab** (Austria),

and also Simeon **Petrovski**, *Deputy Section Registrar*.

## Decision of the Court

Firstly, the Court found it doubtful that Austria's alleged shortcomings in combatting climate change had such life-threatening consequences for the applicants to make Article 2 applicable to their case. It considered it more appropriate to examine the case under Article 8 alone.

It went on to find that the individual applicants did not prove that they were victims of a violation of Article 8 in accordance with the criteria set out in the Grand Chamber's judgment in the *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* case (no. 53600/20, 9 April 2024). They had not provided any details as to whether and how they had been affected personally, nor any evidence to substantiate their alleged vulnerability, which Mr Fliegenschnee claimed was owing to his old age and heart condition and Ms Butz was due to her young age and therefore possible longer exposure to climate change. Ms Jasansky had not argued that she had any particular vulnerability. It therefore declared their complaints under Article 8 inadmissible.

As concerned the applicant association, the Court concluded that it was not necessary to decide whether it had standing to bring the complaints under Article 8 because they were inadmissible as manifestly ill-founded. It found that Article 8 could not be read to guarantee a right to a specific measure by a particular State body under regulations applying to a specific area, and even less so where the measure fell outside the authority's remit, as had been found in the applicants' case. Nor had the applicant association substantiated how Austria had failed to set up a regulatory framework to combat climate change, or why the existing regulations were insufficient.

Lastly, Ms Jasansky's complaint under Article 1 of Protocol No. 1 was also inadmissible. She had not provided reasonable and convincing evidence that she had been personally affected by crop shortfalls and therefore could not claim to be a victim of a violation of Article 1 of Protocol No. 1.

*The decision is available only in English.*

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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.