



Briefing Note on the People's Climate Case Appeal to the European Court of Justice

Background 10 families and the Saami Youth Association from Sweden appeal against the Order of the European General Court on the dismissal of the People's Climate Case (ECLI:EU:T:2019:324).

The appeal is filed with the European Court of Justice (ECJ) on 11 July 2019.

The People's Climate Case, brought to the European General Court in May 2018 against the European Parliament and the European Council as EU legislators, argues that the EU's 2030 climate target of reducing domestic greenhouse gas emissions by at least 40% by 2030 compared to 1990 levels is not sufficient to protect lives, livelihoods and fundamental rights from the impacts of climate change.

In its order of 8 th May 2019, the European General Court dismissed the case on procedural grounds. By using a narrow interpretation of "direct and individual concern" in the Treaty on the Functioning of the EU (TFEU, Art 263), the Court closed its door to all plaintiffs. According to the interpretation set out in case law since the 1960s, a citizen is only regarded "individually concerned" and thus allowed to go to court, if he or she is affected like an addressee, thus in an "exclusive | unique | peculiar" way by a piece of EU law.

In their application, the plaintiffs (which included grandparents, parents and their children) had set out their individual concern in detail, with regard to their property, farms and other businesses, as well as to their health and educational rights. But the fact that everybody is affected by climate change in different ways depending on their occupation, age, health situation is not seen as "unique" enough by the European General Court.

Now the plaintiffs appeal to the European Court of Justice arguing that the "individual concern" requirement should be applied in view of the reality of the global climate crisis. In cases of pending human rights infringements, direct access to European Courts must be ensured - as long as no alternative legal avenues (eg. through courts of the Member States) are available.

The grounds of appeal:

The plaintiffs are appealing inter alia on the following legal grounds:

(1) The European General Court erred in interpreting the requirement for individual concern in a way that the more people are affected by a piece of EU legislation, the less they can access to justice in the European courts. This contradicts the very rationale of fundamental rights which is to grant protection to every single individual.

(2) The Court erred in law by disregarding that access to courts must reflect the seriousness of

concern - the existential impacts of climate change on the plaintiffs.

(3) The European General Court disregarded the influence of the [Aarhus Convention](#). In 2017, the Aarhus Convention Compliance Committee acknowledged that European Courts are breaching the access to justice provisions of the Aarhus Convention by restricting access to justice for individuals and NGOs in environmental matters. The European General Court disregarded this recognition and ruled once again to block access to justice for families and the Sami youth association.

(4) The European General Court erred in law when arguing that the plaintiffs have other means to challenge the EU legislative acts. The plaintiff families and youth cannot challenge the EU's 2030 climate target through Member State courts or through other actions such as under Art 277 TFEU.

(5) The General Court misinterpreted the law and introduced a rule without legal basis by stating that individual concern criteria should also be met by the plaintiffs when asking the court to order an injunction relief – (which means an Order from the Court to stop current damage related to climate change). The Court's argument that direct and individual concern criterion must be essentially applied in injunctive relief is not based on the Treaty. The court's reasoning also disregarded the fact that injunctions on the basis of current damage (as argued by the plaintiffs on the current damages happening to their lives and livelihoods due to impacts of climate change) have been found eligible by the European Court of Justice.

(6) The appellants also disagree with the European General Court's decision to refuse to provide access to justice for the Saami Youth Association from Sweden because the association fulfils the requirements for NGOs to take legal actions. An association that represent the sum of interests of its individual members can take legal actions in the European Courts. The Sami Youth Association, Sáminourra, meets this criterion. Moreover, associations of the kind of Sáminuorra are structurally different. They represent a whole that is more than the sum of individual interests. They care for a common good which in the present case is the culture of the Sami.