

KEY FINDINGS AND RECOMMENDATIONS FROM THE DACE PROJECT



Position Paper
Justice and Environment 2024

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Introduction

Justice and Environment as a non-profit non-governmental organization working on the European level and promoting the implementation and enforcement of laws protecting the environment, nature and human health completed its project called Discussions and Actions on Climate and Environment ([DACE](#)) running between 1 November 2022 and 31 October 2024. Based on the outcomes of diverse project actions we submit the following policy recommendations to key European policy makers and decision makers.

In the course of implementation of the DACE project, we also tried to keep an eye on the bigger picture and to draw findings and recommendations which could last longer than the project and inspire our work and the work of lawyers, NGOs and activists in the years to come. One such example was the development of [the concept of “climate rights”](#) as a key concept to capture the variety of rights, i.e., existing and nascent types of rights at international, EU and national level with relevance to climate change, defined as “substantive and procedural rights related to or affected by climate change”. Following this conceptualization, we were able to produce an [EU-level study on climate rights](#), their frameworks, classifications and some country examples¹.

On strategic level

1. The current climate crisis requires an altered approach from all stakeholders, principal amongst them from the relevant policy makers. We are confident that there is a need to shift from the overwhelmingly treaty based approach to rights and responsibilities to a more **rights based approach**.
2. We are aware that climate rights are not fully defined and climate justice is a contested term in contemporary legal and policy literature. The Paris Agreement is the major source of what the States’ responsibilities are regarding climate change. However, we also see that there are **structural problems** with the current treaty system i.e. the goals of the multilateral climate system are collective that do not answer the question on individual responsibilities of states towards their respective public, the global public and

¹ <https://justiceandenvironment.org/wp-content/uploads/2024/10/Climate-rights-study-final-2024-for-publication.pdf>

future generations, and that the Paris Agreement does not define the level of duty of care and what climate justice should look like.

3. One way to solve this conflict of treaty based obligations and rights based obligations (which is properly reflected in the approach of the Paris Agreement and the recent judgment of the European Court of Human Rights in the KlimaSeniorinnen Switzerland case) is to have a **fair and equitable recognition** of rights and obligations of key stakeholders. Likely the advisory opinion of the International Court of Justice on the obligation of states in relation to climate change will help guide this process and will detail what the duty of care is.
4. Another way is to make the international climate negotiations and the preceding national and European Union level preparations **more inclusive**, contrary to the current practice where international rules are not designed with the participation of affected communities. The Aarhus Convention in its Article 3.7 calls upon the State Parties to “Each Party shall promote the application of the principles of this Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment.” We believe that the multilateral system should adapt and make room for this more enhanced participation.

On operational level

5. Exploring the correlation between human and other rights and climate change is very timely and welcomed by the civil society constituencies, the government, legal practitioners and judiciary and could serve as a solid **basis for further cooperation** between these and other stakeholders.
6. Climate, environmental and human rights advocates are well positioned to accelerate collaboration and make better and more instrumental use of **legal instruments**, including requests for access to information, participation in public discussions of projects and programs, but also climate litigation.
7. Government agencies could become focal points for leadership in joint actions for **cooperation** with non-governmental organizations and civil society.
8. Creating a **platform for dialogue**, participation in joint projects, as well as support for NGOs in their climate campaigns and initiatives would be timely and necessary.

9. Close attention and analysis are needed to understand media and internet **communications** on climate change and their interaction with public opinion and understanding. This should lead to specific measures to improve fact and science based coverage and diminish the abuse of manipulative messages, fake news and doubt.
10. Lessons learned from projects like DACE should be communicated broadly and extended to other EU Member States, as well as candidate countries from South Eastern Europe and, specifically Ukraine, where the effort for environmental post-war reconstruction will dictate great relevance of **rights based approaches and policies**.

In the Annex below we present selected findings from the project's countries.

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Annex: Selection of national findings

FINDINGS FROM AUSTRIA

The Survey

The March 2023 ÖKOBÜRO survey reveals that 71% of Austrians are concerned about the climate crisis, with young people (16-29 years) and those with higher education being particularly worried. About 38% feel personally affected, and two-thirds believe their fundamental rights are impacted, although only 18% are certain of this. While 49% are willing to take legal action to protect their rights, 85% do not know where to turn, and only 4% could correctly identify relevant institutions. Three-quarters of respondents demand stronger government measures to prepare Austria for the effects of the climate crisis. Younger and more educated individuals show greater concern and readiness to act. (https://www.oekobuero.at/files/979/okoburo_umfrage_bewusstsein_uber_klimarechte.pdf)

In an ÖKOBÜRO study on climate change adaptation the strategies existing in Austrian federal states on climate change adaptation were assessed and whether the Austrian legal regime provides for a “right to public services”. The different legal regimes for exercising subjective rights on climate change adaptation (official liability, tort law, labour law) were pointed out and mentioned the relevance of international law - especially the Aarhus Convention in exercising participative rights and access to justice. (https://www.oekobuero.at/files/1111/okoburo_je_studie_anpassung_an_die_klimakrise_rechtslage_in_osterreich.pdf)

Events

There was an event on “Climate change adaptation and climate rights in Austria - What options does our law offer?” - Experts in the field of climate lawsuits presented recent cases from practice and were available for discussion afterwards.

The event “Sustainable Water Management - Proposals for dealing with water in the climate crisis” took place on August 30, 2023 at the Vienna University of Natural Resources and Life

Sciences. Key issues, including extreme weather events, dwindling surface waters and water retention in the area, conflicts of use with agriculture and industry, and biodiversity and water protection were discussed in groups. And problems, potentials, and measures for climate change adaptation in water management brought forward;

The event “Cities and the climate crisis - have your say, help shape spaces” was about the following questions: What legislation at European level regulates climate crisis adaptation measures? What implementation steps are being taken in Austria, and what is the Austrian strategy for adapting to climate change? strategy for adapting to climate change? What opportunities are there to have a say in adaptation processes to the climate crisis? How can citizens get involved and demand that their urban living environment is adapted to the unavoidable consequences of the climate crisis?

Which areas of public space can be rethought?

The event “Where is soil protection? - utilizing opportunities for public participation” was dealing with “What opportunities for public participation are there for soil protection in Austria, which is an important component of climate protection?” - litigation cases were presented and discussed with CSOs and other stakeholders.

FINDINGS FROM BULGARIA

The Survey

The notion of climate rights could be a conceptual platform for creating a broad coalition of like-minded people beyond the traditional environmental and climate NGOs and include human rights NGOs and those defending climate migrants, children, women, future generations, etc. These are the conclusions from a specialised survey held by BlueLink in Bulgaria in 2023. The survey gathered input from more than 100 representatives of civil society organisations, lawyers and communities affected by climate and environmental problems. Over 75% of respondents expressed willingness to assert their own or collective climate rights by informing the public about the consequences of climate change, participating in the creation of laws and policies, and even taking legal action. 92.2% of the respondents indicated the right to a healthy living environment, which includes clean air, clean water and food as a climate right. In second and third place, the respondents indicated the right to participate in mitigation decisions of climate and adaptation - with 86.4% - and the right to social justice in dealing with climate

change (indicated by 83.5% of respondents). The most preferred course of action for defending climate rights is the disclosure of reliable information on climate change and its effects, followed by participation in climate law-making and policy-making; followed by participation in administrative procedures for protection of climate rights. Climate litigation comes in fourth place.

The Legal Study

The right to clean air is also climate related because all major air pollutants have an impact on climate and most air pollutants are also sources of greenhouse gases. The examples of successful climate cases in Bulgaria are namely in the area of clean air litigation in Sofia, Plovdiv and the Stara Zagora region. The connection between climate and clean air is established in Art. 55 of the Environmental Protection Act (EPA), which states that clean air protects human health and prevents damage to society from changes in air quality, ozone depletion and climate change as a result of various human activities. According to Bulgaria's Clean Air Act (ACA), the right to clean air must be guaranteed by state and municipal authorities. In Bulgaria lawyers working on clean air cases don't consider these cases as climate cases and the right to clean air as a climate right.

Events

An NGO forum was held by BlueLink to raise awareness of what climate rights are, how they are understood and defended by Bulgarian environmental, climate and human rights defenders and representatives of communities affected by climate change. The forum held in the House of Europe in Sofia was attended by 41 people - politicians, clean air experts, medical doctors, environmentalists, scientists, lawyers, climate activists and representatives of communities affected by different environmental and climate issues.

Communications

Communicating the DACE project findings and progress in Bulgaria was affected by three main factors:

1. Escalating political confrontation, volatility and frequent elections, with decarbonisation plans negotiated under the EU's Recovery Pact framework caused heated discussions in mass media. The issue was central in the public debate over energy independence from Russia following the beginning of the war in Ukraine and dominated by political approaches to it.

Partisan confrontation significantly hampered communication over climate rights and diminished mass media response rates to press briefings and other communication from BlueLink.

2. Unprecedented political support for climate policies, resulting from the first (and only) participation of the Bulgarian Greens in the 2021-2022 coalition government, which included Borislav Sandov as a Deputy Prime-Minister on Climate Policies, as well as the tenure of climate enthusiast Julian Popov as Minister of Environment and Waters in 2023-2024 (including BlueLink CEO Pavel Antonov as his political advisor). Partnership between BlueLink and the Ministry of Environment and Waters and the ministers' participation in project events raised the project implementation's profile and partially compensated for the loss of media interest.

3. Extreme weather and other climate-related disasters claimed lives and caused unprecedented damage and human suffering - in Bulgaria, but also across Central Europe and Spain, which also attracted media and political attention, particularly by the project's end in 2024. Unfortunately it was also affected negatively by political infighting over coal power and focused more on adaptation and government plans. Yet, BlueLink was able to successfully promote the concept of climate rights and its final publication as part of the Bulgarian National Television and Bulgarian National Radio's coverage of the extreme flooding disaster in Valencia, Spain in the final days of the project.

In addition, BlueLink was in charge of co-ordinating regional communications with the DACE project partners and was involved in two primary regional communication events:

1. A regional workshop on climate rights reporting, held in Vienna in February 2024. Journalists from 10 EU member states took part in a 3-day long capacity building programme designed by BlueLink's Pavel Antonov and involving expert contributions and legal presentations from all project members. The event resulted in stories and interviews produced and published in national languages and in English across the project's participating countries.

2. A closing conference at the Committee of Regions in Brussels on October 15, 2024. On top of its academic and practitioner/expert exchange value, the event had significant communications potential, enhanced by the uploading of the presentations on BlueLink's Activizia YouTube Channel.

We hope that different target groups - institutions, business representatives, health professionals, activists for climate change, women's rights advocates, local communities affected by problems such as industrial pollution -could understand and utilise the understanding of climate rights that guarantee their life and health and environmental protection. The creation of broad coalitions of like-minded people around the concept climate rights can be a step towards deepening the public dialogue on the subject and the realisation of the enormous challenge which represent climate change for us as a society. The elevated understanding and support from institutions can give impetus to the implementation of the necessary ambitious public and legislative reforms.

FINDINGS FROM ESTONIA

The Survey

Expert interviews on adaptation produced the following outcomes:

- Public authorities tend to deal with adaptation issues on their own and on a project basis. Those for whom the consequences of climate change are already present (e.g. agriculture) or who are dealing with crisis response capacity are more thought through. There is a lack of a coherent system and a lack of greater central coordination.
- There is insufficient use of scientific data on the current state of the climate and future projections, and some action is based on outdated climate targets.

The survey results are the following:

- 78% of respondents are at least some degree of concerned about climate change. However, only 32% of respondents think it is justified for people to go to court to defend their climate rights.
- 64% of all respondents would like to know more about who is responsible for adaptation in their country and only 6% think they know enough.
- Most respondents to the survey felt that climate change affects the human rights to health and the right to life. Only 3% of respondents found that climate change affects gender equality.

The Legal Study

According to EELC, there are gaps in the planning and implementation of adaptation measures in Estonia, i.e. the measures envisaged in policy documents may not be implemented and have a real impact. One example is the protection of greenbelt areas: although policy documents have identified the importance of more effective protection of greenbelt areas for adaptation to climate change, there is no implementation mechanism to ensure such protection. The role of local governments in adapting to climate change needs to be clarified. Climate change mitigation and adaptation activities have an impact on people's environmental rights as well as on their human rights. Climate change affects different generations differently, and this is also a factor that needs to be taken into account in decision-making. The effects of climate change - e.g. heat waves, etc. - affect more vulnerable groups, such as young children and the elderly, or people with health problems.

Events

Adaptation Conference:

- Adaptation planning in Estonia needs to be more clearly guided and outward looking;
- The role, tasks and responsibilities of local governments in adapting to climate change need to be set out more clearly in law;
- Legal regulation needs to ensure that adaptation takes place with sufficient speed and clarity for everyone, including how their rights are protected.

Seminar on Climate Complaints and Climate Rights:

- Unlike several other countries, Estonia does not have a specific mechanism for environmental NGOs to challenge legislative acts (including laws adopted by the parliament) in court. However, it is still reasonable to experiment with how, for example, challenging a law might work in the Estonian legal system.
- NGOs can play an important role in challenging climate change decisions, especially given the wide appeal rights of environmental NGOs. The ECtHR ruling in the KlimaSeniorinnen case provides a basis for assuming that in the future an environmental organization could also be able to rely on a human rights argument in court.

Communications

Media interest in the project's activities, like the Omnibus survey results, the Adaptation Conference and the Seminar on Climate Rights, was quite high, with national coverage in news portals, newspapers and TV news. The Estonian press also took a keen interest in the ECtHR's climate cases rulings published in April. EELC experts were contacted on several occasions and were featured on radio programs and quoted in national newspaper articles.

FINDINGS FROM HUNGARY

The Survey

The public opinion survey was filled in mostly by women and by those having higher education, and still only a minority of the respondents believed that women are more affected by climate change than men. An overwhelming majority already feels the impacts of climate change and believes that the government does not fully protect its citizens despite its obligation to do so. Respondents would support using legal tools to enforce climate rights, however, they think that this should be done by civil society organizations and not individual citizens.

Events

The events for stakeholders sparked large attention among those interested in the topic, and there seemed to be a consensus that while the climate crisis is an imminent threat, legal tools are slow and heavy to react to many aspects of it, especially in Hungary where there has never been a classical climate case yet. And while there are a number of initiatives ranging from integrating climate aspects into environmental impact assessments to energy communities, one cannot expect a full solution to this problem without a shift in human mindset on how one looks at the environment and climate.

The Legal Study

The Hungarian legal study concluded that there are a number of high quality plans relevant for climate change, however, often without actual implementation mechanisms or measures in place. The study gravitates to the finding that a climate case would be opportune in Hungary.

Communication

As regards communications of the issue in a sound and evidence based manner, the majority of the respondents who actively engaged on social media are still the climate sceptics and deniers and that in the current atmosphere of growing populism it is an uphill struggle to cover such issues in media and social media.

FINDINGS FROM SPAIN

Events

The first event entitled “Adaptation to Climate Change in Spain: Legal Solutions” attended by more than 60 participants on site and online provided an in-depth debate on the challenges and potential legal solutions to advance in building resilient and adapted societies, while remembering that there is still so much work to undertake at all sectors of the society.

This second event in Spain was a success as it achieved the participation in-situ of 58 people. The event helped to disseminate and broaden knowledge of journalists and students on the legal-institutional framework on climate advocacy and climate rights of citizens.

IIDMA has organized an event in collaboration with the Climate and Environment Section of the Illustrious Bar Association of Madrid (ICAM) to discuss how to legally protect the climate system. One conclusion was that in Spain there is a great diversity of legal mechanisms for protection of the climate, but they have to be applied.

FINDINGS FROM SLOVENIA

The Survey

A national survey regarding climate change, adaptation and rights was performed in Slovenia. The results were:

- 63.3% of Slovenians are familiar with the issue of climate change, while 5.8% are not familiar with the issue. The lowest level of familiarity with the issue is shown by the age group of 25-34 years.

- 68% of Slovenians are worried about the effects of climate change, and the concern is greatest in the 18-24 age group (73% of this age group).
- 8% of Slovenians consider climate change not to be a serious problem.
- More than 80% of the respondents answered that they are experiencing at least minor impacts of climate change in their personal, family or work environment. 19 % feel no impacts.
- Majority of respondents agree that it is the responsibility of the state to take measures to protect citizens from the negative effects of climate change (68.4%).
- 42% of Slovenians believe that the state is not taking sufficient measures to protect the population from the negative effects of climate change, almost 20% believe that the state is taking sufficient measures and 35% are indifferent.

Interviews with stakeholders:

The project also performed several interviews with national stakeholders, who expressed the following (majority):

- Slovenian climate goals are insufficient,
- implementation of climate policies in Slovenia is ineffective,
- past and present greenhouse gasses emitters and developed states are financially responsible for climate mitigation and just transition,
- residents of Slovenia are in general not aware of their environmental rights, and that the state and NGOs should play the key role in improving the situation.

Events

The project executed 3 events, with the common title 'To Whom the Bell Tolls'.

- National Climate Change Seminar, in which the national study and survey were presented with guest speakers, renowned national journalists Boštjan Videmšek and Erik Valenčič. There were 52 participants and the event was held in the 'EU House' in Ljubljana.
- National Climate Adaptation seminar, which focused on the national preparedness for climate related damages, with expert speakers Andrej Gnezda from the Ministry of the Environment, Climate and Energy, Petra Repnik, from the Water Directorate of Slovenia, Dr. Maja Simoneti, IPoP - Institute for Spatial Policy, prof. Barbara Čenčur Curk, Faculty of Science

and Technology in Ljubljana, Žiga Malek, representative of Team Europe direct, Nataša Beltran, Stritih, consulting for sustainable development, d.o.o., dr. Maša Kovič-Dine, Faculty of Law in Ljubljana, Assoc. Prof. dr. Tjaša Pogačar, Faculty of Biotechnology in Ljubljana, and Maša Cvetežar, activist and member of several social collectives. There were 34 participants.

- International Climate Rights Seminar was the last event organised for the implementation of the DACE project. The event was titled »For Whom the Bells Toll: Climate Rights and Litigation« and aimed to bring the concept of climate rights to the forefront whilst discussing the role of law, human rights, and liability in addressing the climate crisis. The event comprised several recognised speakers. Keynote address was given by Dr David R Boyd, United Nations Special Rapporteur on human rights and the environment. There was a range of speakers from academia (Prof Stephen Humphreys (London School of Economics), Prof Vasilka Sancin (University of Ljubljana), and Dr Samuel Ruiz-Tagle (University of Cambridge)) and practice (Kertu Birgit Anton (Estonian Environmental Law Center), Luka Štrubelj (Legal Center for the Protection of Human Rights and the Environment)). Also modelling approaches to determining the obligations of states under the Paris Agreement (Dr Andreas Geiges and Dr Luzie Helfmann) were presented. 102 people participated from 12 eligible states, with participants from countries outside of the EU.

Social media campaign

Also a social media campaign was performed in summer of 2024, stressing the urgency of climate adaptation through examples of natural disasters occurring through the summer. It had a reach of almost 70.000.