

# The Development of the Climate Change Framework Within the UN With Particular Attention to Human Rights; Central and Eastern European Perspective

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## ABSTRACT

This article analyses the evolution of the international legal framework on climate change in relation to human rights, with a particular focus on Central and Eastern European (CEE) countries. Demonstrating that human rights and climate systems have evolved separately over a period of time, the article analyses how UN bodies, in particular the Human Rights Council and the General Assembly, have gradually recognised the impact of climate change on rights such as the right to life, health and property. The article characterises the CEE countries covered by the analysis from the perspective of transition and its consequences to date. Achieving a zero-carbon economy by 2050, as desired by the EU, or fulfilling the commitments imposed on countries in the Paris Agreement, is conditioned, among other things, by the economic situation of the country. One aspect of incorporating human rights into climate policy is judicial protection and the role that courts are beginning to play in it by adjudicating cases. This is confirmed by the data cited in the article, which points to a growing number of court cases (heard before national and international courts) in which human rights obligations are invoked to push countries to take more decisive mitigation and adaptation measures. The article proposes a number of recommendations, one of which is the development of a transparent national and international legal framework. The findings highlight the dynamic interrelationship between climate policy and human rights and call for the creation of more coherent regional and national frameworks that take human rights into account in a meaningful way in climate policy.

## KEYWORDS

climate change law, climate litigation, CEE countries, human rights, ECHR

## 1. Introduction

In recent years, the international community has made significant efforts to define legal standards and incorporate human rights into the context of climate change.

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These efforts are supported by discussions on the protection of human rights relating to a clean, healthy and adequate environment, as evidenced by the extensive literature on the relationship between human rights and the natural environment. They are also supported by the results of research on anthropogenic climate change, which has led to research focusing on the relationship between climate change and human rights.<sup>1</sup>

Finding common ground between two regimes that developed at different stages of the legal evolution, and that are characterised by different substantive norms, methodological assumptions, axiological premises and implementation mechanisms has been and will continue to be a challenge, as this process is not yet complete. Some of these challenges have been surmounted, while others still require time to be resolved.

In this article, ‘human rights law’ refers to multilateral human rights treaties at international and regional (supranational) levels. ‘Human rights’ refers to the wide range of rights that are covered by these treaties, including economic, social, cultural, civil and political rights. Various political philosophies, ethical principles and normative justifications have given rise to many different concepts of human rights.<sup>2</sup>

International policy pursued within the United Nations has shaped climate change. This is evident in legal instruments such as the UNFCCC, the Kyoto Protocol and the Paris Agreement, as well as numerous documents adopted during the annual Conferences of the Parties (COPs).

Taking the perspective of Central and Eastern European (CEE) countries draws attention to their situation and looks at what unites and divides them. Some of these countries cooperate within multi-member, formalised international organisations with established legal personalities, such as the European Union and the North Atlantic Treaty Organisation. Almost all of them also form smaller forums for cooperation, which are most often focused on international cooperation or broadly understood development activities.

Some examples of international cooperation between countries in Central and Eastern Europe include the Central European Initiative, the Visegrad Group, the Council of the Baltic Sea States, the Bucharest Nine, the Three Seas Initiative, the Sławków Format, the Central Five and the Lublin Triangle. Examples of cooperation involving selected CEE countries include multilateral cooperation in the Baltic Sea Region (BSR), the Varna Four and the European Political Community.

The numerous forms of cooperation mentioned above show that there is a lack of cooperation that would include only the CEE countries discussed in this article and that would focus on cooperation in the area of climate change policy. Undoubtedly, an advantage is that the existing forms of cooperation demonstrate a commitment to fostering relations that transcend the shared geographical location.

1 Kenig-Witkowska, 2024, p. 44.

2 McNerney-Lankford, Darrow and Rajamani, 2011, p. 4.

### ***1.1. Presentation of the Hypothesis and Research Objectives***

As all of the countries analysed in this article participate in the human rights and climate change regime established within the United Nations, the first part of the article analyses how the organisation's approach to human rights in the context of climate change has developed. The analysis then focuses on presenting the perspective on climate change and human rights in the following Central and Eastern European countries: Albania, the Czech Republic, Slovakia, Romania, Hungary, Poland, Bulgaria, Montenegro, Croatia, Bosnia and Herzegovina, North Macedonia, Slovenia, Serbia, Georgia, Moldova and Ukraine. The last part will cover climate-related court cases and their significance and impact on selected CEE countries.

According to the adopted thesis, the relationship between climate change and human rights is dynamic and subject to constant change. While the UN's positions can be seen as leading in shaping these relations, it should be noted that they are formed with the participation of states. This participation includes acceptance expressed through voting, for example. One example of this can be found in a recent act adopted by the UN: UN Human Rights Council Resolution No. 48/13, adopted on 8th October 2021, which recognises the right to a clean, healthy and sustainable environment. This resolution was adopted with 43 votes in favour, 4 abstentions (China, Japan, India and Russia) and no votes against. Another example is UN General Assembly Resolution No. 76/300, adopted on 28th July 2022, which recognises the right to a clean, healthy and sustainable environment. This resolution was adopted with 161 votes in favour, 8 abstentions and no votes against.<sup>3</sup>

The activities of the UN also play a key role in shaping international climate policy. All CEE countries are parties to legal acts, either acting individually or represented by the EU. This means that they are subject to the requirements that arise from these acts. These obligations are expressed, for example, in the Paris Agreement. They include the development of NDCs, reduction targets and other national measures. This also includes the development of national legislation. It is the task of states to incorporate international policy into their domestic legal systems. However, the implementation of international standards may vary from country to country.

### ***1.2. Justification for Adopting a Central and Eastern European Perspective***

Most Central and Eastern European (CEE) countries underwent profound political and economic transformation in the 1990s, following the collapse of the communist system. For some, this period represented an opportunity to establish state structures after gaining independence. This applied not only to Moldova, Georgia and Ukraine, but also to countries that emerged as a result of division, such as the Czech Republic and Slovakia, as well as the countries of the former Yugoslavia: Croatia, Bosnia and Herzegovina, Montenegro, Slovenia, Serbia and North Macedonia. However, in countries such as Poland, Hungary, Bulgaria and Romania, this period was dominated by a major restructuring of state institutions, economies and societies as a result of the

3 Kolarz, 2022, p. 1.

collapse of the Soviet Union. In Albania, the transition to a new political system was prompted by the fall of the communist regime.

These fundamental changes at state level also affected the regulatory framework, enabling broader constitutional provisions relating to environmental issues including, in some countries, the right to a clean environment. An analysis by J.E. Szilágyi of eight CEE countries studied in this article shows that this right is explicitly enshrined in the constitutions of the Czech Republic, Hungary, Serbia, Slovakia, Slovenia and Romania.<sup>4</sup> The right to a clean environment is also enshrined in the Constitution of Georgia.<sup>5</sup>

The constitutions of other countries (e.g. Poland and Albania) contain references to environmental protection without explicitly formulating this right. These constitutions lack references to climate change, which can be explained by the timeline: at the time the constitutions were adopted, this issue did not yet play a significant role.

The collapse of the communist system also had a significant impact on the economic and social spheres. The failure of numerous industrial facilities, primarily due to their uncompetitive nature in the new and free market, substantial alterations in the proprietorship framework of farming, unparalleled unemployment and expanding accumulations of inadequacy formed the socio-economic reality of these nations at the start of the transformation.<sup>6</sup>

Today, these countries remain internally diverse, with national processes taking different forms in different territorial units. Moreover, many of the challenges facing Central and Eastern European countries have a clear regional dimension.<sup>7</sup> The legacy of the transition period has left the region with social tensions and inequalities, as well as a high level of dependence on traditional industrial sectors, particularly the energy sector. In some countries, this energy sector is based on fossil fuels such as coal. This means that energy security and economic development remain priorities for many CEE countries, often at the expense of climate or social concerns.

The accession of some of the countries in question to the European Union has accelerated the region's development. Poland, Hungary, the Czech Republic, Slovakia, Slovenia and Malta became members of the organisation on 1st May 2004, followed by Bulgaria and Romania three years later. Croatia, which joined in 2013, remains the EU's youngest member. Albania, Bosnia and Herzegovina, Montenegro, Georgia, North Macedonia, Moldova and Serbia all have candidate status. In terms of climate change policy, this means that national policies must align with the EU's climate ambitions. Additionally, the EU4Climate programme, funded by the European Union and implemented by the UNDP, supports countries in implementing the Paris Agreement and improving their domestic climate policies and legislation. This programme

4 Szilágyi, 2022, pp. 497–498.

5 Georgia Constitution, Art. 29.

6 Gorzelak, 2020, p. 13.

7 Gorzelak, 2020, p. 11.

covers Georgia, the Republic of Moldova and Ukraine, as well as Armenia, Azerbaijan and Belarus.<sup>8</sup>

Central and Eastern European countries have benefited from two of the European Union's main priorities: the cohesion policy and the common agricultural policy. The current economic situation in some Central and Eastern European countries poses one of the most significant challenges to the future of European integration and cohesion with the West.

Accessing the European Union has clearly benefited the economic and institutional structures of Central and Eastern European countries. These countries' overall economic growth has undoubtedly accelerated and helped them converge with Western European countries,<sup>9</sup> but it has not completely eliminated development disparities. From this perspective, combining climate action with human rights protection may be perceived in the region as an additional regulatory and financial burden, particularly given the limited budgetary and technological capacities of some countries.

### ***1.3. Perceptions of Human Rights in the Context of Climate Change***

The link between human rights and climate change lies in the state's obligations. States are obliged to respect, protect, fulfil and promote all human rights for all people, regardless of any form of discrimination.<sup>10</sup>

The process of incorporating human rights into international legal instruments began in 1948 with the United Nations Universal Declaration of Human Rights (UDHR).<sup>11</sup> However, this declaration is programmatic in nature only, expressing the will to protect the areas it defines as human rights. Currently, human rights are protected by many legal instruments. Alongside the UDHR, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) are considered to form the core of international human rights law. The European system is also reinforced by the Charter of Fundamental Rights of the European Union (EU). While the literature highlights a consistent approach to rights protection, it also emphasises the varying degrees of protection, particularly within regional conventions.<sup>12</sup>

The core international human rights treaties do not recognise an independent right to a clean environment. However, it is generally accepted that inadequate environmental conditions can undermine the effective enjoyment of other rights. These include the rights to life, health, water and food. For instance, the ICESCR obliges states to implement measures to 'improve all aspects of environmental and industrial hygiene' to ensure the realisation of the right to health. Similarly, the Convention on

8 Eu4climate, 2025.

9 Gorzelak, 2020, p. 43.

10 OHCHR, 2015, p. 2.

11 UN, 1948.

12 McInerney-Lankford, Darrow and Rajamani, 2011, p. 5.

the Rights of the Child (CRC) requires states to consider ‘dangers and risks to health arising from environmental pollution’ to ensure the right to health of children is met.

In terms of environmental rights, the Protocol of San Salvador is unique in including the ‘right to live in a healthy environment’ among its economic, social and cultural rights.<sup>13</sup> The African Charter on Human and Peoples’ Rights also includes a specific right to ‘satisfactory living conditions’, but as a right of peoples rather than individuals.<sup>14</sup>

Human rights are equal, indivisible, interrelated, interdependent and inalienable. Furthermore, human rights are legally protected and impose obligations in relation to acts and omissions, particularly on states and state actors.<sup>15</sup>

In conventions, the state’s responsibilities with regards to human rights have been formulated in different ways. The term ‘respect’ is interpreted as requiring the state to avoid violating rights,<sup>16</sup> whereas the obligation to ‘ensure’ rights requires more from the state than merely avoiding direct violations. It requires positive action to secure the right or protect against its loss or interference by private actors.<sup>17</sup>

At the same time, countries have defined responsibilities with regards to climate change. These include reducing anthropogenic greenhouse gas emissions through regulatory measures (e.g. climate change mitigation) to prevent the adverse effects of climate change, both currently and in the future. They also include adaptation measures aimed at building resilience to the destructive consequences of climate change.

Climate change interacts with human rights. Most attention is focused on the effects of climate change that negatively impact human rights. This impact has been well-identified in the literature and primarily affects the right to life, health, self-determination, development, housing, water, food, education, participation, and the rights of future generations and particularly vulnerable persons.<sup>18</sup> This demonstrates that the scope of the impact extends beyond the right to a clean environment, including the right to a stable climate.<sup>19</sup>

The interaction between climate change and individual human rights is not uniform. It is influenced by factors such as the nature of the rights in question and vulnerability to climate change. Furthermore, the negative effects will vary depending on the extent to which climate change is intensified, as well as the extent to which it is identified in the future.

The human rights framework requires global efforts for the mitigation and adaptation to climate change to be carried out in accordance with relevant human rights standards and principles. These include the rights to participation and information, transparency, accountability, justice, and non-discrimination.

13 OAS, 1989, Art. 11(1).

14 OAU, 1981, Art. 24; McInerney-Lankford, Darrow and Rajamani, 2011, p. 104.

15 OHCHR, 2015, p. 6.

16 McInerney-Lankford, Darrow and Rajamani, 2011, p. 5.

17 Ibid.

18 OHCHR, 2015, pp. 13–24.

19 UNDP, 2023, p. 9.

Public participation in political affairs is a well-established right, enshrined in various treaties and soft law instruments.<sup>20</sup> The principle of public participation in decision-making, as proposed by Szabó, can be divided into two parts, namely the right to be heard and the right to influence decisions.<sup>21</sup> In environmental matters, this is implemented by the 1998 Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the ‘Aarhus Convention’), which aims to implement certain provisions of the 1992 Rio Declaration, particularly Principle 10. The three pillars of this Convention ensure open access to environmental information (active and passive), participation in certain types of matters and judicial protection.<sup>22</sup>

## 2. Incorporating Human Rights into the UN Climate Discourse

Since climate change became an international issue in the mid-1980s, it has mainly been addressed in intergovernmental negotiations aimed at achieving a consensus on reducing national greenhouse gas emissions. Following the adoption of the UNFCCC in 1992 and the subsequent launch of the Kyoto Protocol, these negotiations have appeared to be making promising progress.<sup>23</sup>

Within the United Nations system, the perception of climate change has evolved from viewing it solely as a threat to the environment and economic development, to increasingly recognising its impact on the realisation of fundamental human rights. This shift in perception is evident in the content of General Assembly resolutions, the actions of the Human Rights Council, and most recently in documents accompanying global climate negotiations.

### 2.1. *Initial Separation: Climate and Human Rights as Separate Areas (1992–2007)*

The original UN climate framework documents, particularly the UNFCCC, focused primarily on reducing greenhouse gas emissions, adapting to climate change, and promoting sustainable development. Climate change was then seen as a scientific, technical and environmental issue, not as something that was directly linked to the protection of individuals in terms of human rights. While the Convention explicitly stated its objective to ‘protect the climate system for the benefit of present and future generations of humanity’, the document contained no explicit references to human rights.

Nevertheless, at that time, attempts were already being made in the literature to establish a connection between the two areas. For example, it was noted that the UNFCCC was opened for signature at the Earth Summit in Rio de Janeiro, and

20 Blanco, 2021, p. 284.

21 Szabó, 2014, p. 101.

22 Annan, 2000.

23 Bodansky, 2010, p. 512.

therefore the Rio Declaration was proposed as a kind of preamble to the Convention. However, the reference to the right to development in principle 3 of the Declaration was considered too weak to conclude that human rights had been incorporated into the climate change regime.<sup>24</sup> For several years, the two regimes developed independently and largely without paying attention to one other, with different objectives in mind.<sup>25</sup>

Despite the lack of a connection between human rights documents and climate change, the Inuit attempted to establish one when they submitted a petition to the Inter-American Commission on Human Rights in 2005. They explained how climate change was affecting the Arctic environment and violating their human rights, including their rights to life, health, property, and cultural identity. They then argued that the United States had violated its human rights obligations by failing to mitigate its contribution to climate change. At that time, such a claim would have seemed absurd, and the Commission refused to consider the petition.<sup>26</sup> However, it succeeded in drawing public attention to the serious effects of global warming on the Inuit people, sparking further dialogue on the human rights implications of climate change.<sup>27</sup> In retrospect, this petition was the first in a series of efforts to incorporate human rights into climate change legislation.

The Malé Declaration on the Human Dimension of Global Climate Change, adopted by representatives of small island developing states in November 2007, was the impetus for incorporating human rights into the climate change regime.<sup>28</sup> This declaration was the first intergovernmental statement to recognise that climate change has ‘clear and direct implications for the full enjoyment of human rights’. It also urged the Conference of the Parties (COP) to the UNFCCC and UN human rights bodies to launch a joint initiative to evaluate the impact of climate change on human rights.

In the same month, the OHCHR issued a public statement at the Bali Climate Change Conference (COP-13), recognising that ‘climate change may adversely affect the fundamental human rights of present and future generations’ and reminding the COP that governments have moral and legal obligations to protect and promote fundamental human rights in the fight against climate change.<sup>29</sup>

This period is characterised by an increasingly clear link between climate change and various human rights, including the right to life (e.g. the impact of natural disasters), the right to health (e.g. waterborne diseases), the right to housing and property (e.g. climate-related migration), and the right to food and water.

24 Roschmann, 2013, p. 2018.

25 McInerney-Lankford, Siobhan, Darrow and Rajamani, 2011, p. 36.

26 Randall 2007, p. 49; Osofsky, 2007, p. 676.

27 Osofsky, 2007, p. 696.

28 Knox, 2019, p. 166.

29 OHCHR, 2007, p. 1.

## **2.2. Increased Awareness of the Social Impacts of Climate Change (2008–2014)**

In March 2008, the United Nations Human Rights Council (UNHRC) expressed concern for the first time that climate change posed a direct and far-reaching threat to people and communities worldwide, and requesting that the Office of the High Commissioner for Human Rights (OHCHR) prepare a report on the impact of climate change on human rights.<sup>30</sup> The Office subsequently published a report in 2009 entitled ‘Report on the relationship between climate change and human rights’,<sup>31</sup> which describes how climate change threatens the enjoyment of a wide range of human rights. It discusses specific examples of the rights most directly affected by climate change, including the rights to life, food, water, health, housing, and self-determination.

The literature presents the main conclusions of the OHCHR report as follows: (1) climate change threatens the enjoyment of a wide range of human rights; (2) climate change does not necessarily violate human rights; (3) human rights law nevertheless imposes obligations on states with regard to climate change; and (4) these obligations include the duty to cooperate internationally.<sup>32</sup>

Despite stating that there is ‘broad agreement that climate change has a negative impact on the realisation of human rights in general’, the OHCHR noted that ‘it is less clear whether and to what extent such effects can be classified as human rights violations in the strict legal sense’. This reflected the position of many developed countries who were willing to accept that climate change may interfere with human rights, but did not acknowledge that this constitutes a violation of international human rights law.<sup>33</sup> The OHCHR justified this conclusion by referring to the challenges of causality, attribution, and future damage associated with climate change.<sup>34</sup>

In the context of state responsibility however, another statement in the report is important: even non-state action that does not constitute a human rights violation may require the state to take steps to protect those affected by the action.<sup>35</sup>

Within the UNFCCC’s international climate change regime, the 2010 COP in Cancún formally recognised the link between climate change and human rights. The parties agreed that countries ‘should, in all climate change-related actions, fully respect human rights’.<sup>36</sup> Although the UNFCCC entered into force in 1994, human rights were not included in its documents until the Cancún Agreements in 2011.<sup>37</sup> The agreements took a further UN Human Rights Council resolution (No. 10/4, March 2009) into account, which indicates that the consequences of climate change have direct and indirect impacts on the enjoyment of human rights. It also emphasises that the parties should respect human rights in all climate change-related actions.<sup>38</sup>

30 UNHRC, 2008, Resolution 7/23.

31 OHCHR, 2009, A/HRC/10/61.

32 Knox, 2009, p. 477.

33 Knox, 2009, pp. 489–490.

34 OHCHR, 2009, p. 70.

35 Knox, 2009, p. 478.

36 UNFCCC, 2011, Decision 1/CP.16.

37 UNFCCC, 2010, pp. 2,4.

38 UNFCCC, 2010, p. 4, p. 1.8.

The UN Human Rights Council has since adopted several resolutions on human rights and climate change.<sup>39</sup> These resolutions emphasise the potential of existing state commitments, such as ‘informing and strengthening’ climate change law and policy by ‘promoting policy coherence, legitimacy, and sustainable outcomes’.<sup>40</sup> This paved the way for COP21 in Paris to prioritise human rights within the climate regime. However, this expectation was not met in the final text of the Paris Agreement.

### ***2.3. Incorporating Human Rights Language into Global Climate Negotiations (2015–2020)***

In the lead-up to COP21, the UN Human Rights Council emphasised the need for all states to strengthen international dialogue and cooperation in order to counteract the negative impact of climate change on human rights enjoyment, including the right to development.<sup>41</sup> In February 2015, the non-binding, voluntary Geneva Pledge for Human Rights in Climate Action was adopted. This referred to the link between climate change and human rights, which had been recognised by both the UNFCCC COP<sup>42</sup> and the Human Rights Council.<sup>43</sup> The pledge emphasises the importance of taking into account the impact of climate change on human rights, and of recognising the centrality of human rights to climate action. Countries committed to promoting cooperation between their representatives in the Human Rights Council and the UNFCCC, as well as facilitating the exchange of knowledge and best practices. Initially signed by 18 countries, the commitment has since been joined by others.<sup>44</sup>

The Paris Agreement is the first binding multilateral climate agreement to refer to human rights.<sup>45</sup> This is done directly in the preamble, but not in the normative part of the text.

It should be recognised that when action is taken to address climate change, human rights obligations, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in particularly vulnerable situations should be respected, promoted and fulfilled by States.

This is a clear recognition that climate policy must be consistent with international human rights standards, creating a framework for the further integration of these two legal orders. However, it has been argued in legal scholarship that the Paris Agreement does not sufficiently take into account the scale of the threat posed by climate change to human rights.<sup>46</sup>

39 UNHRC, 2011, Resolution 18/22; UNHRC, 2014, Resolution 26/27; UNHRC, 2015, Resolution 29/15.

40 Ibid.

41 OHCHR, 2015, p. 6.

42 UNFCCC COP Decisions 1/CP.16 and 1/CMP.6.

43 UNHRC, 2008, Resolution 7/23; UNHRC, 2009, Resolution 10/4; UNHRC, 2011, Resolution 18/22; UNHRC, 2014, Resolution 26/27.

44 The Geneva Pledge, 2015, pp. 1–2.

45 Adelman, 2018 p. 17.

46 Adelman, 2018, p. 18.

#### **2.4. Recognition of the Right to a Healthy Environment as a Human Right (2021–Present)**

In the Glasgow Climate Pact, adopted at the UNFCCC COP26 conference, the parties recognised that climate change is a common challenge for humanity, and while taking action to address it, the parties should respect, promote and fulfil their human rights obligations, including the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and persons in vulnerable situations, as well as the rights to development, gender equality, the empowerment of women and intergenerational justice.<sup>47</sup>

The General Assembly (GA) has also addressed the issue of the environment. In its 2018 resolution 72/277, ‘Towards a Global Pact for the Environment’, it called on the Secretary-General (SG) to submit a report identifying potential gaps in international environmental law and proposals to strengthen protection. In Resolution 73/333 of 2019, the General Assembly (GA) called on the international community to take concrete action, including intensifying the exchange of information on environmental protection.

On 8th October 2021, the Human Rights Council adopted resolution 48/13, proposed by Costa Rica, the Maldives, Morocco, Slovenia and Switzerland, which explicitly recognises the right to a clean, healthy and sustainable environment. Until now, this status had only been granted by the African Charter on Human and Peoples’ Rights and the Protocol of San Salvador to the American Convention on Human Rights.

The next step in strengthening the UN’s institutional framework in the area of human rights and climate change was the establishment of a Special Rapporteur on the promotion and protection of human rights in the context of climate change by Resolution No. 48/14 (Russia objected and China, Eritrea, Japan and India abstained). The reports and recommendations of this Special Rapporteur, as well as that of the UN Special Rapporteur on Human Rights and the Environment, who was appointed in 2012, are used in legislative processes and international practice. They point to the need to implement a human rights-based approach (HRBA) to climate policy.

These efforts culminated in the adoption the UN General Assembly Resolution 76/300 on 28th July 2022. This landmark resolution<sup>48</sup> recognises the human right to a healthy environment. One of the six substantive rights recognised is the right to a stable climate, while procedural rights include the right to participation, information, and access to justice.<sup>49</sup>

Although not formally binding, these resolutions are of great declarative and interpretative importance. They confirm the global consensus that environmental protection, including climate protection, is an integral part of protecting human dignity and the fundamental rights of individuals. They also send a clear signal that

47 UNFCCC COP, 2021, p. 2.

48 UNDP, 2023, p. 7.

49 UNDP, 2023, p. 9.

this right enjoys widespread support around the world and that it needs to be incorporated into regional and national frameworks to ensure its protection.<sup>50</sup>

### 3. The Perspective of the Analysed CEE Countries

All of the countries analysed are parties to the three fundamental conventions that form the core of international human rights protection. They are also all parties to the Aarhus Convention, which, among other things, introduces judicial protection in environmental matters. As signatories to the UNFCCC and the Paris Agreement, all countries are involved in integrating human rights into climate policy. They are therefore all bound by the same international legal framework. Additionally, EU-CEE countries are bound by EU law, including the EU Charter of Fundamental Rights, while candidate countries are in the process of aligning their legal regulations with the *acquis*.

#### 3.1. Climate Change in CEE Actions

In the initial period after the collapse of the centralised system, no comprehensive regional policy was formulated in any Central and Eastern European country and regional aspects of social and economic policy virtually did not exist.<sup>51</sup> The accession of some Central and Eastern European countries to the European Union has given regional development and policy a new dimension. However, this policy has been almost entirely subordinated, both financially and substantively, to cohesion policy. The objective of reducing regional disparities through structural funds and the Cohesion Fund has not always been achieved, since the absorption capacity of relatively underdeveloped regions is lower than that of urban centres.<sup>52</sup>

The CEE countries discussed here differ in terms of GHG emissions. According to the 2023 Global Carbon Budget data (excluding LULUCF), Poland ranks first with 289 million tonnes of CO<sub>2</sub> emissions. Ukraine ranks second with 136 million tonnes, almost half of Poland's emissions. Next are the Czech Republic with 86 million tonnes, Romania with 68 million tonnes, and Hungary with 40 million tonnes. Albania and Moldova have the lowest emissions, each with between 5 and 6 million tonnes.<sup>53</sup>

Poland has experienced a decoupling of the relationship between GDP growth and greenhouse gas emissions over the last 19 years (1988–2021). Between 1988 and 2021, greenhouse gas (GHG) emissions (including LULUCF) were reduced by approximately 32%, while GDP grew more than threefold.<sup>54</sup> However, given the persistently high level of emissions in the economy, far-reaching changes are needed in many sectors to meet the international and EU's climate policy commitments.

50 Vardosanidze and Kiss, 2023, p. 14.

51 Gorzelak, 2020, p. 23.

52 Gorzelak, 2020, p. 41.

53 Our World in Data, n.d.

54 Ministerstwo Klimatu i Środowiska, 2023, p. 7.

Despite significant progress in energy production and consumption, as well as environmental protection, air quality remains poor in many regions and localities in Central and Eastern Europe. Dependence on individual heating systems fuelled by low-quality fossil fuels remains a problem in several countries (e.g. Poland), causing severe air pollution during the heating season.<sup>55</sup>

Central and Eastern European countries and their regions face many challenges, particularly with regards to the competitiveness of their economies on global or local markets, and especially for those that border strong European economies. As analyses show,<sup>56</sup> a common drawback of these countries is their relatively low level of technological advancement. Progress in this area has mainly been achieved through importing technology from the West, while domestic potential for creating and disseminating innovation remains weak and is concentrated in Central and Eastern Europe's largest cities.<sup>57</sup> This condition may play a significant role in the process of transitioning to climate neutrality, since a country's level of technological advancement can influence the speed of this process.

In CEE countries that are also EU members, climate policy is strongly determined by the European Union. The EU has set a clear climate target of reducing net greenhouse gas emissions (i.e. emissions minus removals) by at least 55% compared to 1990 levels, by 2030, with the aim of achieving climate neutrality by 2050. The sectoral regulations adopted, and the solutions applied therein are intended to achieve this target.

Six years after its adoption, the European Green Deal (EGD) has raised many concerns and controversies. Among other things, the applicability of the EGD to the current international situation has been questioned. The risks identified include a negative impact on countries' economic situations and, consequently, on labour markets, as well as a reduction in state budget revenues.<sup>58</sup> Given their specific economic situation, as outlined in this article, the risks to EU-CEE countries may be more detrimental than to other EU countries, thereby jeopardising the achievement of the EU's climate policy objectives.

Poland's climate policy is set out in various documents, including the National Energy and Climate Plan (KPEiK) for 2021–2030 and the National Environmental Policy 2030 (PEP2030). Even the updated 2024 version of the KPEiK makes no link between climate policy and human rights.<sup>59</sup>

Slovenia is one of the countries that has decided to adopt a legally binding target of carbon neutrality and climate resilience by 2050. This goal is included in the resolution on the long-term climate strategy for 2050, which was adopted on 13th July 2021. The resolution also sets out strategic sectoral targets for 2050 (and 2040) that must be consistently incorporated into all sectoral documents and plans. While the document

55 Gorzelak, 2020, p. 35.

56 Radosevic, Yoruk and Yoruk, 2020, pp. 180–181.

57 Gorzelak, 2020, p. 33.

58 EESC, 2024.

59 Ministerstwo Klimatu i Środowiska, 2024.

reaffirms the broad recognition of the right to a clean environment (enshrined in the Slovenian Constitution), it does not directly link this right to human rights and climate change.<sup>60</sup>

Moldova's climate policy framework is set out in Law No. 74/2024 on climate action, which was adopted on 11th April 2024. Moldova has adopted a net zero emissions target for 2050 and a regulatory framework to enable progress towards the global climate change adaptation goal. One interesting solution is the establishment of a National Commission on Climate Change, which is an inter-institutional government body responsible for coordinating and approving climate change policy.<sup>61</sup>

Similarly, Georgia established a Climate Change Council in 2020 to ensure the effective implementation of the Paris Agreement.<sup>62</sup>

The Albanian government has also recently bolstered its commitment to tackling climate change and disasters by reinforcing the relevant national legal framework, which is grounded in scientific findings and aims to eliminate the inequalities and vulnerabilities faced by specific social groups. Law No. 155/2020 on climate change is set to play a key role in reducing greenhouse gas emissions, improving adaptation to climate change, and mitigating its negative effects.<sup>63</sup>

According to World Bank analyses, achieving net-zero greenhouse gas emissions across the entire economy of the six Western Balkan countries (the former Yugoslavia and Albania) by 2050 would require a complete transformation of the energy system. This would entail radical changes to the energy sector, including transitioning to renewable energy sources and phasing out coal-fired power plants.<sup>64</sup> Due to their geographical location and shared ambition to join the EU, the economic development trajectories of these countries are closely linked to the EU.<sup>65</sup>

As noted in the report, the EU accession process is the main driver of climate action in the Western Balkans and Albania. However, this so-called 'Brussels effect' has not yet been sufficient to transform the political economy of individual countries and their institutions. The integration of climate change into public finance management is in its early stages and there are limited mechanisms for the sustainable financing of climate action. Strongly mandated and sufficiently resourced climate-responsive institutions, as well as high-level political support for climate action, are essential for the effective implementation of ambitious commitments.<sup>66</sup>

Bosnia and Herzegovina and Serbia are cooperating with international organisations, including the World Bank, the EBRD and the UNDP, to develop just transition policies to ensure the economic and social recovery of coal-dependent regions.<sup>67</sup>

60 Slovenia, 2021.

61 Moldova, 2024a.

62 Georgia, 2020.

63 Albania, 2020.

64 WBG, 2024, p. 15.

65 WBG, 2024, p. 4.

66 WBG, 2024, p. 35.

67 WBG, 2024, p. 34.

Public attitudes towards climate policy vary. A 2024 EIB survey of EU-CEE countries found that 59% of Romanians considered climate change adaptation to be a priority for the state. This figure was 50% for the Bulgarian population, 46% for the Hungarian population, 43% for the Slovenian population, and 40% for the Croatian population. However, this figure was much lower among Slovaks (35%), Czechs (30%) and Poles (25%). The EU average is 50%.<sup>68</sup> These results show public attitudes towards climate change and can be seen as an indication of openness to economic and financial efforts relating to the transition towards climate neutrality.

### **3.2. Human Rights and CEE Countries**

An analysis of selected climate policy documents from CEE countries reveals a limited connection between climate policy and human rights. This can partly be explained by the fact that such a connection is a relatively recent addition to international climate policy. In most of cases, documents from a few years previously were drafted when such a link wasn't as advanced as it is today. An exception is Georgia, which, as one of only 14 countries worldwide and the sole CEE country analysed, addressed climate change and human rights in its INDC, submitted in 2015.<sup>69</sup>

In its NDC 3.0 submission in 2025, as part of the five-year cycle, Moldova emphasised that adaptation measures must consider these overlapping risks to ensure inclusive planning that addresses the specific needs of vulnerable groups.<sup>70</sup>

In Moldova, human rights in the context of climate change were addressed in the National Programme for the Promotion of Human Rights 2024–2027.<sup>71</sup> The section entitled 'Right to a healthy environment' includes three tasks: (I) eliminating sources of environmental pollution; (II) regularly collecting and disseminating information on the state of the environment in accordance with the Aarhus Convention; and (III) empowering and informing citizens of their right to a healthy and sustainable environment.

One of the WBG report's recommendations for climate policy is to create a broader basis for dialogue with civil society organisations, including environmental organisations, women, young people, scientists involved in climate action and political decision-makers.<sup>72</sup>

An example of youth engagement can be seen in the 2021 Macedonian NDC, which was prepared with the involvement of young people through virtual consultations.<sup>73</sup> The Georgian authorities also mention consultations with groups with specific needs and civil society organisations involved in climate change in their 2021 NDC.<sup>74</sup>

68 EBI, 2024.

69 UNEP, 2015, p. 30.

70 Moldova NDC 3.0, 2025, p. 62.

71 Moldova, 2024b, p. 21.

72 WCG, 2024, p. 36.

73 Republic of North Macedonia NDC, 2021, p. 20.

74 Georgia NDC, 2021, p. 38.

However, Bosnia and Herzegovina's 2021 NDC<sup>75</sup> lacks information on the involvement of any civil society groups. Bosnia and Herzegovina's 2020–2030 climate change adaptation and low emission development strategy acknowledged that opportunities for civil society involvement were limited, especially for non-governmental and local community organisations, due to financial, human resource and political constraints. Proposed remedies included greater involvement of civil society at a local level.<sup>76</sup>

The level of public participation is illustrated by the statement made by Javor & Beke. According to them, despite many extensive theoretical analyses, descriptions of regulatory frameworks and even case studies on practical implementation, knowledge of the attitudes, beliefs and general views of society and institutional actors are limited.<sup>77</sup> Although this statement refers to the situation in Hungary, it can be considered to apply more universally.

Taking the voice of social groups into account is crucial in ensuring the fairness of such policies, building public support for them, and ensuring that the ecological transition is just.<sup>78</sup>

Albania asserts that states have a duty to: (I) prevent significant damage to climate systems and environmental elements that could infringe human rights; (II) ensure that measures taken in response to the effects of climate change do not lead to human rights violations; and (III) provide redress for human rights violations resulting from significant damage to climate systems and environmental elements.<sup>79</sup>

## 4. Climate-Related Court Cases

### 4.1. *The Role of Climate-Related Court Cases*

The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other instruments, including national human rights instruments, require states to provide effective remedies for human rights violations. One such measure is judicial protection. It is therefore natural that regional and national courts and tribunals have come to play an important role in the human rights protection system. This also applies to the area under discussion, i.e. establishing the link between human rights and climate change.

D. Bodansky notes that court cases are a response to government inefficiency. Affected communities and non-governmental organisations (NGOs) have turned to national and regional courts, as well as international quasi-judicial human rights treaty bodies, to prove that inadequate responses to climate change violate

75 Bosnia and Herzegovina NDC, 2021.

76 Bosnia and Herzegovina, 2020, p. 145.

77 Javor and Beke, 2014, p. 244.

78 WCG, 2024, p. 36.

79 Albania, 2024, p. 32.

internationally recognised human rights.<sup>80</sup> Similarly, S. Varvastian sees the ineffectiveness of government action as the root cause of the lawsuits.<sup>81</sup>

Available summary reports show that the number of court cases concerning climate change is growing worldwide. Some literature even refer to an explosion of climate cases.<sup>82</sup> In 2017, there were 884 such cases; by 2020, this figure had risen to 1,550; and by 2022, it had further increased to 2,180.<sup>83</sup> While the majority of these cases were filed in the United States (approximately 70%), the number of jurisdictions is also increasing, rising from 24 in 2017 to 65 in 2022.<sup>84</sup> Europe (not counting cases from the United States) ranks second with around 31.2% of cases. The European countries with the highest number of complaints in 2022 were the United Kingdom (79), Germany (38), France (22) and Spain (17).<sup>85</sup> A proportion of these cases concern human rights. Due to the insufficient measures taken by states to prevent climate change and its effects, as well as growing public awareness of human rights, the number of cases is expected to continue rising.

The difficulties faced by the courts are myriad. These difficulties stem from, among other things, the fact that climate change lawsuits based on human rights claims differ from conventional court proceedings,<sup>86</sup> and are a novelty in both international and national legal systems. These lawsuits coincide with the growing importance of human rights on the international stage, as well as the links between these rights and climate change. This includes normative changes, which form the basis of the link set out in the preamble to the Paris Agreement. Alongside these political and legal changes at an international level, claims for rights in climate change disputes aim to draw public and political attention to the harmful consequences of these changes for people. Arguments are being put forward to motivate state action.

Climate change and its effects, such as rising sea levels and extreme weather events like floods and droughts, have already impacted millions of people. Many scientists have attempted to develop a concept of state responsibility for climate issues, but the complexity of the matter means that this remains an ongoing issue. The literature rightly emphasises the importance of explaining from the outset that climate change may threaten or interfere with the enjoyment of a particular human right. However, this does not mean that those responsible for implementing that right under international law have violated their human rights law obligations.<sup>87</sup>

By ruling on the merits, courts contribute to establishing a link between human rights and climate change. One of the most significant European rulings was handed down in the *Netherlands v. Urgenda* case, in which the Dutch courts (court of first

80 Bodansky, 2010, p. 512.

81 Varvastian, 2021, p. 369.

82 Neill and Alblas, 2020, p. 59.

83 UNEP, 2023, p. 12.

84 UNEP, 2023, p. 15.

85 UNEP, 2023, p. 18.

86 Markell and Ruhl, 2012, p. 25.

87 McInerney-Lankford, Darrow and Rajamani, 2011, p. 11.

instance, court of appeal and supreme court) found that the Dutch government had violated its obligations under the European Convention on Human Rights by failing to reduce carbon dioxide emissions more rapidly.<sup>88</sup>

The Dutch court noted that the obligation to take appropriate measures arises in the occurrence of threats to the environment that have a negative impact on large groups or the entire population in the long term. Referring to the European Convention on Human Rights (ECHR), the court noted that, while Articles 2 and 8 (which protect the right to life and the right to respect for private and family life, respectively) cannot result in the imposition of an impossible or disproportionate burden on the state, these provisions require the state to take suitable measures to prevent an immediate threat within reasonable limits. The court recalled that domestic law must offer an effective remedy against violations or imminent violations of rights protected by the ECHR (Article 13). In conclusion, it stated that national courts must be able to provide effective legal protection.<sup>89</sup> Although the decisions of national courts interpreting the ECHR are not binding on any other Member State, the question remains as to whether this ruling will serve as a strategic model for achieving similar results by using the ECHR to hold national governments legally accountable for implementing climate change mitigation objectives.<sup>90</sup>

The ECtHR has also heard a case concerning climate change, namely the *KlimaSeniorinnen* case. In this case, a substantive ruling was also handed down, finding that the state had failed to fulfil its positive obligations under international climate change regulations. The Court found that Switzerland had failed to establish an adequate domestic regulatory framework, including a carbon budget or national greenhouse gas emission limits.<sup>91</sup>

The expansion of the number of jurisdictions concerns both cases before national courts and international tribunals. According to J. Krommendijk, the limited number of climate change cases heard by the ECtHR is due to the difficulties non-governmental organisations face in meeting the formal criteria, since they are not direct ‘victims’ and *actio popularis* does not exist.<sup>92</sup> The author lists six factors relating to the ECtHR that restrict its involvement in climate cases. The first is the absence of an enshrined right to a healthy or clean environment in the ECHR, a point also emphasised by Dutch courts.<sup>93</sup> An effective response to this factor could be the ECtHR statement expressed in the aforementioned *KlimaSeniorinnen* case that Article 8 of the ECHR also includes

88 Urgenda, 2018. In a similar vein, on 24 March 2021, the German Federal Constitutional Court issued the *Klimabeschluss* ruling, obliging the federal legislature to establish detailed and forward-looking regulations on emission thresholds. The aim was to ensure the achievement of emission reduction targets and the equitable distribution of environmental burdens across generations (1 BvR 2656/18, 1 BvR 288/20, 1 BvR 96/20, 1 BvR 78/20).

89 Urgenda, 2020.

90 Spoelman, 2020, pp. 751–752.

91 European Court of Human Rights, 2024.

92 Krommendijk, 2021, p. 71.

93 Krommendijk, 2021, pp. 71–72.

the right to effective protection by state authorities against the serious negative effects of climate change on life, health, well-being, and quality of life.<sup>94</sup>

#### 4.2. The Climate-related Court Cases and CEE Countries

A significant step forward is needed to translate the prevailing scientific consensus on the causes and negative effects of climate change – and the growing consensus among countries – into clear and authoritative commitments by countries in this area. The CEE countries discussed here are linked to climate-related court cases in different ways. Firstly, they are being sued before national courts or international tribunals. Poland has the highest number of climate cases of all the CEE countries.

An example of a case decided before a national court is *Klimatická žaloba ČR v. the Czech Republic*. In its 2022 ruling, the Municipal Court in Prague ordered the state to take urgent measures to combat climate change and to develop a precise plan for implementing the Paris Agreement targets. This decision was subsequently appealed, and ultimately the courts dismissed the claim.<sup>95</sup>

Since 31st January 2023, proceedings have been pending before the Romanian national court following an action brought by the non-governmental organisation *Declic*, acting together with a group of individuals. The action calls for the government to take the following measures: (1) Achieve a 55% reduction in greenhouse gas emissions by 2030 compared to 1990 levels and achieve climate neutrality by 2050; (2) Increase the share of renewable energy in final energy consumption to 45% and improve energy efficiency by 13% by 2030; (3) Implement specific and coherent plans to mitigate and adapt to climate change, including annual carbon budgets, to achieve the objectives of the Paris Agreement.<sup>96</sup>

An important signal regarding the growing role of courts in state climate protection measures came from Hungary. In June 2025, the Hungarian Constitutional Court ruled<sup>97</sup> that Article 3(1) of the XLIV 2020 Climate Protection Act, which required a 40% reduction in greenhouse gas emissions by 2030 compared to 1990 levels, was invalid. The Court found the provision unconstitutional on the grounds that it was insufficient to address the escalating climate crisis. According to the Court, the provision failed to uphold the principles of intergenerational justice, precaution, and the prevention.<sup>98</sup> It is worth noting that in its ruling, the Court went beyond national law, recognising that the above arguments also lead to the non-compliance of the provision with international law, namely the UNFCCC, the Paris Agreement and the ECHR.<sup>99</sup>

94 European Court of Human Rights, 2024.

95 *Klimatická žaloba ČR v. Czech Republic*, 2022, 2023.

96 *Declic et al. v. The Romanian Government*, 2023.

97 Judgement 5/2021 of the Hungarian Constitutional Court in case II/3536/2021 (on the constitutionality of Article 3(1) of the Climate Protection Act).

98 Hungarian Constitutional Court, n.d.

99 Judgement 5/2021, point 9. Support in the proceedings before the Court was provided by the Social Reflexion Institute (Társadalmi Reflexió Intézet) acting as Amicus Curie, which in its comprehensive opinion addressed both climate change and the existing case law of the courts in the field of human rights.

The Court granted the Hungarian Parliament time until 30th June 2026 to adopt comprehensive climate legislation, after which the aforementioned provision will cease to be legally binding. The new legislation must go beyond mere mitigation of climate change effects and include robust adaptation and resilience strategies, tailored to Hungary's specific circumstances and the characteristics of the Carpathian region.<sup>100</sup> The ruling marks a turning point for environmental constitutionalism in Hungary.

The type of complaints affecting the CEE are those in which the complainant sues a whole group of states for various failures to act in the field of climate change in relation to human rights. Examples include the case before the ECtHR, *Duarte Agostinho and others v. Portugal and 32 Other States* (Application no. 39371/20), and the complaints *Uricchio v. Italy and 31 other States* (Application no. 14615/21) and *De Conto v. Italy and 32 other States* (no. 14620/21), in which all EU countries, and also Ukraine (*D. Agostino, Uriccho*) and Slovenia (*D. Agostino*) were sued.

In the *D. Agostino* case, when ruling on the matter of extraterritorial jurisdiction, the Court found no grounds for extending it as requested by the applicants. This ultimately led to the rejection of the complaint against all countries except Portugal. On 9th April 2024, the Court declared the complaint inadmissible.<sup>101</sup>

Another form of participation in climate cases is the presentation of expert opinions by states. It is noteworthy in this regard to mention the position expressed by Albania in one of the cases before the ECtHR, in which it confirms the significance of the Court's judgments and points out that clear and well-considered judicial guidance from the Court in response to questions put to it in proceedings should constitute a turning point.<sup>102</sup>

In the same opinion, Albania took the view that the close link between damage to the climate system and parts of the environment and human rights requires a 'harmonious interpretation'<sup>103</sup> of States' obligations under both the customary and treaty-based systems (in the field of the environment and human rights). In this regard, despite states' obligations to respect, protect and fulfil human rights had arisen from different contexts related to climate change, Albania divided them into the following three categories. Firstly, states have a responsibility to prevent significant damage to the climate system and parts of the environment that could violate human rights. Secondly, states have a duty to ensure that measures taken in response to the effects of climate change do not lead to human rights violations. Thirdly, states have an obligation to provide redress for human rights violations resulting from significant damage to climate systems and elements of the natural environment.<sup>104</sup>

Court cases often concern human rights under international law and national constitutions, the lack of (or insufficient) mitigation and adaptation to climate change

100 Ibid.

101 *Duarte Agostinho and Others v. Portugal and 32 Other States*, 2024.

102 Albania, 2024, p. 4.

103 Albania, 2024, p. 20.

104 Albania, 2024, pp. 36–40.

and its effects, and the failure to abandon the use of fossil fuels. The challenges in establishing a model of state responsibility for climate change-related actions, as outlined above, directly impact the countries concerned. Furthermore, the legal framework of climate policy created by the EU applies to CEE-EU countries, which may lead to additional interpretative doubts. As Ch. Eckes points out, the content of the ECHR, interpreted in the light of the *KlimaSeniorinnen* judgment, imposes higher requirements on Member States than EU law. According to Ch. Ecker, it can be assumed that the ECtHR would not accept the argument of ‘EU law as a shield’ protecting Member States from liability under the ECHR in the context of climate change mitigation. According to the Author this means that political and legal tensions may arise when national courts find national mitigation measures that are compatible with EU law, to be insufficient and incompatible with international law.<sup>105</sup>

## 5. The Challenges and Recommendations

The analysis presented in this article can be regarded as an introduction to the issue of the link between human rights protection and climate change, as well as state responsibility in this area, as seen through the prism of selected CEE countries. At this stage of the development of international policy and law, the following observations can be made:

The relationship between human rights and climate change is currently being conceptualised at an international level. It is vital to be transparent about these issues, since both of them are rooted in this particular dimension. This will help to determine the content of the state’s tasks and responsibilities. As has been noted, the *Urgenda* and *Klimabeschluss* cases deal with the state’s obligation in the context of the ‘entanglement’ of international law, EU law, constitutional law and national climate law.<sup>106</sup>

In the CEE countries analysed, there is a low level of institutional effectiveness in linking climate and human rights issues at the national level. Some authorities are responsible for addressing issues related to climate change, while others focus on ensuring the protection of human rights. This results in a further divergence of the two issues, extending to state policies and actions. Strengthening institutional cooperation between such bodies would facilitate the linking of both issues and broader consideration of human rights in strategic climate documents, including the implementation of a human rights-based approach (HRBA) to national climate policies.

It would also be beneficial to clearly formulate the state’s position on climate transition in national policy (in accordance with legal obligation), which would allow for meaningful and constructive participation in the further formulation of international

<sup>105</sup> Ecker, 2025, p. 1023.

<sup>106</sup> Láncoš, 2023, p. 76.

policy. Given the regional economic conditions of CEE countries, a joint presentation of such a position would strengthen its significance in the international arena.

It is clear that mechanisms for public participation, access to information and means of redress need to be strengthened. As outlined in the article, there are a number of examples of participation. However, it is important to note that these examples could be expanded upon. The Aarhus Convention, to which all CEE countries analysed in this article are parties, introduces broad solutions. In this regard, the EU CEE countries could provide support to the other CEE countries, taking into account their experience in implementing and applying not only the Aarhus Convention but also the corresponding EU legislation (e.g. Directive 2003/4/EU on public access to environmental information, Directive 2003/35/EC on public participation in respect of the drawing up of certain plans and programmes relating to the environment).

As is the case worldwide, an increase in climate-related court cases, including those concerning human rights, can also be expected in CEE countries. Among the global causes, those related to social expectations for greater state involvement in mitigation measures to reduce the carbon footprint of economies (e.g. Poland) are gaining importance in these countries. At present, the legal basis for state liability is derived from various national and international legal acts. This, in turn, has a number of negative implications for the courts and for the state itself.

A greater number of cases will require the courts to develop an approach to climate-related litigation. It is important to note that one of the tasks of the state that is often overlooked is the adequate preparation of the judicial authorities. There is a recognised need for greater specialisation and training in climate and environmental litigation. This is not surprising, given that climate litigation is a rapidly developing, factually complex and unequally distributed legal phenomenon. It is essential to establish support and technical advisory structures in the courts. Judges face a shortage or even a lack of experts, as highlighted by administrative court judges themselves.<sup>107</sup>

In terms of court rulings, the state has an obligation to enforce them. This is another element that states must prepare for. It is vital that a clear link between climate issues and human rights is established at the level of national documentation as part of such preparation.

## 6. Conclusion

The analysis in this article supports the thesis that the UN's global climate legal framework is moving towards full integration with human rights protection.

As recommendations were presented in the previous chapter, this section will present a few comments summarising the analysis.

107 Setzer, Narulla, Higham and Bradeen, 2022, p. 15.

It is becoming increasingly evident that international policy is integrating human rights and climate change. Any gaps in the law may be filled by case law, both from the ECtHR and national courts. In light of their international obligations, states have a duty to ensure that measures taken in response to the effects of climate change also respect human rights. Positive obligations to prevent human rights violations fall within the scope of the duty to ensure respect for those rights. It is evident that the majority, if not all substantive human rights give rise to a duty of prevention. This obligation stems from the effective interpretation of substantive law in conjunction with the general protection clause of the relevant human rights treaty. States Parties to that treaty are required to take legislative, judicial, administrative, educational and other appropriate measures to fulfil their legal obligations.

However, Central and Eastern European countries must overcome specific constraints in order to effectively implement this approach. Examples of this include environmental neglect inherited from the previous regime; an energy sector based on fossil fuels; and an economy based on traditional industries. Each of these elements poses challenges in the transition to a zero-emission economy. In this respect, most CEE countries will need to make greater efforts than Western European countries. Decisions on the energy mix will affect energy prices, which constitutes one of the pillars of economic development. As the article points out, CEE economies are characterised by their reliance on traditional sectors, which are heavily reliant on energy. The absence of a pragmatic, long-term strategy to formulate suitable plans will have consequences for society. On the one hand, there is an increase in new rights in the area of climate change, but on the other hand there is also a need to prepare for the costs of decarbonisation.

Securing financing is an integral part of the strategy. Although this article did not touch upon the matter, it is noteworthy that the economic development levels of these countries indicate that they are unable to shoulder the financial burden independently, thus requiring external financing.

The selected examples of measures taken by CEE countries cited in these chapters demonstrate the strengthening of participatory processes in climate policy-making, confirming that the right direction has been taken. The situation, as interpreted under international law, necessitates the recognition of participation as a component of human rights. It is therefore incumbent upon states to establish the systemic conditions for public participation.

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