

PRESS RELEASE

Under embargo until: 00:01 CEST, Tuesday 21 June 2022

Please read our [media briefing](#) for the latest about the ECT modernisation talks.

Youth hit by climate disasters sue European governments for protecting fossil fuels under the Energy Charter Treaty

Young victims of climate change have filed lawsuits against European States that let the Energy Charter Treaty (1) delay and make the energy transition more expensive. The trade agreement is a major obstacle to climate action threatening the future of generations to come. It's the first climate lawsuit that links the Energy Charter Treaty with climate casualties.

Today, five young victims of climate change have filed a lawsuit against multiple European States for allowing a highly controversial investor protection treaty to impede their transition away from fossil fuels. The treaty, known as the Energy Charter Treaty (“ECT”), is widely regarded as a major obstacle to climate action. The case has been filed with the European Court of Human Rights and is the first to target the role of the ECT in delaying climate action.

The five young people who have brought this case are from the Caribbean island of Saint Martin, Belgium, Germany, Greece and Switzerland and have faced increasing exposure to natural disasters fuelled by climate change. They are suing Austria, Belgium, Cyprus, Denmark, France, Germany, Greece, Luxembourg, Netherlands, Sweden, Switzerland and UK (2). As part of their case, they point to the fact that the ECT gives fossil fuel companies the power to sue sovereign governments for billions (3) over their climate policies through private arbitration tribunals that take place behind closed doors.

Recent reports and political developments (4) have acknowledged that the ECT impedes and delays climate action and undermines States' capacity to urgently take measures to reduce their greenhouse gas emissions in accordance with their climate commitments under the Paris Agreement (5).

If successful, the lawsuit could lead the Court to declare that States must remove such impediments to protect the plaintiffs' rights under the European Convention on Human Rights. Several national and international courts have already declared that States have a positive obligation under the convention to cut GHG emissions in line with their international commitments.

The case is the second major climate case taken by young victims of the climate crisis against multiple countries to Europe's highest human rights court (6).

Climate disasters with dramatic consequences for people will happen increasingly partly because governments in Europe and elsewhere protect fossil fuel investments under the Energy Charter Treaty.

Maya, 19 years old, Saint Martin, overseas territory of France, ECHR ECT court case plaintiff said:

"I lost most of my childhood life on the night of the 5-6 september 2017 when my island was hit by hurricane Irma. If nothing is done to limit global warming and end fossil fuels protection we know that intense and frequent similar disasters are yet to come. It will make it very hard to live on my native island. The consequences will not only be migratory crises or destroyed buildings, it will be a matter of life and death."

Maya studies in Reims as a 2nd year student of the Bachelor programme Europe-North America at SciencesPo Reims. She decided to join this legal action to testify about the fragility of our life on the planet, the crucial need to protect nature and climate, and to call on governments to exit the Energy Charter Treaty as a major threat to climate action.

Julia, 17 years old, Ahr valley, Germany, ECHR ECT court case plaintiff said:

"On 14 July 2021, the "flood of the century" occurred here in the Ahr Valley, flooding an area of about 200 hectares. More than 130 people lost their lives. The idea of my future is marked by fears and uncertainty and the feeling of powerlessness, faced with the fatality of climate change and the likeliness that I will be confronted with its impacts during my lifetime, whether during similar floods or more generally with the expected life deterioration of living conditions. Governments are still putting profits of the fossil fuel industry over human rights. But climate change is escalating and demanding more and more lives every day. We must act now to protect our rights."

Julia is a 11th grade high school student. She decided to join this legal action for decision makers to hear her voice and take action to avoid further climate disasters. Her views on her future have dramatically changed since the flood. She cannot vote yet, so this action is an opportunity for her to act and be part of the solution.

Alexandros, 21 years old, Athens, Greece, ECHR ECT court case plaintiff said:

"I experienced two forest fires in July 2021, while spending my summer holidays in Athens at my family house. We were also hit with a record heatwave, with temperatures reaching 48°C. Likewise, in 2018, a fire happened 18 km from my home (in Mati) and killed 103 people. We are under constant threat and uncertainty about our future. I feel stressed, whenever I see pine trees under the sun, I get scared of a fire. States should act right now to address the risk of the climate crisis that puts billions of people under threat, and that is why I am participating in this action."

Alexandros left Athens in 2018 to study law in the United Kingdom and graduated last summer. He decided to join this legal action because climate is the number one priority of his generation. He believes that governments' actions are insufficient to end fossil fuel protection mechanisms such as the Energy Charter Treaty and fight climate change

seriously. This action is an opportunity for him to call for the protection of his fundamental rights.

Damien, 23 years old, Chaudfontaine, Belgium, ECHR ECT court case plaintiff said:

“ I saw entire parts of my life vanish by the floods last year, neighborhoods have been destroyed and four people lost their lives. The beliefs that the system and the society around me are reliable have collapsed. The sound of water or rain makes me nervous. At the slightest rainfall or information about similar disasters, the fear returns.”

Damien is currently doing a Master's degree at the University of Liege, Belgium. He studies Japanese and Chinese languages. He joined this legal action as he is now painfully aware of the need for urgent political action to protect citizens from the consequences of climate change. States, he said, seem to be deaf to the many calls sent by nature and people to protect our planet. Government persists in protecting fossil fuel investments via the Energy Charter Treaty which is nonsense and dangerous for humanity.

Clémentine Baldon, lawyer at the Paris bar, representing the plaintiffs

“Human rights are being breached and will continue to do so as climate change is worsening. Through treaties such as the ECT, governments face arbitration claims from fossil fuel investors exposing them to huge financial risks should they decide to implement the necessary energy transition. With the ECT, they also allow their national companies to challenge other States’ legitimate climate measures. This is inconsistent with their international climate commitments under the Paris agreement. and breach their obligations under the European Convention for Human Rights.”

Mathilde Dupré, Co-Director, Veblen Institute, Paris

“The ECT is a form of life insurance for fossil fuel investors. It discourages State action on climate change and diverts huge amounts of taxpayers money from investing in mitigation and adaptation to meet our international commitments and protect human lives. If these contradictions are obvious to the victims of climate change impacts, why are they not obvious to Heads of State and Government?”

Yamina Saheb, Whistleblower, about the Energy Charter Treaty

“The ISDS mechanism included in the 1994 Energy Charter Treaty (ECT) was identified in the recent IPCC report as “being able to be used by fossil-fuel companies to block national legislation aimed at phasing out the use of their assets”. The report further clarifies that “the aim of climate litigation more generally is to supplement other regulatory efforts by filling gaps and ensuring that interpretations of laws and policies are aligned with climate mitigation goals”. This is exactly what this claim is about; filling the identified regulatory gaps to ensure the ISDS mechanism included in the ECT will no longer be used against climate mitigation goals.”

End

Note to editors:

1. The ECT applies to [52 countries](#) stretching from Western Europe through Central Asia to Japan, plus the EU and the EURATOM.
2. All of these States are countries of origin of investors that have triggered ECT-based arbitration claims against public interest measures, including measures directly aiming at protecting the environment and mitigating climate change.
3. The phasing out of fossil fuels could cost States in compensation under the ECT has been estimated, between [EUR 523 billion](#) and [.EUR 1.3 trillion by 2050](#)
4. [IPCC report](#), [civil society](#), members of all groups of the [European Parliament](#) and [European States](#) have recently identified the ECT as an obstacle to climate change mitigation measures.
5. A recent [report](#) by the International Institute for Sustainable Development (IISD) demonstrated that almost 20% of all arbitration claims against States are initiated by the fossil fuel industry - a clear and significant roadblock to the clean energy transition.
6. The first such case, *Duarte Agostinho v Portugal and 32 other States*, filed in September 2020 by six Portuguese young people, has been [fast-tracked](#) by the Strasbourg Court on the basis of the “importance and urgency of the issues raised”.

About the ECT modernisation process

As the [end of the negotiations](#) for the modernisation of the ECT nears, there are still [no prospects of a genuinely ambitious reform](#), let alone one in line with the Paris Agreement. The ECT will continue to protect in EU countries existing foreign investment in fossil fuel for at least another decade and in gas power plants until 2040 and it might even be extended to several countries that host large fossil fuel investments and there is no known end date for the protection of foreign investment in fossil fuels in other contracting parties to the treaty.

About the legal case

The action is led by Clémentine Baldon, lawyer at the Paris bar and supported by the Veblen Institute.

The Global Legal Action Network (GLAN), which supports the youth-Applicants in the above-mentioned *Duarte Agostinho* case, also assisted with the drafting of the application in this case.

The application will be filed with the European Court for Human rights on Tuesday morning, 21 June 2022.

For more information, please contact:

Catherine Joppart, European Climate Foundation, catherine.joppart@europeanclimate.org, 00 32 (0)491 64 37 35

