

## Introduction

When most people think of climate change, they picture major headline events such as flash floods, forest fires and droughts. However, climate change has a direct and immediate impact on the daily lives and human rights of ordinary people – especially on the right to life, the right to an adequate standard of living and the right to private life.

According to the [United Nations](#), about 99 per cent of people breathe unhealthy levels of air pollution, which can lead to respiratory diseases, strokes, and heart attacks. Air pollution has been identified by the [OECD](#) as being the United Kingdom's biggest environmental risk. Climate change is causing more frequent and intense extreme weather events, resulting in widespread damage to nature and people.

In recent years, the Council of Europe has played an increasing leadership role in addressing the adverse and irreversible effects of climate change on human rights. With the Scottish Government having recently published its [climate change plan](#) for 2026-2040, now is the ideal time to take a deep dive into some of the CoE's most important instruments and developments in this field.

## The European Convention of Human Rights and the environment

The European Court of Human Rights has helped clarify what states need to do in order to safeguard people against environmental hazards. In fact, according to the CoE's website, the Court has decided over [300 environmental-related cases](#).

In particular, the Court has [long recognised](#) that that severe environmental pollution – be it in the form of toxic fumes or contaminated water - may affect individuals' well-being and prevent them from enjoying their right to private and family life (ECHR, Article 8). For this reason, the Court has said that governments must put laws and regulations in place, ensuring that private and public actors engaged in hazardous activities are adequately licensed and supervised and that adequate precautions are taken to protect the public from harm. What's more, the public have a right to adequate and accessible information regarding any environmental risks they may be exposed to.

The year 2024 marked a watershed moment for the Court. It was in this year that the Court announced its judgment in the case of [Verein Klimaseniorinnen Schweiz and Others](#) (not a German speaker? VKS works just as well!). The case had been lodged by an NGO representing 3000 women of retirement age, who complained about the inadequacy of their government's climate change efforts.

Until this moment, the Court had mostly addressed cases where the environmental harm came from a specific and identifiable source (such as a waste collection site, a landfill site, an industrial plant, road traffic and other poorly regulated private activities).

However, VKS was the first time where the Court explicitly stated that individuals had a right to be effectively protected from the effects of climate change on health, well-being and quality of life. This meant that governments had to adopt and apply in practice regulations and measures capable of mitigating the existing and potentially irreversible, future effects of climate change.

However, the Court went much further than this. In particular, it said that states had to:

- put in place legally binding regulations aimed at reducing their greenhouse gas emissions and carbon footprint;
- implement regulations aimed at achieving net neutrality within the next three decades;
- establish short term emission-reduction targets on the road to achieving net neutrality, outline a feasible timeline for achieving these targets and keep them under constant review; and
- produce evidence that they are actually complying in practice with their reduction targets.

This was not the only reason why the Court judgment's was so groundbreaking. Until VKS was decided, NGOs were not able to bring applications to the Court raising public interest challenges to national legislation. Rather, an NGO's interests had to be directly affected by national laws and practices (hence [Big Brother Watch](#) was able to bring an application to the Court because it suspected that its *own correspondence* could be targeted by UK surveillance measures). But in

VKS, the Court said that since climate change had such important impacts on future generations, specialised environmental NGOs could bring applications for the unique and exceptional purpose of challenging climate change policies.

### **Important work on the horizon**

However, the CoE has not stayed still with the VKS case. The Committee of Ministers recommendation on [human rights and the environment](#) calls on states to reflect on the nature, content and implications of the right to a healthy environment and to consider recognising this right at the national level. In addition, this recommendation calls for:

- adequate measures to protect those most at risk from climate change;
- public access to information on environmental matters and participation in environmental decision making; and
- better regulation of business activities that impact the environment.

One of the most politically significant moments in the CoE's history took place in May 2023, when government leaders from the organisation's Member States gathered in Iceland to adopt the [Reykjavík Declaration](#). In this declaration, the CoE underlined the urgency of tackling pollution, climate change and biodiversity-loss and committed itself to making the environment a visible priority for the organisation.

This kick-started a whole series of work related to the environment. In only May of this year, the CoE adopted a [legally binding instrument to address environmental crime](#). Among other matters, the treaty obliges state parties to adopt a national environmental crime action plan, provide better training for professionals dealing with this type of crime and ensure a whole range of environmental damage is criminalised in national law (e.g. serious pollution, placing ozone depleting substances into the market and the killing of protected flora and fauna). Importantly, the treaty criminalises the causing of irreversible, widespread and substantial damage of large ecosystems (a crime that might be described as “ecocide”). Finally, it calls for effective, proportionate and dissuasive sanctions for individuals and companies that seriously damage the environment. As the Scottish

Parliament pursues its debate on [the ecocide bill](#), this treaty can be a valuable source of inspiration.

One crucial project in the pipelines is a potential new general instrument on [human rights and the environment](#). An expert group was tasked by the CoE's highest decision making body with the express purposes of assessing the feasibility of such an instrument. This group appears to have finished its work in June last year. It therefore remains to be seen what shape this instrument will take. However, as the Scottish government makes the environment a key plank of its [National Human Rights Action Plan](#), human rights defenders should keep a close eye out for new developments.