

YOUTH CLIMATE JUSTICE

School of Law, UCC, Ireland

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Case Law Database



AGOSTINHO & OTHERS V. PORTUGAL & OTHERS

Child-friendly summary



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OVERALL SUMMARY

In 2020, 6 Portuguese children and young people took a **petition*** to the **European Court of Human Rights*** arguing that Portugal and 32 other European States are not doing enough to stop climate change. The Court, however, **decided not to look at the case** fully.



THE CASE

A group of six children and young people between 8-25 years old from Portugal, took a **petition*** to the **European Court of Human Rights*** against 33 countries:



The children said these countries negatively affected their rights under the **European Convention on Human Rights*** (ECHR) because they didn't make enough efforts to stop climate change. They said this is harming their right to life, to privacy, and protection from discrimination.

MEET THE PETITIONERS!



Credit: Global Legal Action Network

Siblings **Cláudia**, **Martim** and **Mariana Duarte Agostinho** are from Portugal. Along with 3 other portuguese young people, they took this petition against Portugal.

The children argued that these countries promised to fight climate change under the **Paris Agreement*** but haven't kept their promises. They also explained that, even though they're experiencing these harms in Portugal, where they live, other countries are also responsible for causing climate impacts beyond their borders - this is called "**extra-territorial jurisdiction for climate harm****".

WHAT ECHR ARTICLES DID THEY CITE?

- **Art. 2:** Right to life. States have the obligation to take on laws and policies to prevent risks and harms to people's lives, including climate change.
- **Art. 8:** Right to a private life, a home and, more generally, a healthy, protected environment. Children should be able to live and develop in safe environments, including for example, spending time playing outdoors.
- **Art. 14:** Right to non-discrimination. Climate change affects certain groups of people more than others, for example indigenous children, children with disabilities or children living in regions more affected by environmental degradation. When taking action against climate change, Governments should take extra care of children's needs.

FOR EXAMPLE:



Forest fires in Portugal are putting their lives in danger
(Article 2, ECHR)



Heatwaves are making it hard for them to live comfortably, forcing them to stay indoors and harming their health
(Article 8, ECHR)



As young people, they will experience the worst effects of climate change in the future
(Article 14, ECHR)

WHAT DID THE COURT DECIDE?

The European Court of Human Rights “fast-tracked” the complaint, meaning they reviewed it quicker than usual. In April 2024 the European Court decided the case could not continue. It said that it could only examine Portugal’s responsibility to climate change, but not the other countries. But even in Portugal, the young people hadn’t tried all the legal options available in Portugal before bringing the case to the European Court of Human Rights, an international court (this is called “**exhaustion of domestic remedies**”^{*}).

WHY IS THIS CASE IMPORTANT?

Even though the young people weren’t successful in their efforts, the case represents an important moment for the youth climate action movement.

- It **brought attention** to how climate change affects children’s rights.
- It showed that youth must bring climate cases in **their own countries** first.





EXPAND YOUR KNOWLEDGE!

- The **European Court of Human Rights** is an international court based in Strasbourg, France. It acts as a guardian of the European Convention on Human Rights. If governments violate the rights included in the Convention, people can bring complaints against any of the 46 member States to the Court once they have used up every possible opportunity to seek remedy for those violations at the national level. If the Court finds that the applicant's rights have been harmed, the State in question must provide justice to that person and take measures to make sure it doesn't happen again.



- The **European Convention of Human Rights** is an important agreement signed by 46 countries that protect the rights and basic freedoms of more than 700 million people in Europe. It was adopted by the Council of Europe in 1953.



- A **petition** is a legal document that asks for a specific court order. It can be created by a person, a group or an organisation, and it can be sent to a national or regional court, such as the European Court of Human Rights, or to an international body, such as the Committee on the Rights of the Child.



- The **Paris Agreement** is an important agreement signed by 196 countries on climate change. It was adopted in 2015 at the UN Climate Change Conference (COP21) in Paris, France. Its main goal is to avoid the average Earth's temperature from rising more than 2°C in the coming years.



- **Exhaustion of domestic remedies** is a rule in international law that means people must go to their national/domestic courts to complain about an issue before going to an international court, like the Committee on the Rights of the Child