

**FOSTERING COASTAL RESILIENCE IN EUROPE USING
CLIMATE LITIGATION AS AN EMPOWERING LEGAL TOOL:
A toolkit for the civil society in coastal areas**

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1. Introduction

1.1 Sea level rise and the European context

Sea level rise (SLR) has become one of the most complex and challenging issues related to climate change. By exacerbating flood risks, increasing saltwater intrusion and accelerating erosion processes in coastal areas, SLR poses an urgent threat to ecosystems, local environments, human populations and their livelihoods.⁴ Negative impacts translate into material losses, particularly infrastructure damage, with numerous cascading effects such as the possible displacement of populations. In addition, SLR has serious implications for social values, affecting cultural heritage, ecosystem services and human activities which can have a severe impact on coastal communities. Coping with such events requires the implementation of robust mitigation and adaptation measures.

In Europe, where more than 50 million people live in low-lying coastal areas (≤ 10 m) and 30 million people living in coastal floodplains are threatened by centennial marine events (Neumann et al., 2015), SLR is a non-negligible impact. This vulnerability is set to increase, as the European Environment Agency (EEA) points out that the average sea level in Europe is likely to rise by between 0.28 and 1.02 meters, depending on the emissions scenario.⁵ With a high level of confidence, one can state that SLR is caused by human activities. These actions and their impacts on coastlines are linked to the current failure to achieve the 2030 goals of the Sustainable Development Agenda, in particular SDG 13, which calls for urgent action to combat climate change and its impacts, and SDG 11, which aims to make cities and human settlements safe and resilient.⁶ In this context, the need to take ambitious action to meet climate mitigation targets has never been more urgent, and must now be combined with adaptation measures to cope with some inevitable impacts. However, the responses to these challenges are still inadequate and insufficient. This has led various stakeholders to turn to legal systems to demand more appropriate and equitable governance of climate change issues, including those affecting coastal areas.

⁴ van de Wal, R., Melet, A., Bellafiore, D., Camus, P., Ferrarin, C., Oude Essink, G., Haigh, I. D., Lionello, P., Luijendijk, A., Toimil, A., Staneva, J., & Vousdoukas, M. (2024). *Sea level rise in Europe: Impacts and consequences*. In B. van den Hurk, N. Pinaridi, T. Kiefer, K. Larkin, P. Manderscheid, & K. Richter (Eds.), *Sea level rise in Europe: 1st assessment report of the Knowledge Hub on Sea Level Rise (SLRE1)* (State Planet, 3-slre1, p. 5). Copernicus Publications. <https://doi.org/10.5194/sp-3-slre1-5-2024>.

⁵ European Environment Agency (EEA) (Ed.). (2024). *European climate risk assessment: executive summary*. Publications Office of the European Union.

⁶ IPCC. (2023). *Summary for policymakers*. In Core Writing Team, H. Lee, & J. Romero (Eds.), *Climate change 2023: Synthesis report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (pp. 1–34). IPCC. <https://doi.org/10.59327/IPCC/AR6-9789291691647.001>.

1.2 Climate Litigation: Definition and Role in Addressing Climate Change Challenges in Coastal Areas

Social sciences play a crucial role in facilitating adaptation efforts to SLR.⁷ In this context, legal approaches are increasingly recognised as effective tools for addressing coastal challenges, yet research in this area remains relatively scarce.⁸ Within the legal domain, one observes the emergent use of *climate litigation* to address climate related issues in coastal zones.⁹ The Sabin Center for Climate Change Law¹⁰ defines climate change litigation as ‘cases brought before a judicial body (1), that discuss climate change law, policy, or science as a substantive issue of law or fact (2).’¹¹ These cases have witnessed a significant growth over the past decade, as observed by Setzer and Higham from the Grantham Research Institute on Climate Change and the Environment, in the report ‘Global trends in climate change litigation: 2025 snapshot.’¹² As of 2024, it is estimated that there are 2,967 cases across nearly 60 countries.¹³

Against this background, climate litigation has served as a tool for seeking public and private accountability for climate-related issues. Different social stakeholders have used it to address the inaction of governments, public institutions and the private sector, potentially pushing for more robust governance frameworks. Despite the growing importance of this legal avenue, a practical legal review of these lawsuits remains lacking. In light of this knowledge gap, the *Sea Level Rise* project analyses the current development of climate litigation in coastal zones. It has screened the strategies adopted by plaintiffs, the legal grounds invoked, the legal outcomes, and the main obstacles encountered along this legal path, in order to shed light on the role of this emerging litigation.

⁷ Philippenko, X., & Le Cozannet, G. (2023). Social science to accelerate coastal adaptation to sea-level rise. *Cambridge Prisms: Coastal Futures*, 1, e37. <https://doi.org/10.1017/cft.2023.25>

⁸ Philippenko, X. & Le Cozannet., 2023; Hoddy, E., Halliday, S., Ensor, J., Wamsler, C., & Boyd, E. (2023). Legal culture and climate change adaptation: An agenda for research. *WIREs Climate Change*, 14(3), e825. <https://doi.org/10.1002/wcc.825>

⁹ Bisaro, A., Galluccio, G., Fiorini Beckhauser, E., Biddau, F., David, R., d’Hont, F., Góngora Zurro, A., Le Cozannet, G., McEvoy, S., Pérez Gómez, B., Romagnoli, C., Sini, E., & Slinger, J. (2024). Sea Level Rise in Europe: Governance context and challenges. In B. van den Hurk, N. Pinardi, T. Kiefer, K. Larkin, P. Manderscheid, & K. Richter (Eds.), *Sea level rise in Europe: 1st assessment report of the Knowledge Hub on Sea Level Rise (SLRE1)* (State Planet, 3-slre1, p. 5). Copernicus Publications. <https://doi.org/10.5194/sp-3-slre1-7-2024>

¹⁰ At the time of writing, this is the most comprehensive database of climate change case law available.

¹¹ Despite the importance of climate litigation databases, the research conducted by the authors suggests that some climate-related cases do not meet the criteria established by the platform or, if they do, are not always documented on these platforms. This results in an underestimation of the actual number of climate litigation cases worldwide, which has also been noted elsewhere in the literature (see section 2.2).

¹² The number of cases filed has increased from at least 40 in 2017 to over 230 in each 2023 and 2024.

¹³ Setzer, J., & Higham, C. (2025). *Global trends in climate change litigation: 2025 snapshot*. Grantham Research Institute on Climate Change and the Environment, London School of Economics and Political Science. <https://www.lse.ac.uk/granthaminstitute/wp-content/uploads/2024/06/Global-trends-in-climate-change-litigation-2024-snapshot.pdf>.

1.3 The Euro-Mediterranean Center on Climate Change and the Sea Legal Rise Project

The Euro-Mediterranean Center on Climate Change (CMCC Foundation) is an international research center that studies the interaction between climate change and society. It conducts cutting-edge climate research by carrying out cross-cutting, multidisciplinary analyses and producing data that combine climate modelling with environmental economics.

CMCC Foundation has co-led the authorship of the First Assessment Report of the Knowledge Hub on Sea Level Rise¹⁴, which provided updated SLR projections, impact assessments, and adaptation strategies to support policy-making and coastal planning across Europe. The report has approached issues of equity and justice in policy frameworks and emphasised the relevance of climate litigation cases to climate governance in the region.¹⁵

In recognising the need for further research into climate litigation related to SLR in Europe, and the growing demand for adaptation through the lens of climate justice, the CMCC Foundation has developed the *Sea Legal Rise* project. This initiative aims to address the lack of systemic analysis of these lawsuits by conducting a practical legal review and translating the juridical information for the general public. The project therefore provides a legal toolkit outlining the instruments available for addressing the adverse impacts of climate change on coastal areas through climate litigation and analysing European experiences in this regard.

1.4 Objectives and Practical Application of the Legal Toolkit for Climate Action in Coastal Areas

This toolkit aims to provide valuable insights from current climate litigation cases to help civil society, local communities, practitioners, and other stakeholders in coastal areas better understand the legal grounds, key claims, court interpretations, and main obstacles encountered in these cases. As climate litigation addressing the specific impacts of climate change in coastal zones is a relatively new phenomenon, the number of available cases for analysis is limited. The purpose of this toolkit is therefore to suggest ways to improve understanding of this type of litigation.

The authors' analysis has resulted in the creation of a practical document that should enable users (primarily non-legal experts) to identify the relevant legal issues and applicable legal grounds in their situation, as well as the available remedies. In short, the toolkit should serve as a guide to navigating the legal complexities of the emerging challenges of climate change in coastal zones.

¹⁴See van den Hurk et al., 2024.

¹⁵ Bizaro et al., 2024.

1.5 Outline

This toolkit is divided into four main sections. Firstly, it outlines the methodology, detailing the case selection process and the analytical framework that underpinned the study. Secondly, it provides an in-depth analysis of the cases and offers an overview of the findings, including a summary of the formal details of the lawsuits and key results concerning actors, legal grounds, the role of the courts and limitations. A third section is dedicated to a practical guide. This section details the steps of litigation, including: i) how to identify the legal issues arising from the facts, ii) the main procedural requirements, iii) how to demonstrate causation, and iv) possible redress for claims. The final section contains concluding remarks and a list of annexes providing detailed information on the legal instruments employed, the rights and obligations claimed in the analysed cases, the status of the right to a healthy environment across European legal systems and the competences of specific jurisdictions in dealing with coastal-related matters.

2. Methodology

Relying on an inductive approach, the elements presented in this toolkit stem from the analysis of particular cases of climate litigation to elaborate general conclusions on climate disputes involving coastal areas in Europe. To select cases, one i) identified keywords related to the research topic, ii) searched for cases based on these keywords, excluding the lawsuits in which coastal arguments were only indirect or provided an example amidst another argument.

The research was conducted using the Sabin Center for Climate Change Litigation database¹⁶ maintained by the Sabin Center for Climate Change Law at Columbia Law School. The ‘Global Litigation’ section was used as the primary source for identifying the cases. The authors then searched the pre-selected keyword through all cases found in European national jurisdictions, as well as in European judicial bodies (see section 2.1).

The authors acknowledge that, due to the platform's definition of 'climate litigation' and their selection method, some cases may have been missed by the database (see section 2.2). Further analysis of grey literature and key policy documents for all countries would likely have revealed different lawsuits. As an indication of this, the Annual Public Report on Public Action to Adapt to Climate Change by the French *Cour des Comptes*¹⁷ enabled the identification of the case of the *Le Signal* building in *Soulac-sur-Mer*,¹⁸ which was included in the analysis sample due to its central relevance to the discussion of this toolkit.

Step	Description	Outcome
1 Keyword Identification	Identification of themes and issues associated with coastal impacts (mitigation and adaptation)	List of 18 keywords
2 Case Search	Conduction of searches in the Sabin Center for Climate Change Litigation database and external sources - with addition of the French case of <i>Le Signal</i> building in Soulac-sur-Mer	82 cases identified
3 Initial Screening	Selection of cases with: (a) direct or indirect impact on coastal communities, (b) challenges to mitigation and adaptation policies related to coastal zones and (c) clear claims related to coastal climate risks or coastal adaptation	Final list of 17 cases directly impacting coastal communities and ecosystems
4 Cases Analysis	Analysis of main legal issues, claims, legal grounds, parties involved, adjudicating bodies, and limitations	A list of actors, legal grounds and instruments, an indication of the stance of the courts, and an overview of the main obstacles and gaps

¹⁶ Climate Change Litigation Databases. Available at <https://climatecasechart.com/>

¹⁷ Cour des comptes. (2024). *La gestion du trait de côte en période de changement climatique* [Coastal zone management in a changing climate] (Chap. 2, Troisième partie). In *L'action publique en matière d'adaptation au changement climatique: Rapport public annuel 2024* [Public action on climate change adaptation: Annual public report 2024]. <https://www.ccomptes.fr/fr/documents/68855>

¹⁸ <https://www.legifrance.gouv.fr/ceta/id/CETATEXT000037317276/>

5. Practical Guide	Based on the analysis of the 17 cases, explanation of the most relevant practical issues to be identified and carried out by the litigants	Recommendations on how to identify the issue at stake, the procedural requirements and the demonstration of causality, as well as redress for claims
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Table 1 - Steps of the research

2.1 Case selection process: geographical scope and keywords

As the *Sea Legal Rise* project analyses litigation in Europe, the research focused only on the European jurisdictions included in the database. This includes the Member States of the European Union) and the United Kingdom (UK).

These jurisdictions comprise:

- European national jurisdictions;
- regional courts within the European Union (above national jurisdictions).

The authors identified the key challenges and impacts affecting coastal areas, relating to both physical and human-related phenomena. Based on these, a list of keywords was created to filter the relevant cases.

Physical Elements	Anthropic intersection
Sea level rise Coast Low-lying Shoreline Erosion Submersion Coastal landslide Tide Coastal flooding Wave Hurricane/cyclone Tsunami	Coastal adaptation Coastal communities Coastal changes Protection/breakwater/seawall Coastal resilience Coastal vulnerability

Table 2 - Research keywords

These keywords were chosen because they comprehensively encompass issues of physical change to coastlines, vulnerabilities of coastal communities, and the measures taken to adapt to these changes.

By entering these keywords in the Sabin Center Database, one identified 82 cases. The list was then narrowed down to 17 cases by evaluating each lawsuit based on the following criteria:

1. Direct impact on coastal communities: cases in which coastal communities or areas were directly affected by governments' or corporations' alleged failure to act against climate change or adapt to coastal climate risks.
2. Challenges to the adequacy of mitigation and adaptation measures and policies: cases in which plaintiffs challenged the adequacy of national or regional policies on coastal

matters. These included challenges to adaptation planning documents and coastal protection measures, as well as challenges relating to obtaining funding for adaptation projects, compensation for loss and damage, environmental impact assessments and the lack of action by governments to protect vulnerable coastal communities.

2.2 Limitations of the Methodology

The use of keyword searches and reliance on the Sabin Center for Climate Change Law database in this analysis may have resulted in important cases being excluded. While the Sabin Center's database is one of the most comprehensive platforms currently available, it is worth noting that its approach to climate litigation may exclude cases relevant to the analysis conducted in this toolkit (see the *Le Signal* case, for example).

While the Sabin Center database focuses on cases that explicitly and directly address climate change matters, literature has emphasised the importance of considering lawsuits that indirectly approach climate change or are influenced by climate change concerns, albeit framed and decided on other grounds. Although not linked to arguments about climate change, these claims have clear implications for climate change mitigation or adaptation.¹⁹ In this context, as the database does not consider disputes in which climate aspects are transversal or even peripheral, a range of cases may fall outside this platform, which limits the analysis carried out by this toolkit. Additionally, databases usually depend on external informants to report cases in each country, which could result in some cases being overlooked.

As the cases tracked by the platform provide an overview of the current state of climate litigation despite the aforementioned inherent biases, the authors have deliberately included an additional case to gain a deeper understanding of the relevance of external cases.

Finally, public translation software such as DeepL was used for cases written in languages that the authors were not fluent in. As a result, some nuances in the translation may not fully match the original text. Despite these limitations, it was possible to identify and analyse a wide range of litigation cases across Europe related to coastal impacts.

2.3 Analytical Framework

The same grid was used throughout the analysis of each of the 17 cases identified, as shown in the table below. It was based on four main elements: (1) the plaintiffs, defendants and adjudicating bodies involved in each case, indicating the level of courts, whether local, national or European, and the elements that conditioned access to these bodies; (2) the main legal grounds used at different levels and their acceptability, the specific rights and obligations they entail, as well as the general orientation of the case, whether focused on mitigation or adaptation (3) the role played by the courts, including the factual obligations stemming from the decision and the arguments used to justify it, as well as the overall stance they took on climate change-related issues; (4) from a prospective point of view, the limitations of climate litigation cases in terms of both procedure and substance, as well as in legal and non-legal avenues.

¹⁹ Peel, J., & Osofsky, H. M. (2020). Climate change litigation. *Annual Review of Law and Social Science*, 16(1), 21-38.

Main actors at play	Legal grounds	Role of the courts	Limitations
Plaintiffs	Main legal grounds used at international, regional, and national levels	Rulings with positive (pro-climate) or negative (anti-climate) outcomes, and the reasoning (procedural or substantive).	Related to procedural aspects
Defendants	Rights and obligations related to climate change in coastal areas	Recognition of rights/obligations, and innovative interpretations.	Related to substantive aspects
Adjudicatory bodies (European, national, local levels)	Specific requests/claims	Mention of previous cases	Systemic, transversal and more-than-legal issues

Table 3 - Categories of analysis

3. Cases Analysis

Out of the 17 selected cases, 15 were brought before national courts., and 2 of these led to petitions being filed with European adjudicating bodies. 13 of the disputes had been decided by the time of writing. The table below summarises the general information about the cases that formed the basis of the analysis.

Case	Date and status	Place	Court	Actors	At issue	Coastal-related implication
<i>France Nature Environnement and Guyane Nature Environnement v Minister of Ecological Transition and EDF Production Électrique Insulaire</i>	2021, decided	France	1) Administrative Court of Guiana 2) Bordeaux Court of Appeal	Plaintiffs: NGOs (France Nature Environnement and Guyane Nature Environnement) Defendants: Private company with governmental support (EDF Production Électrique Insulaire, supported by Minister of Ecological Transition)	1) Does the national energy policy objective of reducing GHG emissions by 40% between 1990 and 2030 apply to private companies? 2) Does the rule of limited extension of urban development near coastlines apply to environmental authorisations?	The application of the French Urbanisation Code with the limited extension of urban development near coastlines and its application to environmental authorisations, and not only for urban developments (urban authorisations discuss the construction of facilities, while environmental authorisations focus on the future operation of such facilities).
<i>Commune de Grande-Synthe v. France</i>	2019, decided	France	French Council of State	Plaintiffs: Local Government (Municipality of Grande Synthe, France) Defendants: National Government (The French President, Prime Minister and Minister for Ecological Transition)	1) Does France's mitigation strategy violate its national and international commitments on climate change? 2) Discussions on whether a municipality can claim harm from the government's alleged inaction.	The particular vulnerability of the municipality of Grande-Synthe to the impacts of climate change as a low-lying coastal municipality exposed to SLR and flooding, being more exposed to climate risk due to insufficient government action.

<i>Le Signal</i>	2018, decided	France	1) Bordeaux Administra tive Court 2) Administra tive Court of Appeal of the Council of State	<u>Plaintiffs:</u> Individuals (owners of the building Le Signal) <u>Defendant:</u> The French State	1) Does the French State have a legal obligation under the Environmental Code to compensate or expropriate properties at risk of destruction due to coastal erosion? 2) Does the exclusion of coastal erosion from the scope of the French Environmental Code constitute a failure to uphold constitutional rights, including equality and property protections, given the distinct but severe nature of erosion risks? 3) Should the legislative framework governing environmental risks be expanded to include gradual, long-term risks like coastal erosion, given its increasing frequency and impact due to climate change?	The legal and financial impasse resulting from the 2014 evacuation order for the Le Signal building was caused by the building being threatened by the retreat of the coastline. The context of coastal erosion was deemed not to qualify for compensation under the Fund for the Prevention of Major Natural Risks (Fonds Barnier), raising questions regarding constitutional rights and duties relating to equality and property protection.
<i>Notre affaire à tous and others v. France</i>	2018, pending	France	1) Administra tive Court of Paris 2) French Council of State	<u>Plaintiffs:</u> NGOs (Notre Affaire à Tous, Greenpeace France, Oxfam France, Fondation pour la Nature et l'Homme) <u>Defendant:</u> National Government (France)	Did the French government's failure to take further action on climate change (mitigation and adaptation measures) violate a statutory duty to act under domestic and international law?	The impacts of climate change in France, such as rising sea levels, floodings, hurricanes, and coastal erosion are likely to intensify, which affects coastal ecosystems and million inhabitants living along the coastlines.
<i>Notre affaire à tous and Others v. Total</i>	2021, decided	France	1) Judicial Court of Nanterre 2) Judicial Court of Paris (2023)	<u>Plaintiffs:</u> NGOs (Notre Affaire à tous, SHERPA, ZEA, Eco-Maires, France Nature Environnement, Établissement Public Territorial Est Ensemble), Local Governments (Municipalities of Correns, Champneuville, Grenoble, La Possession,	Did TotalEnergies violate the French Commercial Code by failing to: 1) Adequately report climate risks associated with its activities and 2) Take action to mitigate those risks in line with the Paris Agreement?	Flooding and submergence hazards related to rising sea levels and more frequent extreme weather events such as cyclones are already experienced by coastal communities. This implies harm to human rights and fundamental freedoms and commits these vulnerable

				Mouans-Sartoux, Nanterre, Sevrans, Vitry- le-François, Arcueil, Bayonne, Bègles (Centre Val de Loire region) Defendants: Private Company (TotalEnergies)		communities with human and financial resources to adapt to climate consequences.
<i>Family Farmers and Greenpeace Germany v. Germany</i>	2018, decided	German y	Administra tive Court of Berlin	Plaintiffs: Individuals (thirteen farmers and their families that are directly impacted by climate inaction), and NGO (Greenpeace) Defendant: National States (The Federal Republic of Germany, represented by the Federal Ministry for the Environment)	Did the German Federal Government violate plaintiffs constitutional rights and EU law through insufficient action to meet its 2020 GHG emissions reduction targets?	The farms of the plaintiffs, on the North Sea island Pellworm, have been witnessing more frequent and stronger extreme weather events with flooding of agricultural land, and will be affected by rising sea levels, which limits the possibilities to use their property. As such, they fear that they will not be able to use their family farm in the long term without sufficient climate protection
<i>Neubauer, et al. v. Germany</i>	2020, decided	German y	Federal Constitutio nal Court of Germany (Bundesver fassungsge richt)	Plaintiffs: Individuals (Nine young climate activists, led by Luisa Neubauer.) Defendant: National government (The Federal Republic of Germany.)	1) Does Germany's Federal Climate Protection Act violate constitutional rights by failing to adequately address post-2030 emissions reductions? 2) How do Germany's obligations under the Paris Agreement and EU law integrate with the constitutional framework? 3) What responsibilities does the State have toward intergenerational equity under the Basic Law?	Increased risk of death, injury, damage to health, destruction of livelihoods and severe well-being impacts in low-lying coastal areas due to storm surges, sea level rise and salt water intrusion. This will particularly affect certain plaintiffs and their families who live on North Sea islands, in large coastal urban settlements or with farmland located in the lowlands of the Altes Land on the Elbe.

<i>Friends of the Irish Environment v. Ireland</i>	2017, decided	Ireland	1) High Court of Ireland 2) Irish Supreme Court	<u>Plaintiffs:</u> NGOs (Friends of the Irish Environment CLG) <u>Defendants:</u> National Government (The Government of Ireland)	Did Ireland's National Mitigation Plan violate statutory law, the Irish Constitution, and human rights obligations by not setting to reduce GHG emissions sufficiently in the short-term?	Climate change is already having a diverse and widespread impact on Ireland's environment, society and economy, as well as its natural resources. The risk is heightened for coastal areas, which are under threat from flooding due to rising sea levels, more extreme coastal storms and associated surges in terms of probability, magnitude and severity. More intense precipitation adds to the threat of compound events, which are even more difficult to manage.
<i>Greenpeace Nordic Ass'n v. Ministry of Petroleum and Energy (People v Arctic Oil)</i>	2016, decided	Norway	1) Oslo District Court 2) Norwegian Courts Supreme Court of Norway	<u>Plaintiffs:</u> NGOs (Nature and Youth Norway; Greenpeace Nordic; Friends of the Earth Norway (intervenor); the Grandparents Climate Campaign (intervenor) <u>Defendants:</u> National Government (Norway's Ministry of Petroleum and Energy)	Did Norway's Ministry of Petroleum and Energy violate the Norwegian constitution by issuing a block of oil and gas licenses for deep-sea extraction in the Barents Sea?	Norway's climate has already changed, with glaciers shrinking and sea levels rising, leading to significant consequences in terms of storm surges and flooding. Some ecosystems and cultures are particularly vulnerable. The poor, indigenous peoples and local communities who depend on agriculture and artisanal fishing along the coast are most at risk of losing their livelihoods. Yet oil production in the Barents Sea has a direct impact on the planet's climate and on the environment in the ocean areas where production is to take place. This affects local populations in a variety of ways.
<i>Greenpeace Nordic and Nature & Youth v. Energy Ministry (The</i>	2023, pending	Norway	1) Oslo District Court 2) Court of Appeal (now)	<u>Plaintiffs:</u> NGOs (Greenpeace Nordic; Natural og Ungdom) <u>Defendants:</u> National Government (Norwegian)	Has Norway violated the fundamental rights of its citizens and other legislation by adopting three decisions on plans for the development and	The authorisation of new oil exploration in the North Sea contributes to GHG emissions and, consequently, to climate change. The irreversible overshoot of

<i>North Sea Fields Case</i>				Ministry of Petroleum and Energy)	operation of petroleum resources in the North Sea, without including Scope 3 emissions in the Environmental Impact Assessment (EIA), thereby failing to adequately address associated risks?	1.5°C to which this activity is contributing will cause the collapse of the Greenland and West Antarctic ice caps, leading to a 10.4-meter rise in sea level that directly threatens Norway's coastal areas, where the phenomenon is sometimes four times faster than the global average.
<i>Asmania et al. vs Holcim</i>	2022, pending	Switzerland	Cantonal Court of Zug	Plaintiffs: Individuals (4 inhabitants of Pari), support from NGOs (HEKS/EPER, ECCHR ; WAHLI) Defendants: Private Company (Holcim)	1) Can major GHG emitters be held civilly liable for climate change-related damages suffered in a different jurisdiction? 2) Can such liability extend to financing anti-flooding measures and implementing GHG emissions reductions?	Climate change is leading to the SLR and increased flooding with extensive damage to houses, streets and businesses on the island, notably during storms. This threatens the livelihoods and the very existence of its inhabitants.
<i>Trial of Angela Ditchfield</i>	2018, decided	United Kingdom	1) Cambridge Magistrate's Court 2) Court of Appeal of the UK	Plaintiff: National Government (Director of Public Prosecution) Defendant: Individual (Angela Ditchfield)	Can a climate protester justify vandalism based on the threats that climate change puts to property?	Defending the act of damaging a public building to protect the property of people around the world, especially coastal populations. Specific climatic damage is mentioned in relation to the islands of Micronesia, Jakarta, Bangladesh or, more locally, a Welsh village (UK), through future submersion and increased temporal flooding, forcing the present or future displacement of populations.
<i>Goldfinch (Projects) Limited v. National Assembly for Wales</i>	2002, decided	United Kingdom	UK High Court of Justice	Plaintiff: Private Company (Goldfinch (Projects) Limited)) Defendants: National government (National Assembly for Wales), Local Government (Flintshire County Council)	Is it justified to refuse to grant a planning permit for development on the grounds of a precautionary approach to flood risk?	Rising sea levels and increased flooding due to climate change can threaten homes, streets and businesses on the island in question, particularly during more frequent storms. This endangers people's livelihoods and their very

						existence. This makes planning for flood risks more complex, and urban planning policies have started to evolve in response to new priorities and growing concern for tidal flooding. Against this backdrop, the plaintiff company was denied a planning permit for a housing development project, and the case raises questions about the relevance of economic development in relation to environmental and public safety.
<i>Friends of the Earth v Secretary of State for Environment, Food and Rural Affairs</i>	2023, decided	United Kingdom	High Court of Justice, King's Bench Division, Administrative Court	Plaintiffs: NGOs (Friends of the Earth), Individuals (Kevin Jordan, Doug Paulley) Defendant: National government (Secretary of State for DEFRA).	1) Did the UK government fail to set lawful and specific adaptation objectives under the Climate Change Act 2008 in the Third National Adaptation Programme (NAP3)? 2) Was the Secretary of State required to assess and publish risks to the delivery of adaptation policies and proposals? Did the failure to do so breach statutory duties? 3) Did the government violate its Public Sector Equality Duty under the Equality Act 2010 by failing to consider the unequal impacts of climate risks on protected groups?	The plaintiffs' home on the Norfolk coast is at risk due to coastal erosion. The failure to implement protection measures, the absence of timely and clear data on risks would further cut off access to the municipality. The need to improve the nation's resilience to future flooding, SLR, and coastal erosion risks, thereby reducing the risk of harm to people, the environment and the economy.
<i>Castletown Estates Ltd., Carmarthenshire County Council v.</i>	2013, decided	United Kingdom	UK High Court of Justice	Plaintiffs: Private Company (Castletown Estates Ltd), Local government (Carmarthenshire County Council)	Can refusing to issue a planning permit for commercial development be justified by precaution regarding flooding risks?	Welsh ministers have refused to grant an outline planning permit for the redevelopment of former industrial land in Burry Port for residential use due to

<i>Welsh Ministers</i>				Defendants: National Government (Welsh Ministers)		tidal flooding risks and the subsequent evolution in urban planning priorities.
<i>Greenpeace Nordic and Others v. Norway</i>	2021, pending	European Union	European Court of Human Rights	Plaintiffs: NGOs (Greenpeace Nordic, Young Friends of the Earth Norway), Individuals Defendant: National Government (Norwegian Ministry of Petroleum and Energy)	Has Norway violated the fundamental rights of its citizens 1) by deciding to license new blocks in the Barents Sea for deep-sea oil and gas extraction and 2) by failing to take necessary measures to mitigate the risks of the climate crisis?	See ' <i>Greenpeace Nordic Ass'n v. Ministry of Petroleum and Energy (People v Arctic Oil)</i> '
<i>Carême v. France</i>	2021, decided	European Union	European Court of Human Rights	Plaintiff: Individual (Damien Carême, former Mayor of Grande-Synthe) Defendant: State (France)	Does a State's failure to meet its climate commitments violate the fundamental rights of its citizens? How can climate inaction be linked to direct human rights violations?	See ' <i>Commune de Grande-Synthe v. France</i> '

Table 4 - Summary of the cases

3.1 Actors

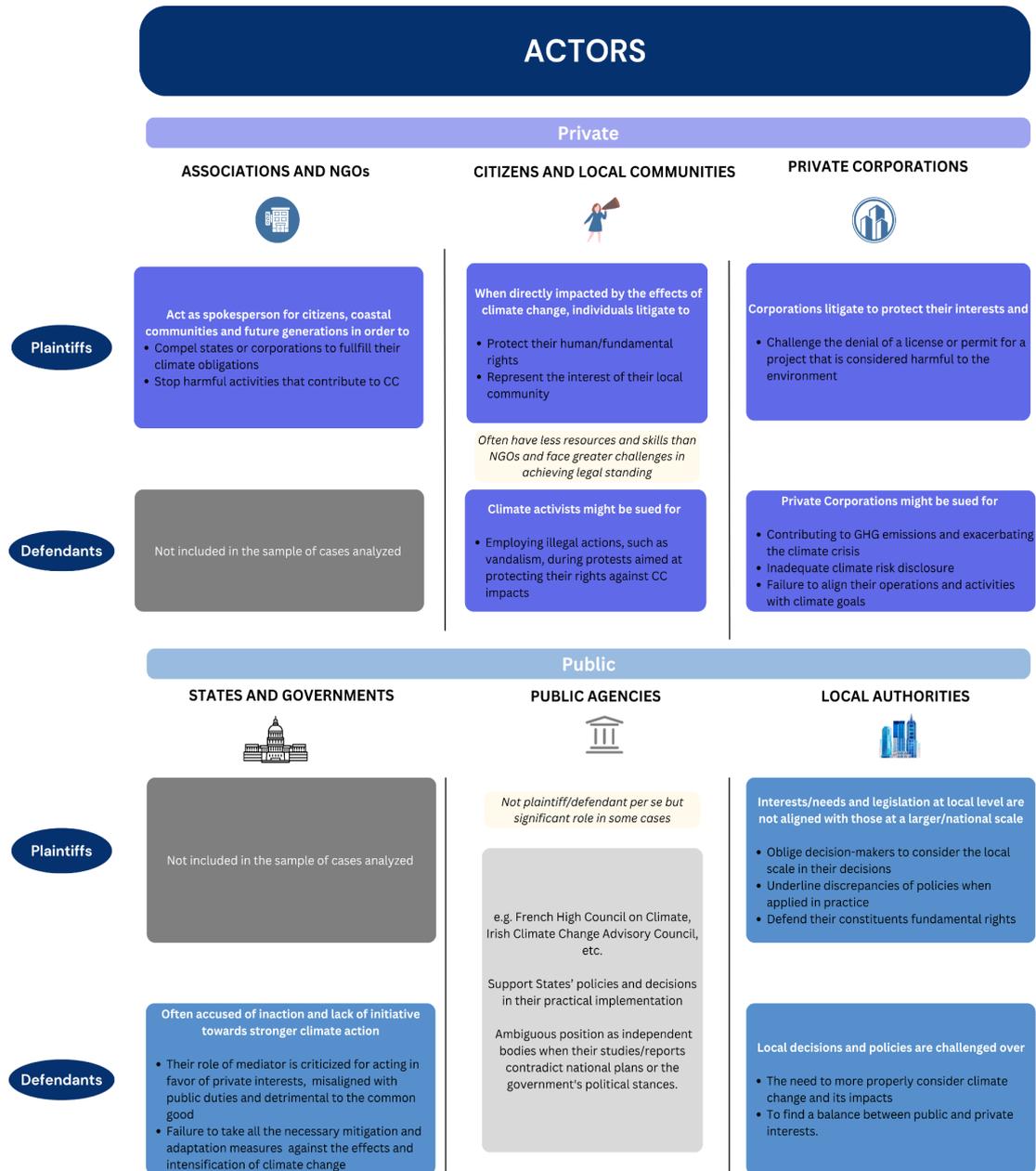


Figure 1 - Typology of actors

Five main actors were identified in climate litigation involving coastal areas.

Among the plaintiffs, three main types stand out:

- i) **Environmental NGOs and associations** (10 cases) (e.g., Greenpeace appearing in multiple cases) acting as spokespersons for citizens, vulnerable communities, and future generations. These organisations often initiate legal actions to compel states or corporations to fulfil their climate obligations or to stop harmful activities.

ii) **Individuals and local communities** (7 cases), sometimes acting in collaboration with NGOs. City dwellers and community members bring cases to defend fundamental rights threatened by climate change, notably the right to life, health, housing, and a safe environment. While these individual actions demonstrate the direct human impacts of climate change, they often face resource and capacity limitations compared to institutional actors.

iii) **Local/public authorities** (3 cases), municipalities, coastal city councils, or state-level governments in federal systems are increasingly taking legal action to defend their constituents' fundamental rights, particularly when SLR directly threatens infrastructure, public services, and population safety.

Among the **defendants**, two principal categories were identified:

i) **States, including government ministries and public agencies** (14 cases) are frequently sued for climate inaction, inconsistency with international agreements (e.g. the Paris Agreement), or failure to protect citizens' rights. Ministries responsible for energy, environment, planning, and infrastructure are especially targeted, given their central role in emissions and adaptation policy.

ii) **Corporations and private companies** (3 cases) particularly in the fossil fuel, extractive, and heavy industry sectors, are increasingly the focus of litigation. These actors are challenged for their historical and ongoing contributions to GHG emissions, for inadequate climate risk disclosure, or for failing to align operations with climate goals.

This typology of actors illustrates the increasing complexity and cross-sectoral interaction of climate litigation. These cases are embedded in the tension between economic and social/collective interests, with a variety of stakeholders — from NGOs and individuals to local authorities, governments and corporations — interacting within the legal framework.

3.2 Legal claims and grounds



Figure 2 - The main legal grounds

The cases reveal a predominance of public law over private law in climate litigation related to coastal areas. Three principal categories emerged regarding the main claims and grounds raised by the trials.

Firstly, **government accountability in relation to climate change** (13 cases).

Usually, plaintiffs seek to hold governments accountable for the discrepancy between their international climate commitments and their national policies, with frequent reference to the Paris Agreement. This plea is often reinforced by the claim that by failing to comply with international targets, states violate the population's fundamental rights. The main fundamental rights invoked are the right to life, health, private and family life and to a safe and healthy environment, enshrined by the Constitutions or the European Convention on Human Rights (ECHR). This highlights the urgent need for aligning international commitments with domestic legislation and policy statements, therefore pushing for climate action particularly in coastal regions at risk.

These litigation cases often: i) challenge the scope or mode of implementation of, or failure to execute, international commitments; ii) explore how and whether climate inaction exacerbates social and economic inequalities; iii) frame the enforcement of climate commitments as a human rights issue; and iv) push the boundaries of what courts can legally require governments to do to protect vulnerable populations. Some cases take a different approach to government accountability and obligations. For example, the *Le Signal* case calls for the redistribution of funds for loss and damage. The building, which housed many residents, was demolished because of its high exposure to erosion and coastline retreat. The lawsuit therefore sought to highlight both the compensation scheme that could be mobilised in this case, and whether there was a responsibility on the part of the local authorities to protect the infrastructure, notably by restoring the attaching dune.

Secondly, **corporate responsibility for GHG emissions** (3 cases).

These cases underscore the need for the private sector to take action against climate change by discussing the extent of corporate obligations to reduce their emissions and financially contribute to adaptation measures. These claims are grounded in issues related to Corporate Social Responsibility (CSR), particularly regarding companies' contribution to global emissions and their failure to adhere to environmental standards, resulting in potential harm to coastal areas. The central legal claims concern the extent of corporate obligations to reduce GHG emissions and align with targets set out in international agreements and domestic legislation, as well as the potential for holding companies accountable for their impact on global climate change.

Thirdly, **the impact of infrastructure projects** on coastal ecosystems and communities (6 cases).

These cases target both companies and states, and highlight three main impacts of infrastructure projects: first, by contributing to increasing GHG emissions, they intensify climate change and influence coastal hazards; second, by weakening coastal ecosystems, they

reduce territorial resilience and the ability to absorb future shocks; and third, they exacerbate territorial vulnerability by placing critical infrastructures in risk-prone areas. The litigations thus seek to evaluate the compatibility of the project with climate objectives by examining the balance between economic interests, human rights, public safety and environmental protection. The claims are often grounded in provisions of urban planning codes, which regulate infrastructure development, environmental permits and norms of risk management.

3.2.1 Legal instruments for climate litigation on coastal-related issues

This section summarises the legal instruments employed in the analysed cases. It approaches these norms according to a hierarchical criterion: international law, European law, and domestic legislation, the latter of which is divided into constitutional and infra-constitutional spheres. While this section presents an overview of how the legal grounds were articulated in the cases studied, Annex I provides the complete and detailed list of the main instruments present in the disputes, their relevant provisions, and their concrete application in the cases.

3.2.1.1 International Level

The **United Nations Framework Convention on Climate Change (UNFCCC)** has been used to invoke states obligations to take sufficient action to stabilise GHG concentration and avoid dangerous anthropogenic interference in the climate system, therefore addressing both mitigation and adaptation measures. As for the coastal areas, the UNFCCC imposes the obligation to elaborate integrated plans for coastal management, which represents an added value to mitigate the vulnerabilities and defend the particular needs of coastal zones. Besides, principles such as equity, precaution and common but differentiated responsibilities and respective capabilities (CBDR-RC), as well as the attention to the interests of future generations have also been addressed in the cases under the UNFCCC.

The **Paris Agreement (PA)** set quantitative targets to keep the global average temperature increase well below 2°C and to try to limit it to 1.5°C above pre-industrial levels, together with the associated Nationally Determined Contributions (NDCs), have supported calls for ambitious and progressive efforts by governments to address climate change. The parties argue that countries that have ratified the Agreement recognize the impacts of climate change and must therefore take all the necessary efforts to address it adequately, which makes the PA a benchmark for evaluating national action plans by serving as a baseline target for GHG. The article 7 of the PA also set global goals on adaptation, resilience and reduction of vulnerabilities to climate change and requires the submission and periodic update of an adaptation communication by ratifying countries.

Regarding emission reduction targets, the PA and UNFCCC are used as the foundational benchmark and are widely invoked to establish the link between the failure of states and corporations to meet these targets and the intensification of climate phenomena. Since 2015, states have enacted various laws and regulations to incorporate these targets into European and national legal frameworks. These transposing measures are also frequently cited

in litigation to highlight gaps between stated objectives and actual implementation. Additionally, some cases directly challenge these policies, emphasising their lack of clarity or insufficient alignment with international commitments.

The **Aarhus Convention** has been invoked to defend the right of access to information and public participation in environmental decision-making, in particular to require public consultation prior to the adoption of major infrastructure projects. The **Convention on the Rights of the Child** has been used to support claims relating to the best interests of the child in view of the intergenerational impacts of climate change, notably via sea-level rise. The best interest of the Child should be a central criterion in environmental decisions. Finally, the **Convention on Biological Diversity (CBD)** provided a strong legal basis for strengthening obligations to protect marine and coastal ecosystems, particularly in climate-vulnerable contexts. The main obligations invoked regarded international cooperation on areas beyond national jurisdiction and the establishment of protected areas where measures to conserve biodiversity must be taken. The **Rio Declaration** also appeared as an important legal ground for the application of the precautionary principle, which supported the legal obligation of states to act proactively against climate change, even in the case of scientific uncertainty.

3.2.1.2 European level

At the European level, four main instruments were used in the cases analysed. The **European Convention on Human Rights (ECHR)** has been the legal basis for arguing that citizens' fundamental rights (right to life, right to private and family life) are threatened by projects with significant environmental impacts, particularly due to long-term effects. The rights to an effective remedy, non-discrimination, and property protection have also been invoked on that same basis to compel the safeguard of homes from environmental risks and to contest harmful projects based on precaution and prevention principles.

Relying on the **Environmental Impact Assessment (EIA) Directive 2011 (EU)**, litigants have claimed the need for EIAs to assess the broad impacts of a project on people, soil, water, climate, cultural heritage and material assets. In this sense, the parties often argue the lack of inclusion of critical criteria in the challenged EIAs, such as the inadequate assessment of the potential long-term impacts of GHG emissions. In all the cases studied, the EIA served only as a basis for asserting mitigation-related issues. Today, a more up-to-date version of the directive might enable it to be used for adaptation issues as well²⁰.

Two specific pieces of legislation have been instrumental in addressing issues related to GHG emissions. The **Effort Sharing Decision (ESD) (406/2009/EC)** has enabled governments to be challenged over their inadequate mitigation actions and to demand

²⁰ The amended EIA Directive (2014/52/EU) now explicitly requires consideration of climate change impacts and adaptation stakes. Specifically, Article 3(2) highlights sea-level rise as a relevant factor. The project's vulnerability to climate change must now be addressed in the EIA report and considered in the project approval process, thus creating new avenues for potential litigation related to coastal adaptation. See Mayembe, R., Simpson, N. P., Rumble, O., & Norton, M. (2023). Integrating climate change in Environmental Impact Assessment: A review of requirements across 19 EIA regimes. *Science of The Total Environment*, 869, 161850. <https://doi.org/10.1016/j.scitotenv.2023.161850> and Albrecht, J. (2024). Climate adaptation law: a European perspective. *China-EU Law Journal*. <https://doi.org/10.1007/s12689-024-00109-8>.

reductions in GHG emission targets in the so-called non-ETS.²¹ In turn, the **European Parliament and Council Regulation (EU) 2018/842** contains obligations relating to annual emission reduction targets, progress reports and compliance reviews, with penalties. These were used by litigants to hold Member States accountable for failing to meet their annual targets, and to encourage further reductions in emissions by 2030.

3.2.1.3 Domestic level

Within the domestic level, cases were analysed considering constitutional and infra-constitutional spheres. **Constitutional texts** were mainly used by plaintiffs to link climate change and environmental degradation to the violation of fundamental rights (right to life, to home, to physical integrity, etc.). They are used to strengthen the argument that defendants have the duty to act to prevent any environmental and climate harm resulting from their direct or indirect actions. The right to a healthy environment as a fundamental human right is often central to those debates, though it remains unevenly recognised across the countries studied. France and Norway, for example, grant constitutional status to this right, reinforcing several of the cases examined. Yet, other States are showing delays in recognising this right as constitutional, thereby turning into central claims in some of the litigations studied (e.g. *Friends of the Irish Environment v. Ireland*) (see Annex 2, Table 16).

At the infra-constitutional level, the legal instruments used mostly include national legislation and policy documents and tackle a diverse range of issues. **National environmental and climate legislation** is used to define the defendants' obligations about climate mitigation, adaptation and environmental protection. These laws include national GHG reduction targets, sectoral mitigation trajectories and adaptation commitments.

Legal provisions on **environmental protection** and the **prevention of biodiversity loss** highlight the concrete and recognised risks of inadequate protection. In this context, the precautionary principle is useful for encouraging mitigation strategies and caution in the face of problems whose consequences are likely to be irreversible, difficult to predict, and have a global impact. In cases involving infrastructure projects, environmental provisions enable claimants to emphasise the importance of long-term environmental issues in relation to short-term economic interests. **Urban planning laws and policies** often clarify development possibilities in the face of natural risks, notably flooding, and have thus been used in several cases to challenge the validity of construction projects.

Private law, and more specifically commercial law, is used to address the environmental impact of corporations' and private companies' business activities. **Laws on the duty of vigilance**, in particular, are used to hold companies accountable for their responsibility to prevent environmental harm resulting from their operations.

Finally, several domestic laws also regard **procedural issues**. They are often central to defendants' strategies in challenging the **cases' validity and admissibility**. Domestic provision is key to establishing legal standing, which proves to be a major challenge in several cases (see section 3.4.2.1).

²¹ Sectors that are not part of the European Emissions Trading Scheme.

Domestic procedural provisions also set out the **boundaries of governments' mitigation and adaptation obligations**. This supports the numerous calls for more concrete climate commitments in the cases studied. These provisions clarify how adaptation and mitigation strategies are to be established and define their content and level of precision. They also identify mandatory consultation and review periods, which is a key issue for plaintiffs who have identified negligence on the part of public authorities.

3.3 The role of the Courts

Courts at the European and national levels have become key forums for resolving disputes on climate change issues. Rulings can either be more pro²²- or anti-climate,²³ either pushing or preventing more ambitious mitigation and adaptation measures. However, the analysis shows that the distinction between these two categories of climate action remains quite blurred in actual case decisions.

In the analysed sample, 13 out of the 17 cases have been decided, while 4 lawsuits are still pending. Overall, the results indicate that the courts have limited their rulings to elements explicitly protected by law rather than adopting more extensive interpretations of the legislation. Several rulings can be categorised as 'pro-climate' decisions as they ensure a growing recognition through case-law of the obligation to comply and align with environmental and climate laws, clarifying the scope of states' and companies' obligations and thus strengthening climate accountability. In this sense, the Courts usually recognise the obligations to mitigate and adapt to climate change. However, these same cases also reveal significant reluctance of the courts in imposing in practice more hard and specific duties and targets to be met by the defendants.

At the European level, it was not possible to draw conclusions regarding a pro- or anti-climate stance for two main reasons. Firstly, of the two cases involving coastal areas at this level, one is still pending (e.g. *Greenpeace Nordic and Others v. Norway*). Secondly, the other case that has already been decided, *Carême v. France*, was rejected on procedural grounds (e.g. lack of standing and difficulties enforcing pre-existing legislation), and therefore does not reveal the court's inclination regarding the merits discussed. It is noteworthy that in the recent ruling in the case of *KlimaSeniorinnen v. Switzerland*, the ECtHR acknowledged that inadequate climate action violates fundamental rights, particularly for vulnerable groups - such as the elderly. This precedent represents an evolving jurisprudence that has added new complexities to the debates on GHG national emissions and is likely to influence future cases, both at regional and domestic levels.

At the domestic level, some pro-climate cases show that national courts have been imposing binding obligations on states to revise climate strategies that consider the interests of

²² Pro-climate cases: litigation that aligns with climate objectives, by demanding state and corporate actors to undertake climate change adaptation and/or mitigation. See Savaresi, A., & Setzer, J. (2021). *Mapping the whole of the moon: An analysis of the role of human rights in climate litigation*. SSRN. <https://doi.org/10.2139/ssrn.3787963>

²³ Anti-climate cases: the lawsuits that aim to delay or dismantle existing or emerging regulatory measures for climate change. See Markell, D., & Ruhl, J. B. (2012). An empirical assessment of climate change in the courts: A new jurisprudence or business as usual? *Florida Law Review*, 64, 15–70.

future generations and uphold intergenerational justice (e.g. *Grande-Synthe v. France*, *Neubauer, et al. v. Germany* and *Friends of the Irish Environment v. Ireland*).

However, the majority of domestic courts have not consistently compelled governments to take stronger action to mitigate climate change. In the case of *Notre Affaire à Tous and others v. France*, for example, the judges acknowledged that France's GHG mitigation trajectory was not aligned with its 2050 targets, but they did not order the government to take harder action in specific areas. Similarly, in *Friends of the Irish Environment v. Ireland*, the Supreme Court quashed the 2017 Irish National Mitigation Plan only because it failed to comply with the procedural steps set out in the 2015 Climate Action and Low Carbon Development Act. The substantive question of Ireland's climate mitigation actions was largely avoided in the final decision. Finally, in *France Nature Environnement* and *Guyane Nature Environnement v. Minister of Ecological Transition* and *EDF Production Électrique Insulaire*, despite two initial pro-climate decisions suspending the environmental authorisation for a coastal thermal power plant in French Guiana, the Council of State ultimately allowed the project to proceed.

Other national experiences, such as Norway's, show a cautious judicial approach to climate-related claims. In *Greenpeace Nordic Ass'n v. Ministry of Petroleum and Energy (People v. Arctic Oil)*, two NGOs challenged oil licenses in the Barents Sea, arguing they violated the constitutional right to a healthy environment. Their claims were rejected at all three judicial levels. The Oslo District Court acknowledged the importance of Article 112, which guarantees environmental rights and state duties, but upheld broad governmental discretion. The Court of Appeals confirmed Article 112's justiciability but found no constitutional breach. Finally, the Supreme Court, while recognising the article's normative weight, refused to give it binding effect, especially for extraterritorial emissions (Scope 3). Thus, despite constitutional recognition, courts have declined to use environmental rights to block carbon energy policies.

In other experiences, such as in France (*Notre Affaire à Tous v. Total*), the courts have been cautious in recognising corporate accountability. The tribunals have so far limited their judgements to procedural grounds, namely determining which court has jurisdiction,²⁴ establishing standing, and questioning the validity of required documents – such as the writ of summons and the formal notice (see section 3.4.2.1).

The *Trial of Angela Ditchfield* was initially seen as a victory for UK climate activists as the Extinction Rebellion campaigner was acquitted of vandalism for protecting property from climate change. However, the decision was overturned on appeal, and she was ultimately convicted, as the court found that her property was not under significant threat and that her actions were too abstract to justify an illegal conduct.

The *Castletown Estates Ltd., Carmarthenshire County Council v. Welsh Ministers* and *Goldfinch (Projects) Limited v. National Assembly for Wales* cases both relate to the refusal of planning permission in light of changing urban planning priorities in Wales. Although these rulings were issued a dozen years apart, a comparison reveals differences in how the court

²⁴ It can be the judicial court, which handles civil cases, or the commercial court, which specialises in cases related to commerce involving companies, merchants or banks.

perceives flooding risks. While the permit's dismissal in 2002 was deemed overly cautious, prompting the court to reinstate it in *Goldfinch (Projects) Limited v. National Assembly for Wales*, a similar request by the plaintiff based on an alternative assessment of tidal flooding risks in *Castletown Estates Ltd., Carmarthenshire County Council v. Welsh Ministers* was dismissed in 2013. This suggests an overall change in the courts' approach in favour of stronger precautionary measures in climate-related decision-making.

In summary, these discrepancies reveal a fragmented and inconsistent judicial approach to climate issues. Overall, courts tend to oscillate between procedural restraint and the recognition of climate obligations, and ambitious rights-based reasoning. This fragmentation creates situations of legal uncertainty, which can currently limit the ability of climate litigation to support consistent climate action and accountability across jurisdictions.

3.4 Limitations



Figure 3 - Main limitations of coastal climate litigation

The cases reveal important limitations in the material discussions of climate litigation cases, as well as in the broader structures and mechanisms of the institutions themselves. This section organises these obstacles into three main categories. The first focuses on structural and institutional disconnects, such as the mismatch between political and enforceable legal regulations, as well as the inadequate integration of climate-related issues and climate strategies into legal frameworks and broader policy areas, respectively. The second relates to the enforcement of legal provisions and covers procedural matters, such as access to justice, legal standing, and access to procedural rights in environmental matters; as well as substantive matters, such as the recognition of the right to a healthy environment and criticism of environmental impact assessment criteria. The third concerns the challenges in aligning climate change with legal practice. It highlights the difficulties legal practitioners face in effectively

integrating climate science into litigation, as well as the tension between the often-lengthy nature of legal proceedings and the urgent timelines associated with climate action.

3.4.1 Structural and institutional disconnects

The discussion on structural and institutional disconnects highlights the wider issue of how judicial and executive powers are managing the climate crisis, and the potential role of litigation in coordinating these two branches. While most of the countries studied have adopted legally binding emission reduction targets for 2050, there are still significant gaps in their implementation by the executive branch. Consequently, several cases have highlighted the limited ability of the judiciary to compel the government (i.e. the executive branch) to adopt more ambitious measures, particularly in specific sectors, given the considerable discretion held by the latter in defining its approach and scope. This also reveals the inadequacy of legal tools that rely solely on present and tangible evidence to address forward-looking challenges related to future harms based on projections and scenarios.

3.4.1.1 (Mis)match between international political commitments and the domestic legal framework

In the analysed cases, the limitation of the mismatch between political commitments and enforceable legal provisions was found in two main ways. Firstly, at the international-domestic level, cases often challenge the failure to properly transpose political commitments made at the international level into domestic legislation. Secondly, at the domestic-domestic level, the issue relates to the type of legal instrument through which the political commitment was enshrined in the legal system, which is often not fully enforceable. The international-domestic limitation is addressed in this item, while the domestic-domestic obstacle is explained in the next sub-section.

At the international-domestic sphere, the cases examined reveal a clear disconnect between political climate commitments and the corresponding legally binding norms and enforceable obligations. Since 2015, the main legal basis for climate regulations lies in the targets set under the PA. But although being a legally binding instrument,²⁵ the PA still relies heavily on the voluntary cooperation of states, which can result in significant variation in the ambition and scope of Nationally Determined Contributions (NDCs). As of today, national plans and regulations frequently fall short of the 2030 goals, and courts are increasingly called upon to compel states to introduce more robust and effective measures that will meet those commitments.

As for an example, the objectives of the PA (to limit global warming to well below 1.5°C or 2°C above pre-industrial levels) were mentioned in *Neubauer et al. v. Germany* in order to reinforce the argument that the 2019 Federal Climate Protection Plan was insufficient to fulfil constitutional obligations to protect the rights to life and to a healthy environment. The complaint emphasised that the European Union, and by extension Germany, had committed to

²⁵ The Paris Agreement is a legally binding international treaty; however, not all its provisions are binding. While procedural obligations (e.g., submitting nationally determined contributions) are mandatory, the content of those NDCs (emission targets) is non-binding.

reducing GHG emissions by 40% by 2030, a target considered essential to securing a liveable future.

In general, claims alleging inconsistencies between policies or projects and international climate objectives are only admissible and enforceable if they are supported by legal proof of the binding nature of these targets. Therefore, a precise legal analysis might be useful to assess how international climate commitments have been incorporated into national law, and where they sit in the hierarchy of norms. The next item approaches this issue.

3.4.1.2 Inadequate integration of climate-related issues into enforceable legal provisions

At the domestic-domestic level, the limitation highlighted in the previous item reveals that the incorporation of climate targets into nationally binding provisions remains either limited or insufficiently developed. In this sense, cases raise important questions about the justiciability of climate policy instruments. Recent developments show that the most concrete expression of a government's mitigation strategy is found in policy documents that set quantitative climate targets and a clear articulation of government mitigation strategies. However, courts have drawn a distinction between legally binding legislation and non-binding policy instruments. This would be the difference between a political promise, and an enforceable legal obligation. In *Friends of the Irish Environment v. Ireland*, for instance, the court clarified that climate targets can only be legally challenged if they are grounded in legislation, and not only policy plans or policy instruments that implement them. Thus, the ruling underscored that as long as specific policy documents align with the long-term objectives set by law, policymakers retain broad discretion in designing strategies to achieve those goals within the required timeframe.

In *Carême v. France* and *Grande-Synthe v. France*, applicants challenged France's insufficient mitigation efforts. Although emissions targets were reiterated in policy and official discourse, they were not codified in binding law, leaving implementation to political discretion. While the *Conseil d'État* ordered corrective action, *Grande-Synthe* underscored the difficulty of enforcing policy goals without clear legal mandates. Judges tend to confine their decisions strictly to the targets explicitly established by law, avoiding broader interpretations that might address legislative gaps (see section 3.3). This therefore reflects the broader limitations of litigation as a tool to compensate for the lag of legal frameworks behind evolving societal debates on climate issues.

The absence of binding targets may also explain why many climate litigation cases have connected climate concerns with the violation of human and fundamental rights – which are recognised at the highest level of the legal system and are fully enforceable – as a strong legal basis for their claims.

3.4.1.3 Inadequate integration of climate strategies into broader policy areas

Another challenge in advocating for stronger climate action is integrating climate strategies into policy areas beyond the environmental sector, such as urban planning, the economy, and industrial development. The ongoing need to balance economic benefits with environmental protection often causes governments and project developers to prioritise short-

term gains, particularly in critical areas such as energy and housing. Environmental and climate issues are often treated separately, but to achieve a just transition to a net-zero future, policymakers must stop working in silos and start integrating climate targets into broader policy areas. Global mitigation targets depend on every sector. In the case of *Notre Affaire à Tous v. France*, the court ruled that it could not compel the government to set sector-specific targets, as the law only requires an overall reduction in emissions. This tension highlights the ongoing discrepancy between climate mitigation targets and the systemic changes these targets require within governmental strategies. Reduction targets are not only at the discretion of environmental policymakers but must also be integrated into other fields in order to establish a robust legal framework that effectively protects the net zero objective.

3.4.2 Interpretation and enforcement of legal provisions

Procedural

3.4.2.1 Access to justice and legal standing

Establishing legal standing appears as a key obstacle for claimants due to the difficulty in proving the causal link between the actions of the defendant and a specific harm related to the plaintiff's legal interest. In some cases, judges have asked for evidence of territorially localised ecological harm, as observed in *Notre affaire à tous et autres v. Total*. In this situation, it may be difficult for coastal communities to provide proof of a direct, significant, and particular territorial impact linked to a specific source, as climate change is a phenomenon with multiple sources and virtually indiscriminate effects on a global scale. The case is then deemed insufficient to establish legal standing.

Moreover, the cases point to the need to recalibrate some procedural norms to adequately address the collective and diffuse dimensions of the challenges that climate change poses to human rights. In this sense, Article 34 of the ECHR, for instance, establishes the individual application as an admissibility criterion for suing lawsuits, which has been often used to reject cases brought as *actio popularis*²⁶. Both the defendants and the judges employed this reasoning to reject the plaintiff's claims based on the ECHR in *Friends of the Irish Environment v. Ireland*. This lawsuit uncovers relevant issues about procedural limitations for community members filing cases under *actio popularis* because they may have difficulty reaching legal standing to discuss the merits of the situation. This concern is especially relevant given the global and widespread nature of the causes and impacts of climate change, which often affect large groups and require collective representation.

The profile of the claimants can also affect their ability to obtain legal standing (*locus standi*), which often requires showing a direct interest in bringing a case, either as a victim or as a representative of victims. Environmental associations and NGOs with broader missions

²⁶ An *actio popularis* is a type of lawsuit that allows any community member to take legal action to enforce a right or duty that benefits the public, even if they have not experienced direct harm. However, the ECtHR usually does not allow this kind of legal action, instead requiring applicants to demonstrate that they are directly affected by the alleged violation of their rights. Although associations and NGOs often act on behalf of individuals, they must demonstrate a nexus of interest and represent individuals who are directly affected by the violation. Therefore, this differs from an *actio popularis*.

and territorial reach often find it easier to obtain standing, as they are more widely recognised, supported by civil society, and have greater financial resources. France brings an interesting example of the benefits of directly addressing legal standing matters. The concept of ecological prejudice and the actors entitled to challenge it are clearly defined in the French Environmental Code (see Annex 1, Table 10). These provisions allowed the four claimant associations in *Notre Affaire à Tous and Others v. France* to be clearly recognised as having legal standing. The situation is different in Ireland, where the Irish Constitution does not recognise such rights for NGOs. Indeed, in the case of *Friends of the Irish Environment v. Ireland*, the NGO was ultimately not considered to have legal standing to defend the general public interests.

3.4.2.2 Access to procedural rights in environmental matters

The difficulty of access and exercise of procedural rights in environmental matters is one of the limitations of the analysed litigation. Although the Aarhus Convention, in particular Articles 1 and 8, gives international recognition to the right to information, public participation in decision-making and access to justice in environmental matters, these rights often remain limited in practice, and the courts rarely provide sufficient redress as required by the Convention.²⁷ In the case of *Greenpeace Nordic and Nature & Youth v. Ministry of Energy*, the plaintiffs faced significant obstacles due to the lack of transparency in the EIA, their technical and scientific complexity, and the influence of specific economic interests in the very formulation of these evaluations, particularly with regard to the omission of Scope 3 emissions. These factors limited public engagement and deprived plaintiffs of key information that could support their claims.

However, the *Friends of the Irish Environment v. Ireland* case offers hope for gradual but positive developments in this area. Relying on the 2015 Climate Action and Low Carbon Development Act as well as the Aarhus Convention, the claimant argued that the plan failed to meet the formal requirements of precision and transparency and sought its annulment accordingly. While the High Court initially dismissed the claimants' request, emphasising the Plan's evolving nature and the government's discretion within the scope of its policy decisions, the Supreme Court ultimately quashed the 2017 National Mitigation Plan due to procedural non-compliance with the 2015 law.

In summary, although the Aarhus Convention establishes a legal framework for procedural environmental rights, the limited enforceability of these rights appears to hinder their effective realisation in practice.

Substantive

3.4.2.3 (Non)recognition of the right to a healthy environment

The *Friends of the Irish Environment v. Ireland* case brings the question of whether the right to a healthy environment can be derived from human rights (such as the right to life or the right to physical integrity) to the front of the stage. The NGO Friends of the Irish

²⁷ This corroborates with the findings from The Aarhus Convention Compliance Committee which found that the EU does not comply with the Convention because of insufficient administrative or judicial redress at EU level.

Environment (hereinafter FIE) argued that such a right, although not enumerated by the Irish Constitution and the ECHR, could be established in articulation with other provided rights. Ultimately, the plaintiffs ask the Court to recognise the Irish Government's lack of action in fighting climate change as a violation of these fundamental rights, including the right to a healthy environment. The Supreme Court denied that a right to a healthy environment could be derived from rights protected under the Constitution, under the argument that such a right was either unnecessary since it did not extend far enough beyond the rights to life and physical integrity or that it was too vague. This decision could hold significant importance for future climate litigation in Ireland's common law system, as it leaves considerable room for judicial interpretation.

While other cases did not face similar hurdles (e.g. in France and Norway), they still encountered challenges in recognising the violation of this right. In Norway, for instance, the Constitution explicitly recognises the right to a healthy environment in Article 112, which helps the plaintiffs to rely on this right in climate lawsuits. In the case of *Greenpeace Nordic and Nature & Youth v. Ministry of Petroleum and Energy*, the plaintiffs challenged the government's decision to grant new oil exploration licences by arguing that such a decision would violate the fundamental right to the environment envisioned in the Constitution by contributing to global GHG emissions and threatening the rights of future generations. Although the Norwegian Supreme Court has ultimately rejected the claim on the facts, advancing that the government had not infringed its constitutional duties, the recognition of this environmental right in the constitutional text can provide for a stronger legal basis for climate litigation. Once enshrined in the legal system, plaintiffs can raise a diverse range of issues related to this right, bearing the burden of demonstrating its violation, but without having to seek its recognition beforehand.

3.4.2.4 Unclear procedure for the establishment of environmental impact assessments

One of the main limits raised in lawsuits brought against companies is the establishment of their full responsibility for GHG emissions. In particular, the principle of extended producer responsibility is difficult to legally mobilise, but essential for the recognition of Scope 3 emissions – indirect emissions found upstream or downstream of the company's supply chain. This principle, notably invoked in the case of *Asmania et al. v. Holcim*, in which the plaintiffs denounced the company's historical irresponsibility and negligence, implies the responsibility of the producers of a good for the environmental impacts of the product's entire life cycle, up to and including waste management. Another challenge in integrating Scope 3 emissions into legal proceedings is their lack of recognition in EIAs. This has notably been denounced in Norway by environmental associations regarding oil and gas exploitation in the case of *Greenpeace Nordic and Nature & youth v. energy ministry*.

3.4.3 Misalignment between climate change and legal practice

3.4.3.1 Lack of articulation between scientific data and legal practitioners

The increasing harmful effects of climate change calls for institutions that count on technical expertise to monitor, assess, and sanction violations of rights and obligations related

to climate change. This raises questions regarding jurisdiction, evidence, and the scope of remedies.

Misarticulation and a lack of coordination between the legal field and climate relevant knowledge emerged as major challenges in the analysed cases. This discrepancy undermines the effectiveness of legal decisions, which underlines the need to equip legal systems with structures adapted to understanding the global, complex, systemic and transdisciplinary challenge of climate change.

In climate litigation, scientific input is essential for modelling future impacts, establishing causal links between GHG emissions and harm, and assigning specific, quantifiable responsibilities. This disconnect directly affects the legal requirement of proving causality and thus jeopardises litigants' standing (see section 5.3.3). The technical complexity of climate-related processes underscores the need for stronger collaboration to develop climate services²⁸ tailored to legal challenges. In *Commune de Grande-Synthe v. France*, the plaintiff's standing before the Council of State was validated based on the inevitability of climate impacts in a low-lying area, supported by data from the National Observatory on the Effects of Climate Change (ONERC). This demonstrates how dialogue between legal and scientific bodies can substantiate facts and legitimise causal links.

The *Asmania et al. vs Holcim* case further uncovers the strength of articulating scientific production and legal tools and interpretations. Local inhabitants were able to obtain external support to have scientific evidence to demonstrate Holcim's historical responsibility in climate change. They relied on The *Climate Accountability Institute* which provided an assessment of Holcim's emissions from the 1950's²⁹. By quantifying CO₂ emissions, a major driver of climate change, the report enabled the plaintiffs to attribute Holcim's historical emissions to human-induced global warming and the resulting SLR impacts on their Indonesian territory and livelihoods. The report does not detail specific legal claims or applications but acknowledges that such emission data could support potential litigation. Further studies focusing on climate impacts have confirmed the link between flooding on the island of Pari and climate change. The plaintiffs' press release³⁰ mentioned a German study by the Global Climate Forum which provides scientific evidence of continued SLR over the coming centuries, with more frequent and intense flooding linked to human-induced global warming.³¹ Although the study was

²⁸ Climate services provide scientifically credible climate information to support climate-smart decisions. They range from short-term forecasts to long-term projections and can be combined with sector-specific data to assess risks and vulnerabilities. Designed to meet user needs, climate services may be co-developed with end-users and tailored to broad or specific audiences, playing a key role in climate change adaptation across policy sectors. See European Environment Agency. (n.d.). *Climate services*. Climate-ADAPT. <https://climate-adapt.eea.europa.eu/en/knowledge/adaptation-information/climate-services/>.

²⁹ The report states that between 1950 and 2021, Holcim and its predecessors produced 7.26 billion tonnes of cement, emitting around 7.15 billion tonnes of carbon dioxide, which represents, on a cumulative basis (scopes 1, 2 and 3), 0.47% of all global industrial emissions from fossil fuels and cement since pre-industrial times.

³⁰ Four Indonesians file climate litigation against Holcim [Press release]. (2023, February 1). *Climate Case Chart*. https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2023/20230201_17478_press-release-1.pdf

³¹ Hinkel, J., Gussmann, G., Lincke, D., & Völz, V. (2023). *Heutige und zukünftige Auswirkungen des Klimawandels und Meeresspiegelanstiegs auf der Insel Pari* (GCF Working Paper 1/2023). Global Climate Forum. <https://doi.org/10.5281/zenodo.7566046>; Burri, N., & Reyes, L. D. (2025). Elevating women's voices in

published after the complaint was filed, it can further support the plaintiffs' narrative on the impacts of climate change. As this case is still ongoing, it is unclear how it will affect the court's judgement.

The use of this type of data and sources as evidence in claims is still uncommon. Strengthening collaboration between scientific experts and legal actors is therefore crucial. Beyond the mere production of climate services, litigation can also benefit from knowledge brokers to convey this information and strengthen collaborations. The French High Council for Climate, created in 2018, is an independent advisory body that advises the government in their climate policies to reduce GHG emissions and is a good example to follow. With the emergence and consolidation of environmental and climate law, and the development of interdisciplinary programmes, it is important that more legal practitioners are trained to understand the complexities of climate issues, and that they have better access to the necessary tools.

3.4.3.2 Length of legal proceedings vs. the urgency of climate change

Climate litigation cases often face the length of the judicial systems, which contrasts sharply with the urgency of the climate crisis. The cases of *Greenpeace Nordic and Others v. Norway*, *Notre Affaire à Tous and Others v. France* and *Notre Affaire à Tous and Others v. Total* highlight this limitation. In the Norwegian case, the NGO Greenpeace filed a complaint in 2016 against oil exploration in the Barents Sea. The final judgment wasn't released until 2020, after a series of appeals. This delay allowed projects with both immediate and long-term environmental impacts to continue, which undermines the effectiveness of legal action in a time-sensitive crisis. Similarly, in *Notre Affaire à Tous and Others v. France*, filed in 2018, it took the French court several years to acknowledge the government's failure to reduce GHG emissions. In spite of France's renewed climate ambition - as expressed in the 2021 *Climat et Résilience* law - the decision was symbolic in emphasising the need for governments to transition from past commitments to practical action. Finally, although the case of *Notre Affaire à Tous v. Total* was initiated in 2018, it has still not led to a judgment on the merits, as the proceedings have so far focused primarily on procedural aspects. These include determining whether jurisdiction lies with the commercial or civil (judicial) courts,³² establishing which entities have standing to sue, and assessing whether the content of the formal notice—the letter sent by plaintiffs requiring the company to amend its vigilance plan—must correspond exactly to the claims made in the writ of summons, the document used to initiate court proceedings if the company fails to respond. This procedural rigidity contributes to significant delays in the rendering of judgments on the merits and hinder the development of robust jurisprudence that could compel large companies to change their behaviour and integrate environmental considerations into their practices.

transnational climate litigation. In M. A. Tigre, M. J. Murcott, & S. A. Samuel, *Climate Litigation and Vulnerabilities* (1st ed., pp. 163–189). Routledge. <https://doi.org/10.4324/9781003470632-8>

³² In France, 'judicial courts' often handle general civil and criminal matters, while 'commercial courts' handle disputes specifically related to business activities.

These cases highlight the gap between the urgency of climate action and the slow pace of legal proceedings. Lengthy appeals, evidence reviews, and delays in enforcement hinder timely responses to the escalating crisis, underscoring the need to rethink procedural rules to better address the climate emergency.

4. Practical guide

The purpose of this section is to support stakeholders, including civil society, local communities, practitioners, individuals and other relevant parties, in understanding the complexities of climate litigation. It provides general guidance on when a case can be brought before a court, how to demonstrate the link between harmful conduct and its impacts, and outlines the most common legal avenues for redress. By simplifying complex legal categories and using accessible language, this guide aims to raise awareness of climate-related rights and responsibilities, particularly among those already affected or at risk in coastal areas.

The upcoming item provides an overview of the key steps and preliminary guidance to consider when filing a complaint related to climate impacts in coastal areas.³³ The following table presents the main steps that parties should undertake when wishing to file a legal complaint. A step-by-step explanation of each phase is provided in the remainder of the guide.

Phase	Action
<i>Before filing the case</i>	
1	Screen the facts to support the claim
2	Consider the potential jurisdiction
3	Check standing and other procedural requirements
<i>Building the case</i>	
4	Check scientific studies that can support the establishment of the causal link between the conduct and the harm suffered
5	Decide the main redress options desired to be claimed

Table 5 - Steps to file a complaint

4.1 Factual screening

- The first step is to specify the main fact in question and the context in which it occurs, as to identify any potential legal breaches.

Steps:

1. Identify the relevant facts: What happened, and what is the legal issue?
2. Identify the contextual situation: When and where did it happen? Is the climatic event in question sudden or slow onset? Can a direct cause of the event be identified?

³³ Due to the complex, specific, and evolving nature of climate law, the authors strongly recommend that individuals or groups seek legal support services, such as public interest law organisations, legal aid providers, or university legal clinics, before pursuing any formal legal action.

3. Draw a chain of current (verified) and future (potential) physical and social impacts to identify the harm.³⁴
4. Identify any legal breaches under domestic, European and international law (see Annex 3).
5. Identify all the actors involved and their level of direct implication in the situation. Place them within your chain of impacts.
6. Identify the stakeholders and institutions that are potentially responsible for preventing the harm.
7. Finally, determine your factual request (i.e. what is the main question you expect the court to answer?).
8. Within this process, consider contacting potential interested stakeholders and engage partners such as NGOs, municipalities and broader communities/vulnerable groups.

4.2 Procedural norms: standing requirements

It is crucial to establish that you meet the legal requirements to bring a case before a court. The specific criteria may vary by country and tribunal. In this sense, the adjudicatory body changes according to factors such as *ratione materiae* (subject-matter jurisdiction — civil, constitutional, administrative, criminal, etc), the implied territorial competence, the level of governance involved (local, national or European) and the parties implicated in the case (e.g. specific public authorities).

While specific criteria may apply in different jurisdictions, reaching the European courts, for instance, is a lengthy and detailed process which often requires you to have exhausted domestic levels³⁵ —most systems require you to demonstrate legal standing, i.e. that you have a legitimate reason to bring the case. These general details are explained as follows.

4.2.1. General Requirements for Legal Standing

To have legal standing, you must demonstrate a **direct and concrete interest** in the matter, usually by showing that you have suffered an injury-in-fact. This means:

- **Concrete:** the harm must be real, not abstract, hypothetical, or theoretical.
- **Particularised:** it must affect you personally and individually, not just a general complaint shared by the public.

³⁴ You can use the methodology employed in Zebisch, M., Terzi, S., Pittore, M., Renner, K., & Schneiderbauer, S. (2022). Climate Impact Chains—A Conceptual Modelling Approach for Climate Risk Assessment in the Context of Adaptation Planning. In C. Kondrup, P. Mercogliano, F. Bosello, J. Mysiak, E. Scoccimarro, A. Rizzo, R. Ebrey, M. D. Ruiten, A. Jeuken, & P. Watkiss (Eds.), *Climate Adaptation Modelling* (pp. 217–224). Springer International Publishing. https://doi.org/10.1007/978-3-030-86211-4_25 as well as in European Environment Agency (Ed.). (2024). *European climate risk assessment*. Publications Office of the European Union. You can also use tools such as the *Climate Fresk* or the *Ocean Collage* to better understand causal links.

³⁵For example, in the cases studied in our analysis, those dealt with at European court level (e.g. via the ECHR) require that domestic remedies be fully exhausted before a case is accepted.

- **Actual or imminent:** the injury has either already occurred or is very likely to occur soon. Speculative or distant future harms usually don't qualify.

Examples:

- Coastal residents experiencing property damage, health risks or displacement due to coastal erosion, SLR or flooding (e.g. the *Le Signal*).
- Local authorities may face increased flood risk, which can impair public services (*Grande-Synthe v. France*), or they may face adaptation costs due to climate-related risks. Non-governmental organisations (NGOs) with statutory mandates to protect environmental interests can act when government action falls short (e.g. *Friends of the Irish Environment v. Ireland*).

4.2.2. Demonstrating the Direct and Concrete Interest

To support your claim, gather evidence of the **specific impact** the issue has had, or is likely to have, on you or your community. This may include:

- **Scientific and technical evidence:** environmental reports, health studies, maps, risk assessments, academic articles, etc.
- **Community-based and testimonial evidence:** witness statements, personal accounts, local impact assessments, or declarations from affected residents.

When preparing your complaint, it's crucial to include **all relevant supporting materials** as annexes. These documents help demonstrate that the harm suffered is real, personal, individualised, and legally significant.

4.3 Causation: legally establishing the causal link

To establish a causal link in legal proceedings, you must demonstrate a connection between the defendant's actions or omissions and the harm suffered by the plaintiff.

4.3.1. The "But For" Test

A common standard is the **factual causation check**, in other words, a "but for" test:

- Would the harm have occurred but for/if it were not the defendant's conduct? If the answer is 'no' (meaning the harm would not have occurred **without** the defendant's action or omission), then a causal link can be established. This test helps determine whether the defendant's behaviour was a necessary condition for the harm suffered.

Example: residents from an island that sue a company under the argument that its historical GHG emissions contributed to climate change impacts such as SLR, which is currently threatening their island with flooding, loss of land, and destruction of homes and livelihoods. Under the 'but for' test, the plaintiffs might answer the question:

Would the harm (coastal flooding, loss of land and livelihoods) have occurred to this extent and scope but for the company's emissions?

If:

- the company is among the greatest global emitters, with extensive historical emissions;
- there are **scientific attribution studies** able to link a quantifiable share of global emissions and thus SLR to specific corporate actors, and
- Without the company's emissions, the **extent of impacts** (SLR, flooding, etc) would have been **significantly less**

Then, one can legally conclude that **but for** the private company's conduct, the plaintiffs would not be facing the current level of harm. This reasoning is intended to establish that the company's actions were a **factual cause** of the injury, even if **not the only one** (Example: *Asmania et al. v. Holcim*).

4.3.2 The "Substantial Factor" Test

- Climate change is a multifactorial phenomenon. In legal practice, when multiple actors contribute to a specific harm, it is common for courts to apply the **substantial factor criterion**. This means that **an individual's actions will be considered a legal cause of harm if they were a significant factor in causing it**, even if other individuals also contributed to it. This type of reasoning is important in cases where **the harm is indivisible**, such as the case of global climate impacts, where often it is not feasible to demonstrate an exclusive causation.

Example: fossil fuel companies collectively contribute significant emissions that accelerate global warming and extreme weather events in coastal areas. Each company's contribution, though partial, may be considered a substantial factor, and therefore, can be held accountable.

In this sense, if the defendant's wrongful actions/inactions have significantly contributed to the extent and scope of the harm inflicted (e.g. coastal flooding, loss of land and livelihoods), there is liability, even if this occurred alongside other important factors.

4.3.3 Material Contribution to Risk

- Another possibility for establishing a causal link and recognising liability relates to situations in which it is **difficult to achieve scientific certainty** about **direct causation of a fact or event**. In such cases, courts may require the demonstration that **the defendant's conduct materially increased the risk** of harm occurring. This reasoning accepts a 'lower' threshold of proof since it acknowledges the complexities of causation in issues such as shoreline erosion and sea level rise, for example. By focusing on **risk enhancement rather than exclusive causation**, this doctrine claims that even partial

contributions to climate change are sufficient to ground liability when the harm is indivisible.

Example: a company with significant historical CO₂ emissions is sued by residents of a coastal town facing intensified storm surges and saltwater intrusion into freshwater sources. While no single company's emissions can be shown to have *directly* caused the flooding, scientific studies demonstrate that the company's emissions **materially increased the risk** of sea level rise and related coastal harms.

In this case, it is important to prove that the wrongful action or inaction increased the risk of harm, even if it is difficult to prove that it caused the event.

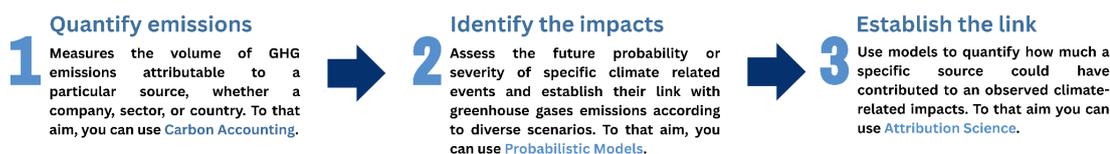
In summary, to establish the causal link it is important to follow some steps:

1. **Clarify the harm** that was suffered: specify the nature and extent of the harm experienced—e.g., physical damage, loss of livelihood, environmental degradation, or health impacts, etc.
2. **Describe the defendant's conduct/inaction/failure that directly/substantially contributed to fact or the increasing of its risk:** identify the specific actions, inaction, or failures of the defendant that contributed to the harm or its risk (this may include excessive GHG emissions, failure to implement adaptation measures, or disregard for regulatory obligations, etc).
3. **Support the causal connection with robust evidence, including scientific and technical data:** this can include scientific studies, attribution reports, expert opinions, emissions data, or technical analyses showing how the defendant's conduct contributed to the harm.
4. **Demonstrate temporal and spatial proximity** between the conduct and the harm: strengthen the causal claim by showing that the harm occurred within a relevant timeframe and geographic context related to the defendant's conduct.

4.4 Scientific Tools for Establishing Causation

Factual causation in climate litigation can be demonstrated through three steps, which may also be applied individually³⁶.

³⁶In *Asmania et al. v. Holcim*, the plaintiffs sought to establish causation by showing that Holcim emitted significant volumes of GHGs over time, contributing measurably to global climate impacts. The case relied on scientific tools such as historical emissions data and attribution models to substantiate the causal link. It also used probabilistic models establishing the quantitative links between emissions and sea level rise.



The following table provides an overview of the key scientific tools, data sources and methodological approaches that can support the establishment of causation in climate-related legal cases. These sources have been identified through the analysis conducted in this toolkit, reflecting the types of information that plaintiffs have successfully used and the gaps in the evidence noted in final rulings. While not exhaustive, the table offers practical starting points for building climate cases. Users are encouraged to consult knowledge brokers³⁷ to identify the most relevant tools for their specific legal and factual contexts.

Type of data	Approach	Source
GHG emissions data attributable to the defendant (either private companies or public sector)	Mandatory Reporting by Law	The <u>Environmental Impact Assessment (EIA) Directive</u> requires project developers to submit emissions data in EIA reports for certain projects. This is mandatory for large-scale projects (Annex I) and on a case-by-case basis for others (Annex II). Reports are submitted to national authorities and access varies by country via EIA portals or permitting systems .
		The Corporate Sustainability Reporting Directive (CSRD) and the European Sustainability Reporting Standards (ESRS) will make <u>mandatory reporting on emissions</u> accessible via the European Single Access Point (ESAP) from 2028. The ESAP is a central hub for financial and sustainability information on companies in the EU, due to launch in 2025–2026.
		UNFCCC reporting involves <u>national governments</u> submitting data on emissions by sector, historical trends and future targets. This includes <u>GHG inventory submissions</u> , <u>Nationally Determined Contributions (NDCs)</u> and <u>Biennial Transparency Reports (BTRs)</u> . The data is publicly accessible via the UNFCCC website.
		The Carbon Disclosure Project (CDP) is a <u>global voluntary initiative</u> through which many <u>European companies</u> report on their emissions, climate risks and strategies . This data is accessible via the CDP platform .

³⁷Knowledge brokers are individuals or organisations that act as intermediaries between those who generate knowledge and those who need to use that knowledge, translating complex information into actionable insights, and helping users access, interpret, and apply evidence effectively. You can look for them in climate think tanks, NGOs, or consultancies with experience in climate science or law.

<i>*Carefully consider the temporal scope and supply chain coverage of the emissions data you are analysing</i>	Voluntary Disclosure	Companies' <u>annual reports</u> and <u>national business registries</u> contain emissions and sustainability data. The availability of this data varies by company and country. Common frameworks can be followed, such as the <u>Task Force on Climate-related Financial Disclosures</u> (TCFD).
		UN Sustainable Development Goals (SDGs): <u>Voluntary National Reviews</u> (VNRs) provide a broader <u>national-level insight</u> into climate action and sustainability progress . These reports are publicly available on the <u>UN website</u> .
	External Data & Analytical Tools	Climate TRACE: <u>satellite</u> and <u>AI-based monitoring</u> of GHG emissions from major sources worldwide, including specific facilities and companies.
		The World Resources Institute's Climate Data Explorer provides data on <u>national emissions</u> and allows comparisons over time.
		The One Earth Climate Model (OECD & Sustainable Development Solutions Network) assesses the <u>climate performance</u> of companies relative to sectoral decarbonisation pathways.
Climate Analytics' Carbon Budget Tools provide <u>reports</u> and <u>tools</u> for exploring <u>carbon budgets</u> by country, sector and pathway in line with the 1.5°C and 2°C climate targets.		
		The Carbon Majors Database (Climate Accountability Institute) provides <u>historical emissions data</u> for major fossil fuel companies around the world.
Scientific analysis on climate impacts	Written Reports	The Intergovernmental Panel on Climate Change (IPCC) provides authoritative <u>global assessments</u> of climate science, its impacts and emissions-related risks, including sector- and region-specific projections and pathways.
		Environmental Impact Assessment (EIA) reports now <u>integrate climate change</u> , including climate impact projections and adaptation analysis. These reports offer project-specific insights into future risks, (e.g., flooding, heat and rising sea levels).
	Mapping &	Copernicus Climate Change Service (C3S): EU datasets and tools providing <u>climate projections, impact indicators and historical trend data</u> for various sectors and regions.
National observatories and risk assessment tools provide <u>regionalised predictions</u> . Examples include France's Evaluation Nationale des Impacts du Changement Climatique, the UK's Climate Change Risk Assessment and the US National Climate Assessment.		

linked to GHG emissions	Modelling Tools	Coastal flood and sea-level rise maps: <u>geospatial information</u> can be very useful for <u>assessing localised coastal climate threats</u> . Climate Central's Sea Level Rise Maps provide various insights, including a Coastal Risk Screening Tool which allows you to <u>compare long-term sea level outcomes across different warming scenarios</u> using an interactive slider. The NASA Sea Level Projection Tool provides easy access to global and regional sea level rise projections from the IPCC 6th Assessment Report (AR6). It allows users to explore location-specific data, future scenarios, contributing processes, and download options through an interactive, user-friendly interface. The CoCliCo platform offers transparent, high-resolution localized data on sea level rise, coastal hazards, exposure, and adaptation options across Europe, enabling users to explore and compare projected impacts, evaluate risk drivers and costs, and access evidence-based datasets to support informed decision-making and accountability in coastal risk management.
Attribution science: Scientific methods used to connect GHG emissions to specific climate impacts	Emissions Attribution (Linking Actors to Impacts)	Simple climate model tools <u>link</u> emissions from <u>specific entities</u> or <u>sectors</u> to <u>global climate outcomes</u> , such as temperature or SLR. Example: FaIR (Finite Amplitude Impulse Response) - it quantifies the contribution of individual companies or sectors to global temperature rise over time.
	Extreme Weather & Climate Events Attribution	Event attribution models compare <u>real-world scenarios</u> with <u>counterfactuals</u> (i.e. scenarios without human emissions) in order to estimate the <u>contribution of anthropogenic climate change to specific events</u> . Examples: HadGEM3 and CMIP6. Peer-reviewed attribution studies , based on the previously mentioned models, can help you to understand the subject better. One good place to find them is the World Weather Attribution (WWA) , which provides a <u>real-time assessment of the influence of climate change on the probability and intensity of specific events</u> (e.g. heatwaves and floods).
	Future Impact Attribution	CLIMADA (ETH Zurich) <u>models the damage</u> caused by climate-related hazards by <u>integrating exposure, vulnerability and hazard data</u> . It enables counterfactual comparisons to be made in order to assess losses that could be avoided due to climate change.
Other Evidences that can be provided for legal reasons	Written statement about facts	Expert affidavits: written statement, sworn under oath, by a professional with specialised knowledge or experience, that provides their analysis on a particular matter relevant to a legal case.
	Scientific Assessment	This can include damage assessments carried out by insurance companies and attribution studies.

Table 6- Evidencing some scientific tools and data sources for establishing causation in coastal climate litigation

4.5 Legal Causation: linking a legal obligation and a specific injury

Once the factual evidence is provided, you might also establish the **legal causation**, that is, demonstrate that the defendant's actions are **legally responsible** for the injury.

The legal causation involves identifying actions, omissions and general failures that have contributed to climate-related damage in coastal zones and that are not aligned with the legal framework. Issues that might contribute to establishing the legal causal link: **foreseeability** - the harm was a foreseeable consequence of the conduct; **no remoteness** - the harm is not too indirect, and **no intervening causes** - no other events have broken the causal chain.

At this point, it is important to demonstrate that:

- The defendant had a legal duty to act/not to act in a specific manner (according to norms that can be civil, administrative, constitutional, etc).
- The duty was breached through action or inaction that is not aligned with the legal framework (it violates a specific legal provision);
- The breach caused or significantly contributed to the harm suffered.

4.6 Legal redress for the injury

Redress is related to the remedy or compensation granted by the court to attempt to correct the injury, or harm suffered by the party. In the analysed cases, they are usually a **declaratory relief** - the court clarifies the legal rights/obligations of the parties; an **injunction**, when the court orders a party to do or stop doing something; a **monetary compensation** for damages suffered, or also a **restitution**, when possible - which means restoring the injured party to their original position.

The main redress actions claimed for in the analysed cases were:

- a) **Recognition of fundamental rights related to coastal and environmental protection that are not enshrined in domestic law:** common examples might include the right to a healthy environment or protection from climate-induced displacement and loss of cultural practices.
- b) **Recognition of violations of fundamental rights and/or that defendants' actions need to take these rights into consideration:** a court can declare that governmental or corporate actors have failed to protect the rights of coastal individuals and communities, such as rights to property, health, or private and family life, due to inadequate climate action. Following this recognition of a legal breach, courts usually determine the measures equivalent to incorporating the duly obligations, with enforcement and monitoring targets.

- c) **Orders prompting the obligation to revise national mitigation targets and adaptation strategies:** this usually includes stricter GHG emission reductions, better protection of marine ecosystems, or enhanced flood defences.
- d) **Financial compensation** for any material or immaterial prejudice caused by the defendants' choices, activities or actions/inactions, which might be:
- Injunctions requiring financial assistance or resources to implement adaptation measures:** examples include funding for sea walls, restoration of mangroves and wetlands, updated land-use zoning to prevent coastal erosion or flooding, and community relocation programs.
- Financial and non-financial compensation mechanisms** for loss and damage caused by climate change impacts, such as property loss, loss of income, or cultural damages, both monetary and through restitution measures.
- e) **Penalties or sanctions for activities causing environmental degradation:** this can include financial penalties, remediation orders, or even criminal sanctions against parties responsible for pollution or destruction of coastal ecosystems.
- f) **Liability or sanctions for unlawful conduct during public climate protests:** financial penalties/compensation or deprivation of liberty for abuses of rights committed during public protests and actions.

4.7 Building the file

In a nutshell, the legal file will be comprised of:

- The official complaints (to be elaborated by a professional);
- Eventual statements from plaintiffs;
- Evidence of the elements of legal standing and other necessary procedural rights depending on specific jurisdiction requirements;
- Supportive evidence of the harm: scientific and factual data that support the claim (e.g., historical GHG emissions and responsibility data), the evidence can also benefit from prepared experts contribution and affidavits if necessary
- Legal arguments and precedents of other similar cases;
- A specific claim (request) considering the desired redress for the victim;
- Submit the claim to the competent judicial authority respecting form and deadlines, and ensure that all procedural formalities, including service to defendants and stakeholders, are duly executed.

5 Concluding remarks

The conclusions presented in this section reflect the main points that emerged from the case analysis. They are therefore tied to the precise findings of climate litigation in coastal areas for the specific European countries and jurisdictions observed (17) and do not claim to provide an exhaustive overview of the phenomenon.

- The use of climate litigation as a legal tool to address the impacts of climate change in coastal areas is still in its emerging stages, with very few cases addressing these impacts directly. Most of the lawsuits brought to date have approached coastal impacts and harms indirectly within other arguments. In this sense, SLR and the coastal impacts of climate change remain a secondary issue in several of the cases analysed and it is therefore difficult to assess the impacts they may have on legal interpretations and organisation in the long term.
- NGOs often act as relevant plaintiffs in these cases, while states, ministries and public agencies tend to be defendants. Despite public actors having a greater presence on the defence side of lawsuits, there is a growing trend of bringing private companies to the forefront of litigation. This increased involvement of private companies is supported by more accurate attribution science and the growing recognition of corporate social responsibility.
- In terms of legal grounds, there is a clear reliance on international law, particularly the Paris Agreement, when it comes to demanding more ambitious climate targets. At the European level, the European Convention on Human Rights has been invoked to advocate for stronger measures to combat climate change and its consequences. Fundamental rights have also been articulated alongside these tools in the domestic arena. These legal instruments are increasingly mobilised in litigation that seeks to address climate change through the lens of human rights.
- Civil and administrative laws and policies are often challenged due to their inadequacy in the context of climate change. However, linking the obligations underlying these norms to climate change can be difficult due to variations in court interpretations. While several rulings recognise the obligation to comply with environmental and climate laws, thereby strengthening climate accountability by clarifying the obligations of states and companies, they also demonstrate a reluctance to impose specific, binding duties and targets on defendants. Nevertheless, despite this apparent strict legal reasoning, such litigation can stimulate new discussions and innovative legal proposals, as was the case with *L’Affaire du Signal*³⁸.
- Three main types of limitation were uncovered by the cases: the first is essentially structural, linked to the institutional context; the second focuses on the interpretation and application of the law, while the third stems from disarticulation between climate

³⁸ Following the case that highlighted the legal shortcomings regarding properties located in erosion-prone areas, the Climate Resilience Act has integrated the Real lease for adaptation to coastal erosion (BRAEC).

sciences and legal practices. More specifically, the first challenge lies in the recurring mismatch between international political commitments and national legal frameworks, as well as in the insufficient integration of climate issues into binding legal norms. The second category concerns procedural obstacles to access to justice and legal capacity, as well as the unambitious interpretation of key environmental principles, such as impact assessments and the right to a healthy environment. Finally, the third category highlights a mismatch between scientific evidence and legal reasoning, exacerbated by slow procedures that do not match the urgency of climate change.

- Most claims focus on mitigation, seeking to hold GHG emitters accountable and ultimately reduce emissions. Some claims link mitigation commitments with adaptation needs, especially regarding protections for coastal communities and ecosystems facing SLR, flooding, storm surges, and erosion. Although compensation claims for loss and damage currently make up a small portion of the sample, their number is expected to grow as adaptation becomes increasingly difficult in vulnerable sectors and regions, particularly coastal areas. Advances in attribution science also strengthen the ability to directly connect harm to its sources.
- The cases analysed revealed a variety of major emerging legal and ethical issues. Intergenerational rights and obligations, for example, were used to set precise carbon budgets within the constitutional framework. Non-economic redress mechanisms have been discussed in relation to the loss of territories and livelihoods that cannot be compensated for in monetary terms. Finally, these cases also highlight the possibility of extraterritorial liability for climate-related damage, with transnational litigation enabling citizens of one country to assert their rights in another jurisdiction. Over time, as climate litigations increase, these cases are likely to increasingly clarify governance, procedures and approaches to adaptation.
- Further research could deepen the current understanding of the potential impact of lawsuits on future cases and evolving jurisdictions, particularly regarding coastal issues. It could also clarify their role in shaping new governance structures and addressing social conflicts. To this end, engaging with a diverse range of involved parties to gather their insights and experiences from past lawsuits and explore their perceptions of climate justice outcomes would be valuable. This approach would help to assess the effectiveness of litigation as a tool for conflict resolution.
- Overall, climate litigation is an emerging and increasingly influential tool for holding governments and corporations accountable for their role in climate change and for promoting stronger climate action. While the path remains complex, incremental progress is steadily gaining momentum, with coastal protection becoming a growing priority among stakeholders and jurisdictions.

6 Annexes

Annex 1: The main legal instruments and their provisional application at international, European and domestic levels

The International level

Instrument	Articles	Content of the provisions	Application	Cases
United Nations Framework Convention on Climate Change (UNFCCC)	1, 2, 3, 4, 5	<p>Art. 1: definitions of climate change-related scientific terms in international law</p> <p>Art. 2: objective of stabilising the GHG concentration to avoid dangerous anthropogenic interference with the climate system</p> <p>Art. 3.1: principle of protection of the climate system for the benefit of present and future generations of humankind.</p> <p>Art. 3: principles that actions should be taken in accordance with principle of equity, the precautionary principle, and principle of common but differentiated responsibilities and respective capabilities (CBDR-RC)</p> <p>Art. 4.1, e: commitment to develop and elaborate appropriate and integrated plans for coastal zone management.</p> <p>Art. 4: commitment to adopt mitigation measures, taking into consideration impacts on low-lying coastal areas.</p> <p>Art. 5.1 - Parties should take action to conserve and enhance, as appropriate, sinks and reservoirs of GHG.</p>	<p>Invoked as a benchmark for obligations of states under international law.</p> <p>It binds states to take sufficient and measurable mitigation and adaptation measures.</p> <p>Articulates the particular situation of coastal areas.</p> <p>Highlights the stronger responsibility of developed countries (CBDR-RC principle).</p>	<p><i>Notre Affaire à Tous and others v. France</i></p> <p><i>Friends of the Irish Environment v. Ireland</i></p>
Paris Agreement	2, 3, 4	<p>Art. 2.1, a: goal - sets numerical targets: to hold the increase in the global average temperature to well below 2°C and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, under which global warming must be contained</p> <p>Art. 3 sets that, as Nationally Determined Contributions (NDC), parties are to undertake</p>	<p>It establishes a baseline target for GHG emissions, which can be used to evaluate national legislation and policy.</p> <p>The countries that have ratified it recognise the impact of climate change and must therefore act accordingly.</p>	<p><i>Commune de Grande-Synthe v. France</i></p> <p><i>Neubauer, et al. v. Germany</i></p> <p><i>Notre Affaire à Tous and others v. France</i></p> <p><i>Friends of the Irish Environment v. Ireland</i></p>

		<p>ambitious efforts and that represent a progression over time</p> <p>Art. 4 defines criteria for Nationally Determined Contribution, setting out mitigation measures.</p>		
Aarhus Convention	<p>1, 2, 8</p> <p>Decision of the Aarhus Convention Compliance Committee in case ACCC/C/2008/33</p>	<p>Art. 1: it regulates the access to information, participation of the public in decision-making and access to justice for environmental matters, in order to protect the right of present and future generations to live in an adequate environment;</p> <p>Art. 2 - definitions of the Convention;</p> <p>Art. 8: Imposes effective public participation during the preparation of legally binding instruments that may have significant impact on the environment.</p>	<p>Invoked in the cases to defend the rights of public participation and access to information, two key principles for ensuring transparent and democratic environmental governance.</p> <p>Invoked to demand civil consultation before adoption of big infrastructure projects.</p> <p>The decision from the Compliance Committee was invoked specifically in the Irish case to argue for the application of a proportionality test in the face of environmental cases.</p>	<p><i>Greenpeace Nordic and Nature & Youth v. Energy Ministry</i></p> <p><i>Friends of the Irish Environment v. Ireland</i></p>
Convention on the Rights of the Child	3, 12.1, 12.2	<p>Art. 3: In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>Art. 12.1: States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p>	<p>Invoked to demand that the states respect the rights of younger generations, considering their right to be heard and the long-term impact of energy projects on their future.</p>	<p><i>Greenpeace Nordic and Nature & Youth v. Energy Ministry (The North Sea Fields Case)</i></p>

		<p>Art. 12.2.: For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.</p>		
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Table 7 - Instruments at the international level

The European level

Instrument	Articles	Content of the provision	Application	Cases
European Convention on Human Rights (ECHR)	Art. 2, 8, 13, 14 Protocol 1, Art. 1	<p>Art. 2: the right to life: Everyone's right to life shall be protected by law</p> <p>Art. 8: the right to respect for private and family life, home and correspondence</p> <p>Art. 13: the right to an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity</p> <p>Art. 14: prohibition of discrimination in the enjoyment of the rights and freedoms .</p> <p>Protocol 1 Art. 1: Protection of private property: no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law</p>	<p>Invoked to argue that citizens' fundamental rights are at risk in the face of projects with significant environmental impacts, particularly due to the long-term effects on people's lives, health, and quality of life.</p> <p>Invoked to claim that states shall protect people's homes from environmental risks, whether actual or likely to occur in the future.</p> <p>Often linked with precautionary and prevention principles to justify challenging harmful projects or pushing for further mitigation efforts.</p>	<p><i>Carême v France</i></p> <p><i>Greenpeace Nordic and Nature & Youth v. Energy Ministry (The North Sea Fields Case)</i></p> <p><i>Greenpeace Nordic and Others v. Norway</i></p> <p><i>Friends of the Irish Environment v. Ireland</i></p> <p><i>Notre Affaire à Tous and others v. France</i></p>

Environmental Impact Assessment (EIA) Directive 2011 (EU)	Art. 3.a and 4.1	<p>Art. 3.a: EIAs should assess the direct and indirect effects of a project on human beings, soil, water, air, climate, the landscape, cultural heritage, material assets, and the interaction between all these points.</p> <p>Art. 4.1: projects listed in Annex I shall be made subject to an assessment. *Annex I lists the types of projects that always require a mandatory EIA before they can be authorised. They are generally large-scale projects that are presumed to have significant effects on the environment.</p>	<p>Invoked to show a lack of inclusion of critical criteria in the EIA of a project.</p> <p>Can be used to show that risks were underestimated by a company, or by the public entity that delivered a permit.</p> <p>If the potential impact of GHG emissions is not adequately assessed, this undermines the thoroughness required by legislation.</p> <p>Invoked to call on corporate responsibility for emissions of GHG</p>	<p><i>Greenpeace Nordic and Nature & Youth v. Energy Ministry (The North Sea Fields Case)</i></p> <p><i>Greenpeace Nordic Ass'n v. Ministry of Petroleum and Energy (People v Arctic Oil)</i></p> <p><i>Greenpeace Nordic and Others v. Norway</i></p>
European Parliament and Council, Regulation (EU) 2018/842 of the European Parliament on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013	Art. 4, 8, 9	<p>Art. 4: sets binding annual emission reduction targets for Member States from 2021 to 2030 in non-ETS sectors</p> <p>Art. 8: Member States are required to report annually on their GHG emissions and progress towards their targets. If the Commission finds that a Member State is not making sufficient progress towards meeting its obligation, the Member State shall submit a corrective action plan with additional actions and timetable for implementing them.</p> <p>Art. 9: compliance check: sets penalties for Member States that exceed their annual emission allocation limits.</p>	<p>Can hold Member states accountable for failing to meet their binding annual targets.</p> <p>Invoked to state France's obligation to reduce its GHG emission targets by 37% in 2030</p> <p>If a Member State's emissions exceed its allocation, the excess amount is deducted from its allocation for the subsequent year and multiplied by a factor of 1.08.</p>	<p><i>Neubauer et al. v. Germany</i></p> <p><i>Guyane Nature Environnement and France Nature Environnement v. Minister of Ecological Transition and EDF Production Électrique Insulaire</i></p>

Table 8 - Instruments at the European level

The constitutional level

Instrument	Articles	Content of the provisions	Application	Cases
German Basic Law (Grundgesetz)	1.1, 2.2, 12.1, 14.1, 20, 20.a	<p>Art. 1.1: human dignity is inviolable and must be respected and protected by all state authority</p> <p>Art. 2.2: right to life and physical integrity</p> <p>Art. 12.1: the right to freely choose their occupation and workplace</p> <p>Art. 14.1: Property and inheritance are guaranteed</p> <p>Art. 20: Germany is a democratic and social federal state bound by the rule of law</p> <p>Art. 20.a: The state must protect the natural foundations of life and animals for future generations.</p>	The Federal Constitutional Court ruled that inadequate climate action violates fundamental rights to life and physical integrity and right to property.	<p><i>Neubauer, et al. v. Germany / Family Farmers and Greenpeace Germany v. Germany</i></p> <p><i>Family Farmers and Greenpeace Germany v. Germany</i></p>
Norwegian Constitution	Art. 93, sec. 104 and 112	<p>Art. 93: The right to life</p> <p>Section 104: Everyone has the right to a healthy environment, and the State must implement measures to safeguard this right for present and future generations.</p> <p>Section 112: Children have the right to respect for their human dignity, to be heard in matters concerning them, and to have their best interests considered in all decisions affecting them</p>	<p>Invoked to defend the right to a healthy environment for present and future generations, highlighting the State's responsibility to take measures to protect that environment.</p> <p>Sec. 112 can be used to support the rights of children to be heard in decisions that affect their future.</p>	<p><i>Greenpeace Nordic and Nature & Youth v. Energy Ministry (The North Sea Fields Case)</i></p> <p><i>Greenpeace Nordic Ass'n v. Ministry of Petroleum and Energy (People v Arctic Oil)</i></p>
Irish Constitution	No specific article cited directly. Decision in Merriman v.	Art. 40. 3, 2° - Right to life - The State shall protect the life, person, good name, and property rights of every citizen	All of these were invoked to argue for the responsibility of the Irish government to take stronger action in fighting climate change.	<p><i>Friends of the Irish Environment v. Ireland</i></p> <p><i>Notre Affaire à Tous and others v. France</i></p>

	<p>Fingal County Council & Ors. [2017] IEHC 695 (arguing for the existence of a right to an environment consistent with human dignity and reliance)</p>	<p>Art. 40.4, 1°- Right to liberty and security - no citizen shall be deprived of his personal liberty.</p> <p>Art. 41: Right to respect for family and private life and home, rights of the elderly, gender equality.</p> <p>Rights not provided for by the Constitution but still protected by it according to the applicants were also invoked: right to physical integrity, right to a reasonable environment, commitment to intergenerational solidarity, obligation to vigilantly and effectively protect the environment.</p>	<p>The Merriman v. Fingal County Council & Ors. [2017] IEHC 695 Decision was used to argue for the existence of an unenumerated right to an environment consistent with human dignity and reliance protected under the Constitution, which led to many discussions and was ultimately denied.</p>	
<p>French Charter for the Environment</p>	<p>Art. 1, 2, 10</p>	<p>Art. 1: Everyone has the right to live in a balanced environment which shows due respect for health.</p> <p>Art. 2: Everyone is under a duty to participate in preserving and enhancing the environment.</p> <p>Art. 10: This Charter shall inspire France's actions at both European and international levels.</p>	<p>Used to evaluate whether state policy meets constitutional climate and environmental obligations.</p> <p>Used to highlight the existence of an environmental duty of care to which corporations must comply.</p> <p>The Charter recognises the right to live in a balanced and healthy environment, affirms environmental protection as a national priority, and places duties on individuals, public authorities, and businesses to prevent environmental harm, apply the precautionary principle, and promote sustainable development.</p>	<p><i>Grande Synthe</i></p> <p><i>Le Signal</i></p> <p><i>Notre affaire à tous and Others v. Total</i></p> <p><i>Notre Affaire à Tous and others v. France</i></p>

<p>French Constitution</p>	<p>Preamble, Art. 5</p>	<p>Preamble: affirms France’s attachment to human rights, national sovereignty, and key foundational texts, including the Environmental Charter</p> <p>Art. 5: The President of the Republic shall ensure due respect for the Constitution. He shall ensure, by his arbitration, the proper functioning of the public authorities and the continuity of the State. He shall be the guarantor of national independence, territorial integrity and due respect for Treaties.</p>	<p>Art 5 invoked to present the President as protector of state integrity</p>	<p><i>Grande-Synthe v. France</i></p>
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Table 9- National constitutions

The infra-constitutional level

France

Instrument	Articles	Content of the provisions	Application	Cases
French n°2016-1087 law	Art. 1246, 1247, 1248, 1252	<p>Art. 1246: Anyone that commits an action with ecological prejudice is required to repair it.</p> <p>Art. 1247: Defines ecological prejudice as: “non-negligible damages to the elements or functions of ecosystems or to the benefits humans draw from the environment”.</p> <p>Art. 1248: Defines criteria for establishing standing in legal actions for the reparation of an ecological prejudice: Actors recognised as having standing include the French State, the French Biodiversity Office (OFB), local governments whose land is concerned by the prejudice or public establishments and associations whose legal purpose include the protection of nature or of the environment and that have existed for more than five years.</p> <p>Art. 1252: Enables a judge to order proactive actions to prevent or halt environmental damage.</p>	<p>Used against the French government to argue that its inaction or lack of adequate action leads to direct prejudice and that further action needs to be undertaken to correct it.</p> <p>Also used to compel the company TotalEnergies to reduce its direct and indirect emissions in line with the Paris Agreement's goals.</p>	<p><i>Notre affaire à tous and Others v. Total</i></p> <p><i>Notre Affaire à Tous and others v. France</i></p>
French Commercial Code: Duty of Vigilance Law	Art. L. 225-102-4	<p>Art. L. 225-102-4: establishes a preventive approach to large corporations' liability. It requires large French companies to implement an annual vigilance plan to identify the risks caused by its activities and to prevent human and environmental harm. The law also applies to the entire value chain, including large corporation's subsidiaries, subcontractors, and suppliers.</p>	<p>Used to compel TotalEnergies to identify and address the impact of its activities on global warming, as well as to reduce its GHG emissions.</p>	<p><i>Notre affaire à tous and Others v. Total</i></p>

French Code of Administrative Justice	Art. L. 554-12, L. 911-1, L. 761-1, R. 611-7	<p>Art. L. 554-12: The judge may suspend a removal order that seriously violates a fundamental freedom.</p> <p>Art. L. 911-1: The judge may order the administration to execute the ruling.</p> <p>Art. L. 761-1: The judge may order the losing party to cover legal costs.</p> <p>Art. R. 611-7: Documents may be excluded to protect business secrecy.</p>	<p>Procedural basis for environmental litigation and emergency requests.</p> <p>Used as a procedural basis to suspend the execution of an infrastructure project if there is serious doubt about its legality</p>	<p><i>Grande-Synthe v France</i></p> <p><i>Guyane Nature Environnement and France Nature Environnement v. Minister of Ecological Transition and EDF Production Électrique Insulaire</i></p>
French Energy Code	Art. L. 100-4	Art. L. 100-4: sets a target to reduce GHG emissions by 40% between 1990 and 2030	Used to emphasise the incompatibility of the operation of a thermal power plant with national GHG reduction goals.	<p><i>Guyane Nature Environnement and France Nature Environnement v. Minister of Ecological Transition and EDF Production Électrique Insulaire</i></p>
Loi Littoral (Urbanism Code L121.1-L121.51) *France's primary law for coastal protection.	Art. L. 121-40, Art. L. 121-23	<p>Art. L. 121-40: regulates urbanisation near the shoreline permitting expansion in diffusely urbanised sectors or for development operations provided under the specific chapter of the Regional Development Scheme.</p> <p>Art. L. 121-23: Outlines regulations to protect coastal and marine environments by controlling land use and development. It mandates the preservation of remarkable or characteristic sites and landscapes of the natural and cultural heritage of the coastline</p>	Used to challenge the approval of the building permit of a thermal power plant located near the shoreline.	<p><i>Guyane Nature Environnement and France Nature Environnement v. Minister of Ecological Transition and EDF Production Électrique Insulaire</i></p>

French Environmental Code	L. 142-1, L.411-1 L411-2	<p>Art. L.142-1: any association whose purpose includes protecting nature and the environment can file a case on the matter before an administrative court</p> <p>Art. L. 411-1: prohibits the destruction, alteration, or disturbance of animal and plant species and their habitats to preserve ecosystems and natural heritage.</p> <p>Art. L-411-2: a derogation to article L411-1 can be handed in the case of lack of sufficient alternatives for projects with overriding public interest.</p>	<p>Used by French environmental associations to establish their standing</p> <p>Used to demand the annulment of the environmental authorisation for a power station on the basis that the derogation for protected species granted despite alternative sites not being sufficiently studied.</p>	<p><i>Guyane Nature Environnement and France Nature Environnement v. Minister of Ecological Transition and EDF Production Électrique Insulaire</i></p> <p><i>Notre Affaire à Tous and others v. France</i></p>
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Table 10 - French infra-constitutional instruments

United Kingdom

Instrument	Articles	Content of the provisions	Application	Cases
Criminal Damage Act, 1971 (UK)	Section 1.1, Section 5.2	<p>Section 1.1: destroying or damaging any property belonging to someone else, intending to destroy or damage any such property, or being reckless as to whether any such property would be destroyed or damaged without any lawful excuse is an offence</p> <p>Section 5.2: a person can be found to have a lawful excuse and acquitted of committing degradations if they are found to use reasonable means to protect property ‘under immediate need for protection’.</p>	<p>The environmental activist argued that the vandalism she had committed in the name of activism could be justified by the risks that climate change poses to private property around the world.</p>	<p><i>Trial of Angela Ditchfield</i></p>
Climate Change Act 2008 (UK)	Art. 58.1, a; Art-58, 1, c	<p>Section 58. 1, a: The Secretary of State must lay before Parliament a programme setting out</p>	<p>Used to argue that NAP3 failed to establish clear and lawful adaptation objectives, as required by the Climate Change Act;</p>	<p><i>Friends of the Earth v Secretary of State for</i></p>

		<p>objectives for adapting to climate change</p> <p>Section 58, 1, c: The programme must include the time scales for introducing the policies and proposals outlined</p>	<p>The government failed to adequately assess the risks associated with implementing the policies outlined in NAP3: no adequate consideration of the impact of NAP3 on marginalised groups</p>	<p><i>Environment, Food and Rural Affairs</i></p>
<p>Welsh Urban Planification / Policy Documents</p>	<p>Urban Planning documents at local and national level (1991, 1996, 1999), Planning Policy Wales (2002) and its Technical Advice Note 15 (TAN15).</p>	<p>Development policy documents that set out planning priorities at the scale they tackle and the cases in which development should be questioned. Planning Policy Wales is the first of such texts to insist clearly on the need for sustainable development.</p> <p>TAN15 specifically recognises the risk posed by flooding and underlines how it should be considered in relation with new development. Its aim is not to stop development but to limit it where consequences of flooding would be deemed unacceptable.</p>	<p>Permits for development projects were being questioned in the face of flooding risks. The texts were used to discuss the limits between safety/environmental and economic interests.</p>	<p><i>Castletown Estates Ltd. v. Welsh Ministers</i></p> <p><i>Goldfinch Projects Limited v. Wales</i></p>

Table 11 - British infra-constitutional instruments

Switzerland

Instrument	Articles	Content of the provisions	Application	Cases
<p>Swiss Civil Code</p>	<p>Art. 28</p>	<p>Art. 28: any person whose personality rights are unlawfully infringed may petition the court for protection against all those causing the infringement.</p>	<p>Plaintiffs argue that their rights to physical integrity, to personal freedom, to private and family life, to mental integrity and to economic advancement had been affected.</p>	<p><i>Asmania et al. vs Holcim</i></p>
<p>Swiss Code of Obligations</p>	<p>Art. 49</p>	<p>Art 49: The injury to personality rights - Any person whose personality rights are unlawfully infringed is entitled to a sum</p>	<p>The violation of personality rights and their mental harm due to the excessive GHG emissions allow them to apply for mitigation</p>	<p><i>Asmania et al. vs Holcim</i></p>

		<p>of money by way of satisfaction provided this is justified by the seriousness of the infringement and no other amends have been made.</p> <p>The court may order that satisfaction be provided in another manner instead of or in addition to monetary compensation.</p>	requests.	
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Table 12 - Swiss infra constitutional instruments

Norway

Instrument	Articles	Content of the provisions	Application	Cases
Petroleum Act(s)	<p>Act 29 November 1996 No 72 relating to petroleum activities, Section 4-2, Paragraph 2;</p> <p>Regulations to Act relating to petroleum activities 27 June 1997, Section 22a</p>	<p>Section 4-2, Paragraph 2: The plan must include information on the environmental impact, pollution risks and effects on other activities in the area concerned. If the project is to be carried out in several stages, the plan should ideally cover the entire development, although the Ministry may approve each stage separately.</p> <p>Section 22a: Requires an impact assessment in the development plan for an oil field to explain the effects on commercial activities and the environment, as well as the measures taken to minimise them. It must also describe the alternatives studied, justify the choice of solution, and specify the stages of development, connections to other fields and coordination of activities.</p>	<p>Used to challenge a petroleum development project if the plan does not comply with legal requirements, such as a lack of environmental impact assessment, absence of alternatives and justification, or poor coordination of activities. This can result in the cancellation of approval or the submission of a revised plan.</p>	<p><i>Greenpeace Nordic and Nature & Youth v. Energy Ministry (The North Sea Fields Case)</i></p>

Table 13 - Norwegian infra constitutional instruments

Germany

Instrument	Articles	Content of the provisions	Application	Cases
Federal Climate Action Plan	Section 3 and Annex 2	These sections focus on seas and coasts; they align national implementation with the target previously set at EU level: to achieve a 40% EU-wide reduction by 2030 compared to 1990 levels.	The Federal Climate Action Plan does not set out a reduction path beyond 2030 or provide information on the permissible global and national GHG budgets. All legal regulations that protect the climate system, future generations and the basic rights, must be implemented, along with the necessary measures must be taken. The Federal Climate Protection Act does not meet these requirements as its provisions are inappropriate for achieving the 1.5°C target.	<i>Neubauer, et al. v. Germany</i>

Table 14 - German infra constitutional instruments

Ireland

Instrument	Articles	Content of the provisions	Application	Cases
2015 Climate Action and Low Carbon Development Act	Sections 3, 4, 8, 11, 12.	<p>Section 3: Mandates the Irish government to prepare and approve a National Mitigation Plan to meet 2050 targets .</p> <p>Section 4: The first plan should be adopted within 18 months after the adoption of the Act, updated every 5 years, outline actions and policies, and include public consultation</p> <p>Sections 8, 11, 12: A Climate Change Advisory Council</p>	The Friends of the Irish Environment and others v. Ireland case is directly challenging the 2017 Irish National Mitigation Plan which the plaintiffs find to not be aligned with its obligations under the 2015 Act. It will not allow for Ireland to meet the targets set under international, EU and national law, does not offer detailed enough	<i>Friends of the Irish Environment v. Ireland</i>

		will be appointed to review the plan, assess the progress made towards Ireland's goals and advise ministers on mitigation solutions .	mitigation strategies and should provide intermediate targets before 2050. After a first ruling giving significant agency to the Irish Government in how it can define its climate mitigation strategy, recognizing the plan to be in accordance with the act, the Supreme Court decided to quash it in accordance with plaintiffs' requests.	
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Table 15 - Irish infra constitutional instruments

Annex 2 - The right to a healthy environment in the constitutions of European countries

Country	Right/Duty	Legal document
France	Individual right and state duty, inclusion of precautionary principle.	<i>Charte de l'environnement</i> (Arts. 1–10) *Environmental Charter (2005), integrated into the constitutional bloc
Germany	Duty of the state to protect the natural foundations of life - not directly justiciable	Basic Law (<i>Grundgesetz</i>), Article 20a
Spain	Right to a healthy environment and a duty of public authorities to protect it	Article 45 of the Spanish Constitution
Portugal	Individual right to a healthy and ecologically balanced human environment and ecological responsibility	Article 66 of the Portuguese Constitution
Greece	Individual right to the protection of the natural environment and a duty of the State	Article 24 of the Greek Constitution
Slovenia	Individual right to a healthy living environment and state obligation	Article 72 of the Slovenian Constitution
Slovakia	Individual right to a favorable environment and a state duty	Article 44 of the Slovak Constitution
Bulgaria	Individual right to a healthy and favorable environment and a State duty	Article 55 and 15 of the Bulgarian Constitution
Hungary	Individual and intergenerational right to a	Fundamental Law of Hungary

	healthy environment and obligation to preserve it for future generations	
Finland	State duty for the protection of the environment and responsibility clause for future generations	Section 20 of the Finnish Constitution
Lithuania	State duty of the state to protect the natural environment with limited individual claims possible	Article 53 of the Lithuanian Constitution
Latvia	Individual rights and duty of the state to provide a clean environment	Article 115 of the Latvian Constitution
Poland	Right to environmental protection; public authorities' duty	Article 74 of the Polish Constitution
Czech Republic	Individual right to a favourable environment and obligation not to damage or endanger the environment (duty of care)	Charter of Fundamental Rights and Basic Freedoms, Art. 35
Estonia	State duty to preserve the environment	Article 53 of the Estonian Constitution

Table 16 - Recognition of the right to a healthy environment in European country constitutions.

Annex 3 - Jurisdiction of the Courts at local, national, and European levels

European level

Court	Competence	Relation to coastal matters
European Court of Human Rights (ECtHR)	Adjudication of alleged violations of human rights under the ECHR	Could a state's failure to prevent severe coastal flooding violate the right to life and to private and family life under arts. 2 and 8 of the Convention?
European Court of Justice (ECJ)	Interpretation of EU law: treaties, regulations and Directives	Does granting permission for large-scale coastal development without proper habitat impact assessments breach a member state's obligations under the Habitats Directive?

Table 17 - Jurisdictions of European courts

National level

Court	Competence	Relation to coastal matters
Administrative Court	Judicial review of governmental decisions, public contracts, and administrative sanctions	Can a large-scale land reclamation project be annulled due to a failure to assess coastal flood risks?
Constitutional Court	Interpretation and application of constitutional law, fundamental rights,	Does the absence of statutory limits on coastal development violate the constitutional right to a

	and separation of powers	healthy environment?
Civil Court	High-value civil claims and complex litigation	Can an environmental trust bring a suit to order the restoration of lost coastal wetlands and be granted equitable relief?
Criminal Court	Trials for serious felonies, major criminal offences, and jury trials	Can local government officials be charged with criminal negligence for manslaughter if their failure to implement coastal adaptation measures directly results in deaths during a storm surge?

Table 18 - Jurisdiction of national courts

Local level

Court	Usual Competence	Possible articulation with coastal matters
Local Administrative Tribunal	Review of municipal regulations, zoning by-laws, and public service disputes	Did the municipal zoning bylaw that permitted construction on the dune line violate the local planning rules that were designed to protect the shoreline?
Civil Court	Adjudication of contractual disputes, tort claims, and civil liability cases	Can compensation be awarded to beachfront homeowners who have suffered property loss due to a storm surge caused by inadequate coastal defences?
Criminal Court	Prosecution of misdemeanors and minor offences under national criminal code	Could someone be convicted of illegally dumping waste in coastal waters, in breach of environmental legislation?
Commercial Court	Resolution of commercial and business disputes, insolvency proceedings, and corporate litigation	Could a tenant renting a coastal business premises claim that their landlord had breached their duty to provide a safe living environment, given that a lack of maintenance had led to flooding and loss of use?

Table 19 - Jurisdictions of local courts

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