

## Overview of European Climate Litigation

### Executive Summary<sup>1</sup>

Climate litigation in Europe has steadily increased, driven by the growing impacts of climate change, more robust climate science, the development of new projects through the energy transition, and increased attention by lawmakers as the European Union put into place more climate-related policies. Courts throughout Europe will play an integral role in, among other things, articulating the roles and responsibilities of various actors, evaluating environmental reviews, assessing companies' marketing claims, and considering whether governments and private entities are setting sufficient, or making sufficient progress towards, emissions reduction targets.

Since the mid-1990s, parties have filed 285 climate cases across Europe, mostly in the United Kingdom, Germany, France, and Spain. Although the number of cases varies by country, the number of cases filed each year has grown significantly, evolving in three distinct "waves." The first wave involved mostly administrative challenges to individual policies or projects; the second wave introduced challenges to the implementation of mitigation strategies; the third and current wave has focused on strategic, rights-based litigation. Each wave has built on the previous, adding more depth and complexity to the issues over time. While most cases are brought by civil society groups and members of the public against their national governments, litigation against private parties is on the rise.

These cases involve several, often interrelated issues including **mitigation**, or efforts to reduce greenhouse gas emissions; **adaptation** actions or inactions by governments to address climate impacts; and **damages**, or compensation for the costs of climate impacts on health and property. These categories can often be fluid. Key legal issues include justiciability and procedural questions; statutory, administrative, and regulatory interpretation; the application of common law and tort law; and finally, constitutional and human rights, including the right to a healthy environment.

The use of technical and scientific evidence in climate litigation varies across European courts. Courts in some countries rely primarily on party-retained experts, while others may appoint their own experts or employ expert judges alongside party experts. Some conduct site inspections. Many courts also look to assessment reports from national institutions or international organizations. How those courts evaluate the scientific evidence offered also differs, including for example, with respect to how they evaluate uncertainty or apply the precautionary principle.

European regional courts, such as the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR), have been central to climate litigation. The CJEU focuses on European Union climate and energy laws, while the ECtHR hears cases related to human rights. Climate litigation is also reaching domestic courts and multijurisdictional tribunals, with some decisions demonstrating the complicated interplay between the two. Domestic administrative courts hear the bulk of climate cases, but climate litigation is also emerging in countries' civil and constitutional courts.

<sup>1</sup>This is a summary of Overview of European Climate Litigation authored by the Climate Judiciary Project team.