

THE DEVELOPMENT OF CLIMATE LAW IN JUDICIAL PRACTICE: THE EXPERIENCE OF NORWAY AND THE UNITED KINGDOM

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Abstract: *The article analyzes the role of courts in the development of climate law from a legal perspective, drawing on the experience of Norway and the United Kingdom. The author examines the application of environmental provisions of the Constitution in Norway in the context of the case “People vs. Arctic Oil”. The article states that while the Supreme Court acknowledges that climate change is a real and serious threat, it refrains from overturning the government’s new oil licenses, recognizes a wide “margin of appreciation” and places climate claims more within the realm of political decision-making. In contrast, the UK section analyses decisions in the Finch case and projects in the North Sea such as Jackdaw and Rosebank, where courts interpret environmental impact assessment as a key legal tool for implementing climate commitments, rather than as a narrow technical procedure. In particular, it requires consideration of “downstream” emissions – emissions resulting from the subsequent burning of extracted oil and gas – and this approach significantly limits government discretion. The author concludes that, although both countries are bound by the same international climate regime, Norway is more cautious, while the United Kingdom is developing a more proactive model of judicial review that links human rights and climate obligations.*

Keywords: *climate law; climate claims; environment; human rights; strategic litigation.*

1. Introduction: Relevance of the issue and purpose of the study

As the consequences of climate change deepen, whether governments are meeting their climate commitments has become a major issue for the courts to examine. In recent years, through strategic climate litigation, civil society has been legally challenging governments’ and companies’ decisions on fossil fuel projects. In recent years, a series of court decisions, particularly in the UK and Norway, have given impetus to the development of climate law. Despite warnings from global energy organizations, the aforementioned countries have continued to implement new oil and gas production projects. As a result, non-governmental organizations and opposition groups aiming to prevent climate change have brought this contradiction to the agenda through legal means and have begun to play a role in monitoring the implementation of climate commitments within the framework of national courts. This article analyzes the main court decisions on fossil fuel projects in Norway and the United Kingdom during 2020–2025, examines the significance of these decisions in the context of national and international law, and discusses the principle of taking “climate damage” into account in environmental impact assessment procedures. It also highlights examples of climate litigation, the role of civil society and strategic claims in this process. Finally, the approaches of Norwegian and UK courts are compared and future trends in climate law are discussed.

2. Climate lawsuit in the Norwegian Supreme Court: “People vs. Arctic Oil” case

The first major climate lawsuit in Norwegian courts was the case of Greenpeace Nordic Assn against the Norwegian Ministry of Petroleum and Energy, known as “People vs.

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Arctic Oil”. In this case, young environmental activists and non-governmental organizations (led by Greenpeace and Nature and Youth) sued Norwegian government over its decision to grant five new licenses for oil and gas exploration in 20 blocks in the southeastern Barents Sea (Greenpeace Nordic v Ministry of Petroleum and Energy, 2018, Petition, p. 9). The essence of the claim made by the plaintiffs was this: the development of new fossil fuel reserves that will be discovered as a result of these licenses granted in 2016 is contrary to the Paris Agreement’s goal of limiting global temperature increase to 1.5–2°C and will pose serious risks to the Arctic ecosystem (Greenpeace Nordic v Ministry of Petroleum and Energy, 2018, Petition, p. 3). At the same time, the lawsuit stated that this decision violated the “right to a healthy environment” guaranteed by Article 112 of the Norwegian Constitution (Greenpeace Nordic v Ministry of Petroleum and Energy, 2018, Petition, p. 39). Article 112 of the Constitution establishes the right of everyone in Norway to a healthy and productive natural environment and instructs the government to take measures to protect this right (Constitution of Norway, art. 112). The plaintiffs also argued that the government acted contrary to the precautionary principle and the principle of non-harm recognized in international law, as well as that it failed to take into account the harm caused by climate change to people living outside the borders of the Kingdom of Norway and that transboundary harm existed (Greenpeace Nordic v Ministry of Petroleum and Energy, 2018, Petition, p. 44). The fact that the petition alleges a violation of the objectives of the Paris Climate Agreement and the right to life and respect for private and family life, as reflected in Articles 2 and 8 of the European Convention on Human Rights, demonstrates the presence of a human rights element in this climate claim and strengthens the argument (Greenpeace Nordic v Ministry of Petroleum and Energy, 2018, Petition, p. 38).

In its first instance decision on 4 January 2018, the Oslo District Court concluded that the government’s actions did not violate Article 112 of the Constitution and ordered the claimants to pay the Norwegian government 580,000 kroner (Greenpeace Nordic v Ministry of Petroleum and Energy, 2018, Oslo District Court, p. 50). The court stated that the government had followed the required procedures prior to the licensing decision and noted that Parliament (Storting) had discussed the project and assessed it in light of the objectives of the Paris Agreement (Greenpeace Nordic v Ministry of Petroleum and Energy, 2018, Oslo District Court, p. 30-31). The district court also concluded that CO₂ (carbon dioxide) emissions resulting from the flaring of oil and gas exported from Norway abroad were “irrelevant” in the context of a violation of Article 112 (Greenpeace Nordic v Ministry of Petroleum and Energy, 2018, Oslo District Court, p. 25). The plaintiffs appealed this decision, and in January 2020, the Borgarting Court of Appeal upheld the original decision (Greenpeace Nordic v Ministry of Petroleum and Energy, 2020, Borgarting Court of Appeal, p. 46). Although the appeal court changed some important legal positions, it ultimately upheld the rejection of the request for the cancellation of the licenses (Greenpeace Nordic v Ministry of Petroleum and Energy, 2020, Borgarting Court of Appeal, p. 46). In particular, the appeal court noted that Article 112 of the Constitution applies to climate issues and that even external emissions resulting from the burning of fuel exported by Norway cannot be ignored (Greenpeace Nordic v Ministry of Petroleum and Energy, 2020, Borgarting Court of Appeal, p. 33). However, the court stressed that there is a very high threshold for establishing a violation of Article 112; government actions will only violate constitutional law if there is a clear negligence on the part of the state in its duty to take climate action (Greenpeace Nordic v Ministry of Petroleum and Energy, 2020, Borgarting Court of Appeal, p. 33). According to the Court of Appeal, the disputed licenses have not yet been implemented and it is uncertain how much additional greenhouse gas emissions they will cause in the future – therefore, the government has not been proven to have “grossly violated” its obligations under Article 112

(Greenpeace Nordic v Ministry of Petroleum and Energy, 2020, Borgarting Court of Appeal, p. 33). This means that the cancellation of licenses issued in an area as important for the state economy as the oil and gas sector without any real violation, especially when this cancellation is justified by a violation of a constitutional provision, is unacceptable.

Unable to achieve the desired result, climate activists took the dispute to the Supreme Court of Norway, and the Supreme Court announced its final decision on December 22, 2020. Sitting in plenary session, 11 of the 15 judges of the Supreme Court ruled to dismiss the plaintiffs' appeal and to maintain the oil and gas licenses in the Barents Sea (Greenpeace Nordic v Ministry of Petroleum and Energy, 2020, Supreme Court of Norway ,page 50). The Norwegian Supreme Court concluded that Article 112 of the Constitution is a subjective right and can be invoked in court; however, a decision that parliament has authorized by law (the 2013 Act on the Granting of Petroleum and Gas Licenses) can only be declared invalid by the court if the parliament has "grossly" violated its constitutional duty to protect the environment (Greenpeace Nordic v Ministry of Petroleum and Energy, 2020, Supreme Court of Norway, p. 25). The court emphasized that the executive and legislative branches have wide discretion in shaping climate policy and that courts can only intervene in extreme cases (Greenpeace Nordic v Ministry of Petroleum and Energy, 2020, Supreme Court of Norway,p. 25). The facts presented by the claimants indicated that there was no such excess. The Supreme Court considered that the Kingdom of Norway was implementing various measures to prevent climate change (carbon tax, renewable energy investments, support for carbon capture and storage technologies, etc.) and that, given that these sufficient measures were taken, the decision of the Parliament to issue new licenses could not be considered a gross violation of the obligations under Article 112 (Greenpeace Nordic v Ministry of Petroleum and Energy, 2020, Supreme Court of Norway, p. 27).

One of the most notable legal positions of the Supreme Court was that Norway is not liable for emissions resulting from the combustion of fuel exported abroad. The court cited international law as stating that climate change obligations are based on "the apportionment of responsibility among States for emissions within their territories" and that "each State is responsible only for emissions resulting from combustion within its territory" (Universal Rights Group, 2021). This means that if oil and gas produced in Norway are burned in other countries, the legal responsibility for those carbon emissions cannot be placed on the Kingdom of Norway – in an intergovernmental climate regime, these emissions fall on the consumer countries. This position has been criticized by a number of international experts. For example, the UN Special Rapporteur on human rights and the environment and the Special Rapporteur on hazardous substances submitted an amicus curiae brief to the Supreme Court stating that the principle of "common but differentiated responsibilities" (i.e., developed countries bear greater responsibility for climate change) enshrined in the UN Framework Convention on Climate Change and the Paris Agreement would be violated if each state continued to consider only its own emissions and ignored the global impacts of the fuels it exported (Universal Rights Group, 2021). However, the Supreme Court did not accept this argument and emphasized in its decision that the scope of Norway's legal obligations was limited to such a limited framework.

It should be noted that 4 judges issued separate opinions against this decision, which was adopted by a vote of 11-4 in the Supreme Court, suggesting a more cautious approach (Greenpeace Nordic v Ministry of Petroleum and Energy, 2020, Supreme Court of Norway). The dissenting judges considered the government's decision to be procedurally premature and considered it appropriate to suspend the implementation of the licenses until a new climate impact assessment had been conducted. They noted that the environmental impact assessment process conducted before the licenses were issued had not taken into account future climate impacts, including emissions from the combustion of exported oil. This is scientifically

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unfounded, as it is known that the final consumption of the extracted oil and gas will inevitably lead to greenhouse gas emissions. According to the dissenting judges, it was wrong to maintain these licenses in force without taking into account the results of a new climate assessment (Universal Rights Group, 2021). However, as noted, the majority of the Supreme Court considered the government's actions legal, referring the issue to the political sphere.

As a result, the Norwegian Supreme Court's decision in the case of *People vs. Arctic Oil* set a significant precedent in climate law. Although the court considered a climate claim under Article 112 for the first time, it showed that it was not prepared to consider state inaction as a violation of constitutional law. This decision also highlighted a contradiction in Norway's climate policy: on the one hand, the country is leading global climate initiatives (such as the Nansen Initiative to protect the rights of climate refugees), while on the other hand, relying on the economic power it gains from the oil and gas industry and continuing to develop new fields without compromising its own revenues. Although the relevant UN special rapporteur stated that wealthy and oil and gas exporting countries like Norway must take greater responsibility in the global climate fight, the Supreme Court's decision did not reflect these preferences. After losing domestically, the claimants submitted the case to the European Court of Human Rights as a last resort – on 15 June 2021, an application was filed alleging that the Kingdom of Norway had violated its obligations under the European Convention on Human Rights. The European Court of Human Rights, in its judgment of 28 October 2025, concluded that there had been no violation of Articles 2 and 8 of the Convention and dismissed the claim (*Greenpeace Nordic v Norway*, 2025, European Court of Human Rights).

3. UK Court Decisions on Fossil Fuel Projects (2020–2024)

3.1. Heathrow Case and the Paris Agreement: The Courts' Initial Approach

One of the first high-profile climate-related lawsuits in the UK was the case over the expansion of Heathrow Airport (construction of a third runway) (*Friends of the Earth v Heathrow Airport*, 2020, UK Supreme Court). In February 2020, the UK Court of Appeal suspended the government's Heathrow expansion plan following an appeal by environmental groups (*Friends of the Earth v Heathrow Airport*, 2020, UK Supreme Court). The Court of Appeal ruled that the government's infrastructure planning had failed to take into account its obligations under the Paris Agreement and that the government's decision was unlawful (*Friends of the Earth v Heathrow Airport*, 2020, UK Supreme Court). However, in late 2020, the UK High Court overturned this decision and gave the green light to the expansion (*Friends of the Earth v Heathrow Airport*, 2020, UK Supreme Court). The High Court stressed that the Paris Agreement was not explicitly included in the government's official policy documents at the time; therefore, the court did not have the authority to directly apply the Paris targets and legally invalidate the construction plan. This case showed that while UK courts respect international climate agreements, they are reluctant to directly apply them unless they are transposed into domestic law. As a result, the legal challenge to climate issues in the Heathrow case was not fully won. However, in parallel with this decision, UK legislation was strengthened in 2019, with an amendment to the Climate Change Act setting the country a statutory target of achieving net zero emissions by 2050 (*Friends of the Earth v Heathrow Airport*, 2020, UK Supreme Court). The UK government has also adopted national carbon budgets that envisage significant emissions reductions by 2030. Thus, in the following years, litigation has been re-framed in light of these national commitments to the Paris Agreement targets.

3.2. The Finch case: Environmental Impact Assessment and Scope 3 emissions

One of the most important court precedents in the field of climate law in the UK between 2020–2024 was the case of *R (Finch) v. Surrey County Council* (Finch v Surrey County Council, 2020, High Court). At the heart of this case was a dispute over a 25-year plan to increase production and drill four new wells at the Horse Hill oil field in Surrey, England (Finch v Surrey County Council, 2020, High Court, para. 2). Since the project expected oil production from the well to exceed the significant threshold of 500 tons per day, an environmental impact assessment procedure was required by law (Finch v Surrey County Council, 2020, High Court, para.11). The project sponsors and the local authority (Surrey Council) considered that the environmental impact assessment of this oil project regarding its climate impact should be limited to direct, local emissions only – that is, emissions from the operation of the well (e.g. gases leaking from the well equipment, transport emissions, etc.) (Finch v Surrey County Council, 2020, High Court, para. 72). However, the amount of carbon emissions that would be generated when the oil extracted from the well is burned as the final product was not calculated and taken into account in the environmental impact assessment report (Finch v Surrey County Council, 2020, High Court, para.17). The council accepted this approach and in 2018 granted permission for the project based on this kind of incomplete environmental impact assessment.

But local resident Sarah Finch challenged the decision in court. The claimant argued that the legislation (the 2017 EIA Regulations and the EU EIA Directive on which those regulations are based) requires a project to have its “direct and indirect significant impacts” fully assessed; and that in terms of climate impact, the project’s direct emissions, as well as its indirect end-of-pipe emissions, are also included in the category of “significant impacts” (Finch v Surrey County Council, 2020, High Court, para. 22). That is, if the crude oil to be extracted from Horse Hill is inevitably combusted as fuel after processing, and the extent of this combustion can be calculated and predicted, it should be considered an integral part of the project’s climate impact. Surrey Council’s decision to not take these emissions into account, according to the plaintiff, is unlawful.

The High Court of Justice Queen’s Bench Division Planning Court dismissed the claim (Finch v Surrey County Council, 2020, High Court, para. 148), and the Court of Appeal, by a majority of 2-1, essentially upheld the High Court’s position (Finch v Surrey County Council, 2022, Court of Appeal, para.150). These instances considered that the Environmental Impact Assessment Directive and national regulations did not require an assessment of long-range consequences; even if it was clear where and by whom the extracted oil would be burned, this could be legally regarded as a “subjective assessment of the assessment authority” of the local planning authority. That is, according to the courts, a local authority may not take into account those emissions, saying that it does not see sufficient reason to consider the final burning of oil as a result of the project, and this is within the scope of the evaluator’s decision-making power. However, the plaintiff did not agree with this position and took the case to the Supreme Court.

On June 20, 2024, the UK Supreme Court announced its final decision, allowing Sarah Finch’s appeal by a vote of 3 judges in favour and 2 judges against (Finch v Surrey County Council, 2024, UK Supreme Court, para.331). The High Court has ruled that Surrey Council’s permission for the Horse Hill project was unlawful because the project’s Environmental Impact Assessment process failed to assess the “indirect” climate impacts that would result from burning oil (Finch v Surrey County Council, 2024, UK Supreme Court, para.329). The Supreme Court majority position made it clear that the legal issue here is the correct interpretation of causation: it is a known and undisputed fact that, if this project were to proceed, all of the oil extracted would be processed and burned as fuel, resulting in the release of large amounts of greenhouse gases into the atmosphere (Finch v Surrey County

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Council, 2024, UK Supreme Court, para.332). The amount of these final combustion emissions is scientifically measurable and indeed the Council itself provided such a calculation for the reserve at the time of the case. However, the court emphasised that “the burning of that oil as a result of the oil extraction project is an unavoidable and immediately foreseeable impact” – and therefore these emissions should have been assessed under the 2017 Environmental Impact Assessment Regulations (UK Supreme Court, 2024). According to the legislation, there is only a distinction between direct and indirect impacts and no geographical restrictions are envisaged; the impact of greenhouse gases on the climate is also global, regardless of where they are emitted (UK Supreme Court, 2024). The Supreme Court judgment criticised the Court of Appeal’s approach that “the issue could be resolved in different ways depending on the subjective assessment of the planning authority”, stating that it would be legally illogical for different authorities to make conflicting decisions on such a fundamental cause-and-effect relationship. Thus, for the first time, the UK Supreme Court confirmed that it was legally binding to take into account end-use emissions, known as “Scope 3”, in a decision on a fossil fuel project. This was a major turning point in climate law and can be seen as the emergence of the “climate damage” principle in UK planning law.

The Supreme Court’s landmark decision in *Finch* immediately had practical consequences. Following the ruling, the British government announced that it would review the rules governing the approval of fossil fuel projects, in particular by preparing new guidelines that would ensure that emissions from combustion (i.e. the indirect impact of the project on the global climate) would be taken into account in the environmental impact assessment process. In fact, in August 2024, the government announced that it would withdraw its previous position in the ongoing legal proceedings concerning controversial oil and gas projects in the North Sea (for example, in the *Jackdaw* and *Rosebank* cases) and cease to defend these cases. In other words, in the face of the new legal line of the Supreme Court, the government itself joined the claims of Greenpeace UK and other claimant groups, since it was already known that previous approval decisions had been made in violation of the *Finch* precedent. This was followed by the issue of permits for the *Jackdaw* gas field and the *Rosebank* oil field in the North Sea in 2023–2025, and the British courts wrote a new page in the development of climate law.

3.3. Jackdaw and Rosebank: Litigation over North Sea oil and gas projects

Jackdaw and *Rosebank* are major oil and gas projects in the British North Sea that have recently been the focus of legal battles by climate activists (Climate in the Courts, 2025). *Jackdaw* is a gas condensate field located in the eastern North Sea, 150 miles off the coast of Aberdeen, and was planned to be developed by Shell. The British government gave permission for the *Jackdaw* project in 2022. *Rosebank* is a giant oil field in the North Atlantic, 80 miles west of the Shetland Islands – considered the country’s largest untapped oil reserve. It is operated by Norway’s state-owned company Equinor and its partner Ithaca Energy; Government approval for *Rosebank* was granted in September 2023. While both projects were justified on national energy security grounds, civil society groups took the decisions to court, arguing that the damage the projects would cause to the global climate was ignored. Greenpeace UK and Uplift, a climate group, have brought an action before the Inner House, Scotland’s highest civil court, to have the government’s final consent decisions for these projects overturned. The claims are that, as in the *Finch* case, the environmental impact assessment documents failed to take into account the “total climate impact” of the projects – that is, the emissions that would result from burning the fuel to be extracted. In the UK, prior to 2022, permits for such projects only considered direct operational emissions, but there were cases where carbon released during fuel combustion was excluded as “user country

emissions”. Since the Jackdaw and Rosebank permits were granted using the same approach, Greenpeace and other claimants argued that these decisions should now be considered unlawful.

These claims were heard in the Scottish Court of Session in late 2024 and early 2025. After the Supreme Court upheld the position of climate activists in the Finch case, even the British government itself accepted that the plaintiffs were right in the court and played a role in formalizing the process (Climate in the Courts, 2025). Finally, on 30 January 2025, the Scottish High Court delivered its historic judgment on the Jackdaw and Rosebank projects. The court ruled that the previous government approvals for both projects were unlawful and annulled them. The decision means that the permits currently granted for these projects are no longer valid and the government must make a new decision, in line with the updated environmental requirements, if it wants to proceed with the projects (Chestney, 2025).

In addition to the annulment decision, the court also took a balanced position on the current status of the projects: Shell and Equinor can continue preparatory work on Jackdaw and Rosebank (such as the construction of offshore platforms), but oil and gas cannot be extracted and exploited from these fields until a new government decision is made (Chestney, 2025). This approach was designed to prioritize the public interest without completely destroying the financial interests of the companies. The court clearly emphasized in its decision that “the public interest in government agencies acting in accordance with the law and the public’s interest in climate change outweigh the private commercial interests of the project owners”. In other words, the court did not allow illegally issued permits to remain merely “on paper” but untouched in practice - in light of serious public concern about climate change, the court deemed it necessary to fully ensure the rule of law.

The decision was hailed as a historic victory by climate campaigners. Philip Evans, a representative of Greenpeace UK, welcomed the decision, saying: “The era when governments can approve new extraction projects while ignoring the climate impacts is over”. Uplift executive director Tessa Khan also called the ruling a great success, stressing that the Rosebank project could not go ahead without taking into account the “enormous climate damage”. Robert Clark, a lawyer at the law firm Client Earth, noted that this is the third major ruling by British courts in the past year on the consideration of “downstream” emissions (Climate in the Courts, 2025). He cited as an example the High Court’s decision in September 2023 to overturn the government’s approval of a new coal mine, Whitehaven, based on the government’s failure to assess emissions from coal combustion (Climate in the Courts, 2025). Indeed, in 2022 the British government gave its approval to the Whitehaven project, the first deep coal mine in a long time; but this decision was overturned by the Supreme Court’s Finch precedent. Thus, in 2024–2025, one coal, one gas and one oil project in Britain were stopped by the courts for failing to take climate impacts into account. Legal experts say such decisions not only affect individual projects, but also force governments to reconsider policies that conflict with climate goals. Even politicians who will come to power in Britain in 2024 have made statements in advance, stating that in the light of such court decisions, the country should not issue any new oil and gas licenses and should invest in the clean energy sector (Chestney, 2025).

4. Analysis of Decisions in the Context of National and International Law

The above-mentioned court cases should be assessed not only in the context of domestic violations, but also in the light of the national and international obligations of states regarding climate change. Both Norway and the UK are active participants in the global climate regime: both countries are parties to the 1992 UN Framework Convention on Climate Change (United Nations Framework Convention on Climate Change, 1992, Annex 2) and support the goals of the 2015 Paris Agreement (limiting global warming to 1.5°C as far as

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possible and achieving net-zero global emissions by mid-century) (Paris Agreement, 2015, art. 2.1(a)). Although the Paris Agreement legally obliges each party to regularly submit and strengthen its national contributions, there is no international sanction mechanism that enforces the implementation of this document (Paris Agreement, 2015, art. 4.2, 4.3, 15). Achieving the Paris targets therefore depends entirely on steps taken under national law. In court cases in Norway and the UK, plaintiffs have argued that governments have acted in breach of the Paris Agreement, but the courts have taken different approaches to addressing these obligations. In the case of *People vs. Arctic Oil*, the claimants sought to apply the objectives and principles of the Paris Agreement (in particular the principle of “common but differentiated responsibilities”) to the interpretation of national decisions.

However, the Norwegian Supreme Court did not directly base the legal basis on the conflict with the Paris Agreement – instead, it considered it sufficient that the parliament had decided to take into account the climate commitments and refused to revoke the licenses for violating the Paris Agreement. The court’s references to international law tended to favor the model of limited liability of states within their territory (although this position was met with warnings from UN special rapporteurs that it was contrary to the spirit of the Paris Agreement). In contrast, in the UK, in the *Heathrow* case, the Court of Appeal found it unlawful to refer directly to the Paris Agreement and not to include it in national planning documents, but the Supreme Court overturned this approach on technical grounds. That is, British courts apply the Paris targets more if they are transformed into domestic legal sources. For example, since the UK’s Net Zero (2050) target is now national law under the Climate Change Act 2008 and its 2019 amendment, government decisions must be interpreted in a manner consistent with that target. While there was no direct infringement of Net Zero law in the *Jackdaw* and *Rosebank* cases, the *Finch* precedent essentially showed that the Paris and Net Zero targets permeate national law. The Supreme Court emphasised in its *Finch* decision that the purpose of the environmental impact assessment rules is to take full account of climate impacts in planning decisions. This is therefore a mechanism to ensure that decisions are made in line with the UK’s climate targets.

Another aspect of international law is the human rights dimension. Since climate change negatively impacts human rights (the right to life, a healthy environment, health, housing, etc.), this topic has begun to be integrated into international human rights law in the last decade. The UN General Assembly Council adopted resolution 76/300 in 2022, recognizing the “right of everyone to a safe, clean, healthy and sustainable environment” (UN General Assembly, 2022). Within the framework of the European Convention on Human Rights, Article 2 (right to life) and Article 8 (right to respect for private and family life) of the European Convention on Human Rights apply to climate issues (European Convention on Human Rights, 1950). The 4-year-long *Urgenda* case in the Netherlands was a turning point in this direction: Dutch courts (the Court of Appeal in 2018 and the Supreme Court in 2019) ruled that the government’s insufficient climate inaction violated citizens’ rights under the European Convention on Human Rights (the right to life and family) (*Urgenda Foundation v Netherlands*, 2019, Supreme Court). In a landmark ruling of December 20, 2019, the Dutch Supreme Court upheld a decision that required the government to reduce emissions by at least 25% below 1990 levels by the end of 2020, based on the state’s positive obligation under Articles 2 and 8 of the European Convention on Human Rights (*Urgenda Foundation v Netherlands*, 2019, Supreme Court). It was the first time in the world that a court of cassation had forced a state to comply with a specific climate target based solely on human rights obligations.

In the *People vs Arctic Oil* case, the plaintiffs also cited Articles 2 and 8 of the European Convention on Human Rights, but the Norwegian courts blocked the development

of this argument. The Supreme Court did not turn to the international human rights framework in its decision, relying mainly on the constitutional article. At the same time, in late 2023 - early 2024, the European Court of Human Rights heard several cases related to climate change for the first time in its history (including a multi-state case by the group “KlimaSeniorinnen” from Switzerland and young applicants from Portugal) (*Verein KlimaSeniorinnen v Switzerland*, 2024, EctHR). The European Court of Human Rights’ decision of 9 April 2024 in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, recognizing the state’s insufficient action in the field of climate change as a violation of Article 8 of the ECHR, set a very important precedent at the intersection of climate change and human rights. However, this decision did not rule in favor of the state in the *Greenpeace vs Norway* case dated October 28, 2025 (*Greenpeace Nordic v Norway*, 2025, EctHR). The difference that emerges when comparing them is very simple. The *Klimaseniorinnen* case was about the long-standing inadequacies of Switzerland’s overall climate policy, while the *Greenpeace* case was about the Norwegian government’s process for granting exploration licenses for oil and gas projects.

In the context of national law, countries also have different approaches. Article 112 of the Norwegian Constitution directly recognizes the “right to a livable environment” and includes the principle of intergenerational justice (Constitution of Norway, art.112). This is in line with the environmental rights guarantees in the constitutions of many other countries (e.g. France, Portugal, etc.). Even Germany, in 1994, added Article 20a to its Basic Law, recognizing the state's responsibility to protect the environment for future generations (Basic Law of Germany, art. 20a). However, the presence of such a provision in a written constitution does not always mean that the courts will strictly apply it. As we have seen, the Norwegian Supreme Court has practically left the implementation of Article 112 to the discretion of parliament, stating that it will intervene only in the most extreme cases. In contrast, the German Federal Constitutional Court, in its decision of April 29, 2021, recognized the state’s failure to adequately fulfill its climate commitments as a violation of fundamental rights (*Neubauer v Germany*, 2021, Federal Constitutional Court). In particular, the court emphasized in its decision that Article 20a of the Basic Law directs the state to achieve climate neutrality and requires “a fair sharing of the environmental burden between generations”. The Court stated that “fundamental rights, as an intergenerational guarantee, ensure that current generations do not exhaust their carbon budget excessively and impose a climate burden that will deprive future generations of their freedom”. The German court clearly stated in its decision that the excuse that no state can solve the global climate problem alone does not exempt it from its constitutional climate protection duty. This principle contradicts the approach of the Norwegian Supreme Court that “a state cannot solve the world’s climate problem alone” and reflects a different legal assessment at the national level. Because the United Kingdom does not have a written constitution, such a fundamental rights debate was not held at the national level. That is, the absence of a constitutional right violation made it impossible to substantiate the claim more strongly. However, the binding nature of climate targets in UK law (for example, the aforementioned Climate Change Act) has created a strong, if not constitutional, legislative framework, which serves as a basis for reference to climate obligations in the hands of UK courts.

Finally, while international law lacks strong enforcement mechanisms, international courts and institutions have recently begun to express their views on the climate debt of states. For example, in 2023–2024, at the request of the UN General Assembly, the International Court of Justice (ICJ) prepared an advisory opinion on climate justice, and with this opinion, the ICC confirmed that combating climate change is now a legal obligation for states and that the principle of not causing harm to the environment also applies in the climate context (International Court of Justice, 23 July 2025, Advisory Opinion, para. 132-135). The

Inter-American Court of Human Rights also issued a historic advisory opinion in 2025, declaring that a healthy climate is a value protected under human rights and that states have an international legal obligation to act urgently to address the climate crisis (Inter-American Court of Human Rights, 29 May 2025, Advisory Opinion, para. 272-275, para. 183). Such international developments may lead to a future reassessment of the cautious stance taken by the Norwegian Supreme Court in 2020. While states have individual responsibilities in the international climate regime, preventing global warming is becoming a common legal obligation. National courts also update their legal analysis over time within this larger framework.

5. Climate Claims in Courts: Civil Society and Strategic Litigation

The driving force behind the court cases described above in both Norway and Britain has been civil society activism. The term strategic litigation refers to legal actions that aim to bring about broader societal change, in addition to directly winning a specific legal dispute. In a global and complex problem like climate change, non-governmental organizations, youth activist groups, and even local communities are actively using strategic litigation.

In Norway, the plaintiffs in the *People vs. Arctic Oil* case were NGOs such as Greenpeace Nordic and Young Friends (Nature and Youth), who supported the case with a large public campaign. In Britain, the *Finch* case was filed under the name of an individual named Sara Finch, but was actually supported by organizations such as Weald Action Group and Friends of the Earth. The *Jackdaw* and *Rosebank* lawsuits were brought directly by Greenpeace UK and Uplift. All of these entities are part of the climate movement and are using the courts as a platform to influence government policy.

Examples of strategic climate litigation are also on the rise globally. The Dutch *Urgenda* case was a catalyst – a non-governmental organization on behalf of 900 citizens filed a lawsuit against the government, which resulted in courts ruling in 2015–2019 that the government’s emissions reduction target was insufficient and requiring it to increase it (*Urgenda Foundation v Netherlands*, 2019, Supreme Court). These success models were replicated in other European countries. In Germany, the *Neubauer* case was a strategic move by young activists and was a huge success – the German government tightened legislation after the decision and raised the 2030 target from 55% to 65% (*Neubauer v Germany*, 2021, Federal Constitutional Court).

Many of these cases, learning from each other, benefiting from each other in a positive way, each time going a little further, filling gaps in climate law and making a significant visible contribution to the development of climate law. For example, the *Urgenda* case was mainly about the state's obligation to reduce emissions; in subsequent cases, for example, corporate responsibility was targeted. In 2021, the Hague Court of Justice of the Netherlands ruled in the case *Milieudefensie (FOE) v. Shell*, ruling that the oil company Shell also has a responsibility to address climate change and must reduce its global emissions by 45% by 2030, in line with the Paris Agreement targets (*Milieudefensie v Shell*, 2021, District Court of The Hague). This was the first time a global company had been forced by a court to comply with global climate targets. Although the appeals court overturned the decision, it was still a fruitful process in terms of strategic litigation. In the US, dozens of state and city governments have filed “climate damage” lawsuits against major oil companies, claiming that they are liable for damage to local infrastructure and public health caused by the effects of climate change (changing weather patterns, rising sea levels, etc.). These lawsuits are ongoing in many jurisdictions.

Civil society organizations support these claims not only in courtrooms but also in the public arena. During legal proceedings, expert opinions, scientific reports (such as reports

from the Intergovernmental Panel on Climate Change), and international legal declarations are presented to the court and published in the press. Thus, legal proceedings also become a means of political pressure on governments. For example, in Britain, while the Jackdaw and Rosebank cases were pending in court, opposition political parties issued statements in 2024 promising a moratorium on new fossil fuel projects – an example of the impact of litigation on political discourse.

While strategic litigation has brought real change to the climate movement in some countries, it is not an easy path. Courts do not always rule in favor of claimants, and the decision sometimes depends not on the court but on the political line of the country (the Norwegian decision is an example of this). Sometimes years of processes, rejections, and appeals convince civil society of the difficulty of fighting through legal means. However, when looking at the overall statistics, climate litigation cases are rapidly increasing. Research shows that by mid-2023, more than 2,000 climate lawsuits had been filed in more than 65 countries around the world, with at least 230 new climate cases filed in 2023 alone (Setzer & Higham, 2024). The vast majority of these cases are aligned claims that require governments or companies to meet climate commitments. While some entities have recently filed lawsuits against climate action (for example, some states are seeking to block climate regulations in court on economic grounds), the main driving force behind the wave of climate litigation is still strategic litigants seeking to increase climate action.

The role of civil society is not limited to acting as direct litigants. They also contribute to legal processes by submitting *amicus curiae*. The opinion of the UN special rapporteurs in the Norway case is an example – although they are not litigants, they have provided the court with a valuable framework of international law. In other cases, scientific organizations, human rights organizations provide the court with information on climate science, risks and global obligations. All this helps the judges to see the issue from a broader perspective.

As a result, the development of climate law in many cases occurs not at the initiative of the executive and legislative authorities, but precisely thanks to the intervention of the judiciary at the request of civil society. This illustrates the dynamics of law: litigation becomes an important tool for bringing changing values and scientific realities of society to the legal level. When strategic litigation is successful, it creates a change not only in a specific case, but also in the legal practice of the country as a whole, and sometimes even in the international legal discourse.

6. Future trends

Recent court decisions show that climate law is currently in a dynamic development phase. Looking ahead, several key directions are becoming clearer.

6.1. Increase in the number of lawsuits and geographical expansion

Climate litigation is no longer limited to Europe and North America; new cases are emerging from Latin America to Asia and Africa. By the mid-2020s, the total number of climate-related lawsuits worldwide was estimated to be approaching 3,000 (Setzer & Higham, 2024) and this number continues to rise. Especially in regions that are severely affected by climate change (e.g. island countries, arid regions of Africa), local groups are increasingly taking their governments to international tribunals. This process is a form of spreading the concept of climate justice: the legal voice of those who have contributed the least and suffered the most is being heard more. In the coming years, it is expected that more legal complaints will be filed on climate issues from developing countries, both nationally and internationally.

6.2. The increasing role of international courts

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Between 2023 and 2025, a number of international courts and tribunals are already actively dealing with climate issues. The decisions of the European Court of Human Rights mentioned earlier in this article, the advisory opinion of the International Court of Justice (International Court of Justice, 23 July 2025, Advisory Opinion), as well as the opinion No. 31 of the UN Tribunal for the Law of the Sea of 21 May 2024 on the impact of greenhouse gas emissions on the oceans – all will further clarify the limits of the climate responsibility of states under international law (International Tribunal for the Law of the Sea, 21 May 2024, Advisory Opinion). While these decisions are not always formally binding, they will serve as a powerful “soft law” guide for national courts. For example, if the European Court of Human Rights were to find climate inaction a violation of Articles 2 and 8 of the European Convention on Human Rights, European governments would be forced to reassess their policies in light of the legal risks, and national courts would not be able to ignore this precedent. The International Court of Justice's opinion is expected to emphasize the general obligations of states to address climate change. This will provide additional guidance for national judges: courts like the Norwegian Supreme Court will no longer be able to say “international law does not require us to do this” in similar cases.

6.3. Claims against companies and increased liability

Climate litigation is not limited to states. “Greenwashing” and “individual liability” claims are increasingly targeting companies. In a number of cases, auto and fossil fuel companies have been held liable for misleading marketing or hiding climate risks from shareholders. Since 2021, the number of “greenwashing” cases filed on this topic has exceeded 40, and in a significant number of them, the plaintiffs have achieved some degree of success (Setzer & Higham, 2024). In the future, legal pressure for climate contributions is expected to increase beyond the energy sector – for example, in the food industry and aviation sectors. It is also possible that claims against financial institutions, including banks and pension funds, for “failing to take into account climate risks” will increase; some funds have already started to change their policies to take these risks into account. This means that not only states, but also various players in the global economy are being brought into the sphere of climate liability through the judicial system.

7. Conclusion and recommendations

The recent experience of climate litigation in Norway and the UK shows that the development of climate law does not depend solely on the will of the legislature; courts, civil society and international bodies together draw the contours of this field, and without them, practical implementation is impossible. Although the Norwegian Supreme Court confirmed the subjective legal nature of Article 112 of the Constitution in the case of “People vs. Arctic Oil”, by recognizing a broad interpretation of the parliament’s climate policy, it effectively limited the application of that article to the threshold of “gross negligence” and emphasized that it was not liable for emissions resulting from the combustion of exported oil. The UK Supreme Court, in contrast, in the Finch case, established the legal obligation to take Scope 3 emissions into account in Environmental Impact Assessments, and the subsequent cancellation of permits for the Jackdaw, Rosebank and Whitehaven projects demonstrated that climate risks were being brought to the centre of planning law.

This comparison shows that, despite being parties to the same international framework – the UN Framework Convention on Climate Change, the Kyoto Protocol and the Paris Agreement – states “translate” and implement their climate commitments into national law in different ways. In some jurisdictions, climate law is still subject to political discretion, while in others it is being put into a more rigorous legal framework through environmental impact

assessment, planning and human rights mechanisms. Against this backdrop, the following recommendations are particularly relevant:

- *Non-governmental organizations and environmental organizations should systematically strengthen strategic litigation.*

The examples of the UK, the Netherlands and Germany show that the vast majority of precedent-setting cases are brought to court by NGOs, youth activists and local communities. The aim of strategic litigation is not only to revoke a specific permit, but also to expand the legal space for future claims. Therefore, civil society organizations should build long-term litigation plans that combine legal expertise, scientific evidence base, and communication strategy. Every new precedent – successful or not – creates a reference point for the future interpretation of climate law. This is how new precedents can be formed and new initiatives in the field of climate law can be stimulated.

- *The right to a healthy environment should be recognized at the constitutional level and given real substance in line with the UN call.*

The UN General Assembly, in its resolution 76/300 adopted in 2022, recognized the right to live in a healthy environment as a universal human right (UN General Assembly, 2022). The countries of the world must respond to the call of this resolution and this right must now be reflected in the highest legal act of the states. This right has existed in the Constitution of the Republic of Azerbaijan, of which I am a citizen, since 1995, that is, since its adoption (Constitution of Azerbaijan, art. 39). But the Norwegian example has shown us another reality: the presence of a right to a healthy environment in the constitution is not enough if the courts are reluctant to apply it. It should therefore become a practical task for all states to ensure that the courts interpret the right to a healthy environment in a climate context.

- *Environmental impact assessment procedures should be carried out thoroughly, and the climate component – especially Scope 3 emissions – should be systematically taken into account*

The Finch, Jackdaw, Rosebank and Whitehaven decisions clearly show that it is no longer a legally defensible position to calculate only the local, operational emissions of large fossil fuel projects and to dismiss emissions from the end-use combustion of the extracted fuel as a “problem for other countries”. If the project will inevitably result in significant greenhouse gas emissions and these emissions can be predicted using scientific methods, they should be taken into account in the environmental impact assessment documents and openly discussed by the decision-making authority. This approach is becoming a mandatory requirement for all fossil fuel exporting countries – including Azerbaijan – in terms of managing legal risks, not just for the UK. Otherwise, what may seem “formal” today could return tomorrow in the form of unsuccessful court cases and investment disputes in national and international instances.

If these recommendations are implemented, climate law will cease to be a “soft” field of political statements and will become a hard legal reality that both states and large corporations must take into account in advance.

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