

Network News / 2023

Environmental Law Highlights 2023 Newsletter

Dear Supporters of Justice and Environment,

Reflecting on the remarkable highlights of 2023, we extend our heartfelt gratitude for your ongoing support. As we step into 2024, we wish you continued success and fulfillment in your endeavors. Here's to another year of making a positive impact together!

J&E TOPICS

AARHUS CONVENTION

J&E speaking on behalf of civil society

J&E lawyer Summer Kern delivered the opening statement on behalf of the European ECO Forum at the **15th Meeting of the Aarhus Convention Task Force on Access to Justice** in Geneva on 4-5 April 2023.

The speech touched upon a number of **controversial**

issues including the RePowerEU initiative and was followed by applause. The speeches can be found under Publications: [Opening Statement on behalf of the European ECO Forum](#) and [Statement on behalf of Justice and Environment Agenda](#).

Environmental Information Transparency

On July 11, the 27th meeting of the Working Group of the Parties to the Aarhus Convention was held in Geneva to address a range of pressing issues. Despite the challenges posed by the ongoing war in Ukraine, significant efforts are made to implement the Convention.



Summer Kern, the J&E lawyer, delivered a statement on Ukraine, with Csaba Kiss, coordinator and Aarhus Convention topic leader at J&E, standing by her side. Find out more [here](#).



Bankwatch Romania Examine Long Term Strategy on Climate Neutrality

Last year Romania has published [its Long Term Strategy](#), settings its greenhouse gas emissions' reduction pathway to reach climate neutrality by 2050. J&E member Bankwatch, together with other environmental organisations in Romania have analysed the main changes in the Long Term Strategy of Romania.

The strategy proposes three scenarios from which was chosen the most ambitious one, RO Neutral. Despite this being the most advanced scenario, NGOs have criticised that it is still not equivalent to climate neutrality. The strategy presents pathways for all economic sectors which emit greenhouse gases. You can find more information [here](#).

Decoding EU Court's Public Participation: Insights from Our Study

Last year J&E published a study on the **Effectiveness of public participation in the case law of the EU Court**, providing invaluable insights into the practical application of these principles.

Our study delves into over 200 cases in the Court of Justice of the European Union, highlighting the pivotal role of public participation in fostering legitimate and impactful decision-making. Click [the link](#) to find out more.

CLIMATE

J&E member has joined the first-ever climate lawsuit in Romania

During the month of April, **Bankwatch Association Romania**, a member of Justice & Environment, actively participated in the historic climate lawsuit alongside Declic, a prominent Romanian NGO. The lawsuit, filed due to the government's alleged failure to address climate risks adequately, targeted Romanian Prime Minister Nicoale Ciucă and the Ministers of Environment and Energy, **seeking fines for each day of inaction**.

The initial trial commenced in April at the Cluj Court of Appeal, where the plaintiffs advocated for a court order mandating a 55% reduction in greenhouse gas emissions by 2030 and achieving climate neutrality by 2050. **Ioana Ciuta, President of Bankwatch Romania**, emphasized the need to redefine accountability for the climate crisis and expressed hope that this legal action would prompt responsible and sustainable measures.

Knowledge Sharing: Experts in climate litigation presented recent cases of climate litigation

On June 13, **Thomas Alge** and **Veronika Marhold** from our member organization **ÖKOBÜRO** shared their knowledge and experiences to

140 participants of climate litigation online event. Thomas looked back on his time in the environmental movement and Veronika presented the results of a survey conducted by ÖKOBÜRO and the concept of climate rights. Find out more [here](#).

Unveiling Global Legal Trends: J&E Explores Climate Rights

Last year we conducted a thorough study that delved into the evolving landscape of climate rights, examining the intersections of human, social, and environmental rights within international, EU, and national legal frameworks.

Forming a crucial part of the "Discussions and Actions on Climate and Environment" project across six EU countries, the study highlighted the growing prominence of rights-based litigation globally. For an in-depth exploration of the assessment framework, types of climate rights, litigation trends, and country-specific cases from Austria, Bulgaria, and Spain, you can read the full article and study [here](#).

Big win in Estonia's first climate lawsuit

On August 30, the Alliance of the Environmental Movement (ÖKOBÜRO) in Austria organised the event "Sustainable Water Management - Proposals for Dealing with Water in Times of Climate Crisis". Held at the Vienna University of Natural Resources and Applied Life Sciences, the event was a crucial initiative under the Discussions and Actions on Climate and the Environment (DACE) project.

ENVIRONMENTAL ASSESSMENT

EIA Simplified: Your Environmental Guide!

We are excited to introduce a series of informative leaflets that

provide an overview of the basics you need to know about **Environmental Impact Assessment (EIA)**, a crucial aspect of ensuring the sustainability of major building and development projects within the European Union.

To ensure that a wider audience can access and understand this critical information, our EIA leaflet is now available in seven languages, including English, Croatian, Spanish, Bulgarian, Hungarian, German, and Romanian. You can find them all [here](#).



Triumph for Srđ

After nearly six years, on May 23rd, the arbitration court rejected Razvoj Golf's compensation request for the Srđ project, where the company sought a staggering \$500 million from the **Republic of Croatia**. The rejected claim, amounting to approximately 2.4 percent of Croatia's GDP at the time of filing, marked a significant victory.

Local associations, including J&E member **Zelena akcija/FoE Croatia** and Right To The City, had vehemently opposed the Srđ apartment building project since 2006, forming the civic initiative **Srđ is Ours** in 2010. **Enes Ćerimagić**, **FoE Croatia's** lawyer, highlighted the collective effort's impact at a press conference in Dubrovnik, emphasizing that their thorough argumentation played a crucial role in the arbitration court's decision to reject the investor's substantial compensation request.

NATIONAL NEWS

Participation rights in practice - environmental issues

On November 28, we organized an online event "Participation

rights in practice - environmental issues" in collaboration with the European Environmental Bureau (EEB).

We delved into survey results regarding environmental organizations' familiarity with EIA Directive procedures and the effectiveness of assessments' protection/mitigation measures, and explored climate litigation and discussions at the EU level.

J&E Chairwoman met with EC Environment Commissioner

In October, J&E Chairwoman Zeljka Leljak Gracin met Commissioner Virginijus Sinkevičius of the European Commission for the Environment in Zagreb, Croatia.



They discussed key topics including J&E's initiatives, the Nature Restoration Law, concerns about RePowerEU, the Anti-SLAPP Directive, and the potential reopening of discussions on the Access to (Environmental) Justice Directive. Read more [here](#).

The Estonian Supreme Court's decision on the building permit for the Enefit-280 oil plant

On October 11, 2023, Estonia's Supreme Court nullified the Enefit-280 oil plant's construction permit, **declaring climate change mitigation a constitutional obligation**. The court highlighted deficiencies in the environmental impact assessment and emphasized aligning emissions with national climate targets, excluding Scope 3 emissions.

It stressed the authority's duty to deny permits with significant climate impacts unless an overriding 'existential state interest' exists. The municipality of Narva-Jõesuu was directed to reassess environmental impacts. For more details on this landmark decision, click [here](#).

Our member ÖKOBÜRO and WWF Austria have

achieved a major victory in Austria!

In July, after a long-standing effort to challenge executive orders that have previously been exempt from legal action, **the Supreme Administrative Court of Austria granted ÖKOBÜRO access to justice** in cases involving wolves, beavers, otters and grey herons.

This landmark ruling **represents a huge win for Austrian NGOs and environmentalists everywhere**, with special credit going to Birgit Schmidhuber, who was on maternity leave while the case was being fought. The court's ruling is a major step forward in the fight for environmental protection in Austria. Find out more [here](#).

The Taia hydropower plant: the latest ecocide to hit Romania

In recent years, Romania has seen a **rise in cases of environmental degradation and disregard for nature protection laws**. One high-profile example is the **Taia hydropower plant on the Taia river within a protected Natura 2000 site**.

Environmentalists have opposed the project since 2008, and in **May 2023** they were targeted with a **SLAPP lawsuit**. Despite its negligible contribution to energy production and potential replacement with photovoltaic installations, the plant was built and operated until 2017 when a court declared its environmental permit and screening decision null and void.



Despite this final ruling, the Hunedoara Environmental Protection Agency re-issued an environmental permit for the project in 2022. In May 2023, the Bucharest Tribunal upheld the case and rejected the promoters' claims. The Taia hydropower plant **stands as an example of Romania's regression in environmental protection and disregard for the rule of law**. You can find out more [here](#).

BIG LEGAL NEWS

French, Swiss climate policy goes on trial in European rights court

In March, the **European Court of Human Rights** began hearing cases against the governments of France and Switzerland over their **alleged failings in protecting the environment**. A group of **senior Swiss women** and a former French mayor sued their governments for lack of decisive climate action.

Switzerland acknowledges the impact of climate change on health but contends that emissions cannot be conclusively linked to the well-being of older women. The argument posits that decisions on climate action fall within the realm of political discretion.

The case has been elevated to the judges of the Grand Chamber, a court designated for pivotal issues. The forthcoming verdict carries substantial implications, not only for the 46 member states of the European Council but also for the global community at large.

Courtroom Climate Showdown: Portuguese Youth Challenge 32 Nations in Landmark ECHR Trial

In September, six young people from Portugal, aged 11 to 24, challenged 32 countries in the European Court of Human Rights (ECHR) **for failing to protect them against climate change**. The defendants include all 27 EU member states, the UK, Turkey, Russia, and Norway.

The Portuguese youth argued that governments' inaction on climate change violates their human rights and discriminates against young people, causing physical and mental harm.

The defending governments claimed insufficient evidence of a direct causal link between their climate policies and the harm suffered.

The trial is part of a broader trend of climate litigation, with similar

cases heard earlier against European countries. The youth's legal team argues that the governments' climate policies align with catastrophic global heating, constituting a life sentence of extreme heat for the applicants.

UN Special Rapporteur on Environmental Defenders under the Aarhus Convention

In November, the Special Rapporteur for Environmental Defenders under the Aarhus Convention has issued another powerful letter regarding the need for robust anti-SLAPP legislation ahead of the last round of trilogue negotiations. Read the entire letter [here](#).

2023 Global Climate Litigation Report

In July Global Climate Litigation Report: 2023 Status Review was published. It showed an increase in people turning to the courts to fight the climate crisis.

THIS REPORT provides an overview of climate litigation and an update on global trends in 2023. It further demonstrates the importance of an environmental rule of law in combating climate change, biodiversity loss and pollution. The UNGA resolution recognises the human right to a clean environment and is likely to drive further action on climate change.

Nature Restoration Law Continues to Split EU Parliament

In November, the Nature Restoration Law passed the European Parliament Committee, moving one step closer to adoption. 53 in favor, 28 against. The law aims to restore 20% of EU land and sea by 2030, with progressive targets.

The law has been met with outrage by farmers all across Europe, including the Netherlands. “The environmental burden the EU has put on our farmers has, over the years, become almost unbearable,”

Richard Schenk, a research fellow with MCC Brussels. Find out more [here](#).

EU lawmakers agreed on a new directive to protect the environment through criminal law

In November, EU lawmakers have reached an agreement on a new directive to strengthen criminal law against environmental crimes.

The revised framework expands the list of prosecutable offenses, introduces harmonized sanctions, and addresses qualified offenses for severe environmental damage. A significant step towards more effective environmental protection climate crisis. As of December 2022, 2180 climate-related cases were filed in 65 jurisdictions. Click [here](#) to find out more.

2023 will surely be a busy year for us, and we invite you to join us on our way. Follow our [website](#), [Facebook page](#) and [Twitter account](#) to get the latest updates.

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