WP6 Climate Interviews Report

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1. Introduction

Workpackage 6 Climate (WP6) explores how states use Human Rights Justifications (HRJs) in addressing climate change. Accordingly, WP6 compares and contrasts various approaches across various legal systems at the national and international levels. It seeks to understand the real-world impacts of HRJs and identify new actors and the emerging roles of existing actors. Moreover, it aims to understand the impact of geopolitical and gender factors.

Geopolitical factors refer to the influence of a state's position in the international system—its economic resources, political alliances, historical responsibilities for climate change, and its relative power in global governance. These factors affect both the legitimacy and the reception of human rights-based arguments. States may use human rights justifications (HRJs) strategically to legitimize their positions in international climate governance. However, the effectiveness and visibility of these justifications often depend on the state's geopolitical standing, as prevailing global governance frameworks tend to reflect and reproduce existing power asymmetries.

Gender factors pertain to the ways in which climate change and legal responses to it affect individuals differently based on gender. Women, and particularly those from marginalized communities, are often disproportionately affected by the adverse impacts of climate change due to existing social and economic inequalities. At the same time, they are underrepresented in decision-making spaces where climate and human rights strategies are shaped. The integration of a gender lens in the analysis of HRJs is thus essential to uncover how such justifications may reproduce or challenge existing gender hierarchies. To fully understand the role of gender in the use of human rights justifications (HRJs), WP6 employs an intersectional approach. Intersectionality refers to how different forms of social categorisation—such as gender, race, class, disability, or migration status—interact and create overlapping systems of discrimination or disadvantage. In the context of climate change, this means that not all women are affected equally: for instance, Indigenous women, women with lower socio-economic status, or women with disabilities may face multiple and interlocking vulnerabilities that are not visible if gender is analysed in isolation.

By critically engaging with these geopolitical and gendered dimensions, WP6 seeks to assess whether the use of HRJs by states promotes genuine accountability and justice or whether it serves to obscure power asymmetries and reinforce dominant narratives.

Overall, WP6 aims to develop strategies for the management of the use of HRJs by states in the context of climate change, thereby fostering transparent, accountable, inclusive, and democratic involvement of public and private actors. This involves creating co-produced recommendations, processes, and tools.

WP6 IIR and UBERN research teams conducted 43 semi-structured interviews with relevant stakeholders, i.e. policy officers (11), judicial authorities (11), and national and international associations (21) between April-August 2024.[1] The interviews offered the opportunity to

[1] Relevant Ethics research clearances and approval of GDPR compliance obtained by the IIR Research Ethics Commission and the IIR GDPR officer, respectively.

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explore the realities and impacts of HRJs, and their interplay with key legal themes like jurisdiction, procedural limits, and extraterritoriality.

This empirical research employed the Systematic Ongoing Direct Civil Society Engagement (ODCSE) approach, which is described in detail in the dedicated ODCSE report[2] and the Preliminary WP6 Working Paper on the Methodology for conducting interviews[3]. It also prioritised civil society participation in knowledge creation while adopting a gender and intersectional perspective.

2. The Design of the Interviews

2.1. Selection of the Interviewees

2.1.1. Group of Interviewees

The analysis of the interviews aimed to identify the role of HRJs, their impacts, perceived challenges and opportunities, and the interaction of HRJs with other key themes. The research sought to identify new actors and new roles for existing actors in the context of HRJs. Therefore, the selection of the interviewees was made according to the categories below:

- 11 government policy officers
- 11 European / national judges
- 21 international/national associations engaged in the promotion and protection of the rights of citizens and vulnerable groups.

2.1.2. Domestic & International Qualifications Balance

The research took into consideration the balance of the background of the interviewees. Accordingly, both national policy officers and EU-level officers were included in the groups. Similarly, the group of judges consisted of both domestic and European-level judges. In order to ensure a balanced representation of civil society, the same consideration was given to the selection of the related associations.

2.1.3. Geographical Balance

Interviewees were chosen from diverse geographical regions to ensure representation from various continents. Within the European context, a broad range of Member States, encompassing both smaller and larger states, was included. This approach aimed to observe and understand the differing perceptions that emerged from these distinct geopolitical entities.

[2] Cristani, F., Heepen, R., Lukešová, B., Němec, E. N., Ditrichová, P., Lhotský, J., & Bílková, V. (2025). Systematic Ongoing Direct Civil Society Engagement (ODCSE). WP6 Report. Zenodo. https://doi.org/10.5281/zenodo.15773156

[3] Němec, E. N., Lhotský, J., Cristani, F., Fornalé, E., & Heepen, R. (2024). Preliminary WP6 Working Paper on the Methodology for Conducting Interviews. Zenodo. https://doi.org/10.5281/zenodo.10996864

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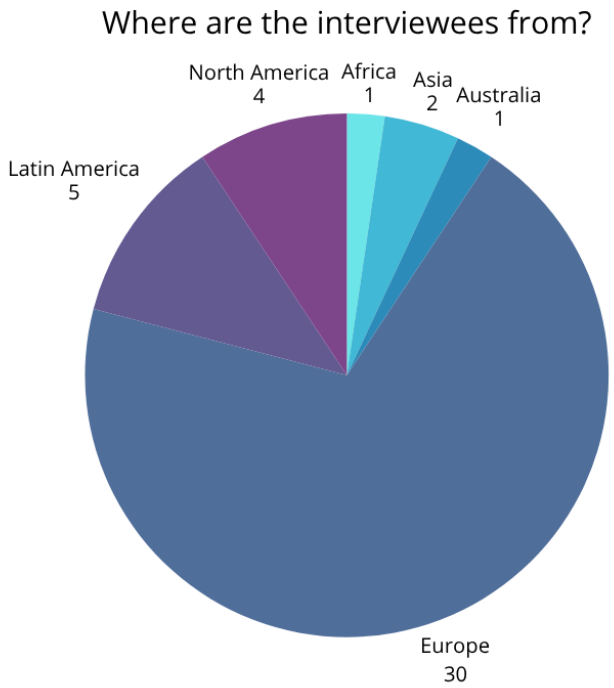

Figure 1. Origin of the interviewees by regions

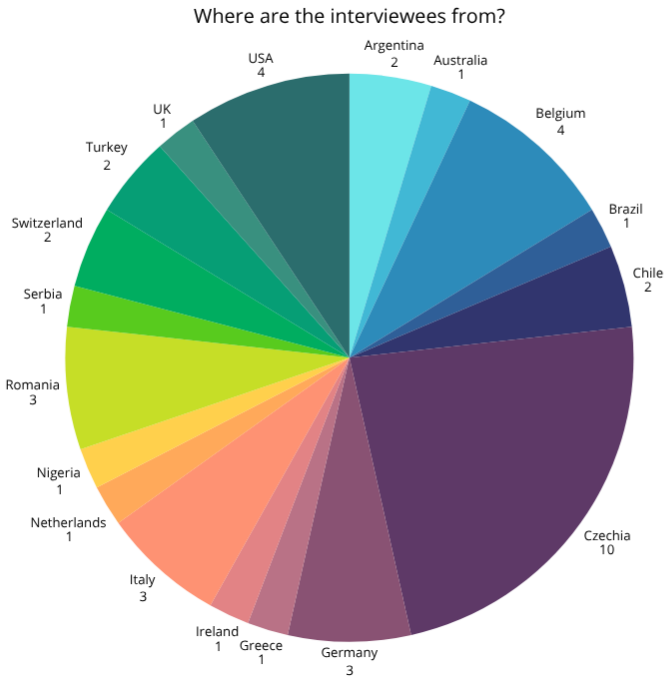

Figure 2. Origin of the interviewees by countries

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2.1.4. Thematic Balance

The interview design aimed to ensure a thematic balance encompassing diverse stakeholders from different interest areas. Policy officers were selected from different European national ministries, including ministry of foreign affairs, industry, and environment. Judges and arbitrators were selected from various professional backgrounds. The diversity of associations was also taken into account, and associations covering a spectrum of areas were included in the research. Accordingly, associations focusing on civil, political, economic, social, and cultural rights, as well as specific issues related to different vulnerable groups.

2.1.5. Gender Balance

A gender balance was also aimed to be ensured throughout the interviews. The balance between the genders of the interviewees was 61% female and 39% male.

2.2. Content of the Questions

2.2.1. General Overview

The interviews were semi-structured, i.e. they included pre-determined open questions. As informed by the theoretical framework established by the project, the aim of the interviews was to understand how states use human rights to justify and defend their actions and decisions. Accordingly, the questions were formulated to enable the researcher to identify firstly the non-private actors that justify their actions or decisions by way of using a human rights justification. In this context, researchers endeavoured to identify the type of arguments. Accordingly, researchers tried to enquire what kind of arguments non-private actors embrace, i.e. based on legal reasoning, national interest, security concerns or whether they are ethical, moral, value-based etc. The questions were formulated to understand the function of law in terms of HR justifications and in what context HR Justifications are used.

Coupled with the indication from the GA, according to which the interviews should help to "identify role of HRJs, impacts, perceived challenges and opportunities; interaction of HRJs with other key themes (e.g. jurisdiction, extraterritoriality, procedural limits); particular focus on vulnerable groups – enabling identification of new actors, and new roles for existing actors", the relevant questions were grouped around the following main themes (the following questions were used as a track-list to guide the discussions; some questions for all the three categories of interviewees, while others more tailored to the interviewees´ background and experiences):

- *Human rights violations caused by climate change*
- *Impacts of climate change on vulnerable groups*
- *Climate litigation: invoking national and international legal instruments*
- *Role of States*
- *Civil Society Engagement*
- *Barriers & Obstacles*

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2.2.2. Prospective Questions

Considering the general question structure mentioned above and keeping the guiding themes in mind, a list has been created below for researchers conducting the interviews to determine the questions they could ask the selected interviewees:

- *Human rights violations caused by climate change*
  - *Which human rights are most affected by the consequences of climate change? (all: meaning judges, policy, associations)*
  - *What is the scope of states' positive obligations to implement human rights in relation to climate change? (all)*
  - *What is the scope of states' obligations to implement the right to a healthy environment? (all)*
- *Impacts of climate change on vulnerable groups*
  - *What is the scope of states' obligations to adopt effective measures to protect rights of children and future generations, as defined in the Convention on the Rights of the Child and in other international instruments? (judges, associations)*
  - *What is the scope of states' obligations to protect rights of other vulnerable groups, such as women or indigenous peoples? (judges, associations)*
- *Implementation of international legal instruments*
  - *Is it in your opinion more helpful to argue with national or international instruments in a climate litigation case? (judges, associations)*
  - *To what extent do you consider arguing with the Paris Agreement in a climate case helpful? (judges, associations)*
  - *Which international instruments do you consider most helpful to be used in climate litigation? (judges, associations)*
- *Role of States*
  - *What (mitigation and adaptation) measures should States take to minimize the negative consequences of climate change, in light of their international human rights obligations? (policy, associations)*
  - *What measures should States take to specifically protect vulnerable groups such as children and others from the negative effects of climate change? (policy, associations)*
  - *What are the main arguments of States (justifications of their actions or inaction) when they face a climate lawsuit? (all)*
  - *What human rights-related arguments do States use in climate litigation? (policy, associations)*
  - *What other arguments (e.g. moral, security, development) are being used by States in climate litigation cases? (policy, associations)*
  - *What considerations should international organizations take into account when developing policies in relation to climate change? (policy, associations)*
- *Civil Society Engagement*

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- *Which kinds of human rights arguments have you encountered so far in your experience? Are these arguments used only by civil society or individuals in their pleadings, or do States/State organs use them as well? (judges)*
- *Does the dynamics of the proceedings change when a civil society organization intervenes, or becomes a party in a case? (judges, associations)*
- *How would you describe civil society's engagement in climate policymaking? Which part of civil society is more active in this regard? Is there a need for more engagement? What is the best way to achieve efficient cooperation between policymaking and civil society? (policy, associations)*

- *Barriers & Obstacles*
  - *Are there legal or practical barriers that you experience in policymaking concerning climate change? What are the challenges faced in implementing these obligations? (policy)*
  - *What are the most significant obstacles that you experience in practice with climate activism and legal actions before courts? (associations)*

2.3. Language

The interviews were held mainly in English. In a few instances, other languages were used (i.e. Czech, Spanish, Italian and Turkish): in all these cases, the relevant English translation of the transcripts was adequately arranged.

3. Post-Interview Process: Qualitative Content Analysis

The content analysis has been used to identify role of HRJs, impacts, perceived challenges and opportunities; interaction of HRJs with other key themes (e.g. jurisdiction, extraterritoriality, procedural limits), with a particular focus on vulnerable groups – enabling identification of new actors, and new roles for existing actors. The analytical framework and methodological approach were informed by Margrit Schreier's *Qualitative Content Analysis in Practice*[4] and Margaret R. Roller's article on quality-centred content analysis[5].

The relevant qualitative content analysis has been developed through the following four-stage process:

1. determining the research questions;
2. collection of data for analysis;
3. coding of the data;
4. drawing of conclusions/observations.

[4] Margrit Schreier, *Qualitative Content Analysis in Practice* (1st edn, Sage Publications Ltd 2012).
[5] Margaret R Roller, 'A Quality Approach to Qualitative Content Analysis: Similarities and Differences Compared to Other Qualitative Methods' (2019) 20(3) *Forum Qualitative Sozialforschung* https://www.qualitative-research.net/index.php/fqs/article/view/3385 accessed 16 June 2025.

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3.1. Transcription and Anonymization of the Interviews

As the substantive content of each interview is important for the data analysis, the interviews were transcribed for a better understanding of each stakeholders' expressions. Transcripts included the complete conversation, including the questions asked by the interviewer. Transcripts were then anonymised. The transcribed excerpts were edited only for clarification purposes to remove word repetition if needed, or to delete those words or expressions that could lead to the personal identification of the interviewees.

3.2. Coding Process

The process of coding has encompassed four main stages:

1. creation of a preliminary set of coding categories a priori, then refined after evaluation, including feedback from team members,
2. writing of a coding sheet and set of coding instructions ("codebook"), and applying these to a sample of the material to be coded (pilot experience)
3. adding, deleting, or revising coding categories based on this pilot experience
4. when the codebook is finalized, applying it to all the materials.

3.2.1. Creation of a preliminary set of coding categories

The research team first created a preliminary set of coding categories, refined after evaluation and discussion within team members during dedicated methodology session meetings.
The preliminary set of coding included the following:

- Human rights affected by climate change
- Vulnerable groups affected by climate changed
- Role of human rights justifications in climate litigation
- Impacts of the use of human rights justifications
- Perceived challenges of the use of human rights justifications
- Opportunities in using human rights justifications
- Interaction of human rights justifications with jurisdiction
- Interaction of human rights justifications with extraterritoriality
- Procedural limits in using human rights justifications
- Identification of new actors
- Identification of new roles for existing actors

3.2.2. Creation of the codebook and pilot experience

Coding means attributing meaningful labels to bits of data (e.g. interview transcripts) that will support its subsequent analysis. This kind of label can usually be 'short phrase (or word) that symbolically assigns a summative, salient, essence-capturing, and/or evocative attribute for a portion of language'. Codes are defined as ''tags or labels for assigning units of meaning to the descriptive or inferential information compiled during a study [...] To ensure meaningful labels, codes are assigned to chunks of data, usually phrases, sentences, or paragraphs that are

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connected to aspecific context or setting". See Figure 1 for a visualisation of the coding process illustrated in DeCuir-Gunby, Marshall, Mcculloch (2011).[6]

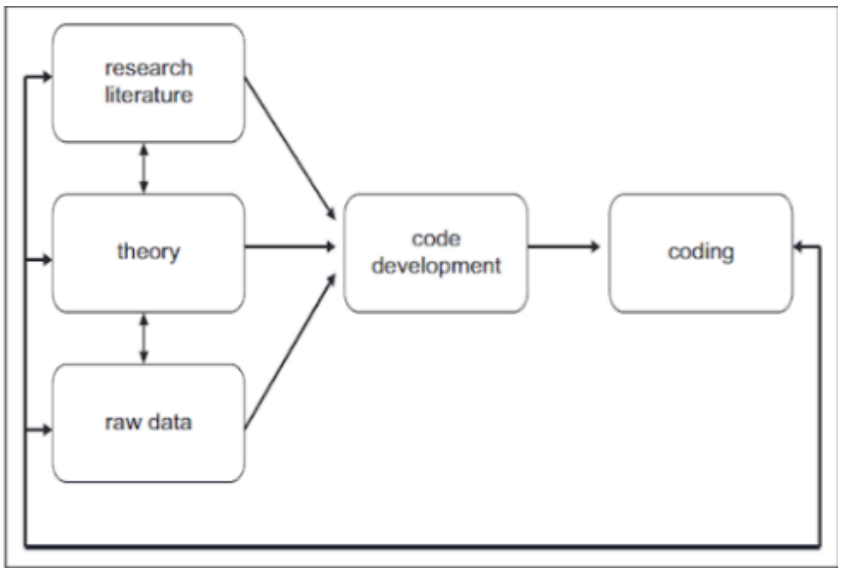

Figure 3. Circular process of coding [retrieved from DeCuir-Gunby, Marshall, McCulloch, 2011]

The coding process started by using a combination of inductive codes, namely 'phrases or terms used by the participants´ and deductive codes, generated from the study's conceptual framework. The research team co-developed and then finalised a codebook, meant to be an easy-to-follow guide on how to code interviews for HRJust, which included brief definitions of codes, and clear instructions on what should be coded and how it should be coded.
The research teams used the Atlas.ti software to count and document the recurrence of codes. This software has been used to support researchers in organizing, analyzing and finding insights into the qualitative data from interviews. All researchers involved in the coding process have been trained to use Atlas.ti.

3.2.3. Revision and finalization of the codebook

Based on the pilot experience, the codebook has then been revised and finalized and finally applied to all interviews. The final version of the codebook includes the following codes:[7]

- *Advantage of HR instruments*
- *Advantage of HR justification*
- *Advantage of international instruments*
- *Advantage of national instruments*

[6] Jessica T DeCuir-Gunby, Patricia L Marshall and Allison W McCulloch, 'Developing and Using a Codebook for the Analysis of Interview Data: An Example from a Professional Development Research Project' (2011) 23(2) *Field Methods* 139 https://doi.org/10.1177/1525822X10388468 accessed 1 July 2025.
[7] See the following dataset Cristani, F., Lukešová, B., Ditrichová, P., & Němec, E. N. (2025). WP6 Interview dataset. Codes, Group Codes and Quotations (Version_1_February 2025) [Data set]. Zenodo. https://doi.org/10.5281/zenodo.15078085 and Cristani, F., Lukešová, B., Ditrichová, P., & Němec, E. N. (2025). WP6 Interview Dataset. Statistical Data (Version_1_February 2025) [Data set]. Zenodo. https://doi.org/10.5281/zenodo.15078301.

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- *Advantage of regional instruments*
- *Affected Human Rights*
- *Argumentations alternative to HRJs*
- *Balancing human rights arguments*
- *Case Strategy*
- *Civil Society Litigation*
- *Civil Society Policy*
- *Climate and Investment*
- *Climate case law challenges*
- *Climate change impacts*
- *Climate justification*
- *Climate regulation*
- *Companies' defences in climate litigation cases*
- *EU´s approach to climate agenda*
- *HR justification*
- *New role for courts in climate litigation*
- *Paris Agreement*
- *Recommendations for the EU*
- *Role of Civil Society*
- *Specific International Law Instruments*
- *State's approach to climate agenda*
- *State's approach to HR agenda*
- *State justifications*
- *State's positive obligations*
- *Using HR arguments for climate litigation*
- *Vulnerable Groups*
- *Vulnerable Groups Involvement*
- *Vulnerable Groups Measures*

3.2.4. Inter-coder reliability

We also considered the issue of inter-coder reliability and drew on insights from relevant literature, including O'Connor & Joffe (2020)[8] and the ATLAS.ti Research Hub[9]. At the initial stage of the coding process, different members of the research team independently worked with the transcripts. As is typical in qualitative research, some variation emerged in how individual coders interpreted and applied the codes, despite working from a shared coding framework. While certain codes were relatively self-explanatory and applied consistently,

[8] O'Connor, C., & Joffe, H. (2020). Intercoder Reliability in Qualitative Research: Debates and Practical Guidelines. *International Journal of Qualitative Methods*, *19*. https://doi.org/10.1177/1609406919899220

[9] Stewart, Lauren. 2020. "Best Practice: Inter-Rater Reliability and Inter-Coder Agreement in ATLAS.ti." *ATLAS.ti Research Hub*. Accessed July 7, 2025. https://atlasti.com/research-hub/measuring-inter-coder-agreement-why-cohen-s-kappa-is-not-a-good-choice.

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others required team discussion to clarify their meaning and boundaries. These conversations were essential for developing a shared understanding and refining the code definitions. This process highlighted the importance of inter-coder reliability, not as a statistical goal, but as a methodological cornerstone for enhancing the trustworthiness and transparency of qualitative analysis. It also became evident that the initial coding scheme was too broad and general to support the level of thematic detail needed for our analysis. Therefore, the research team revised the codebook by adding more specific and nuanced codes. The full data set was subsequently re-coded by a single researcher, after mutual agreement among the research team members, to ensure consistency in the application of the final coding framework.

3.3. Preliminary results presentation

As the final stage of the qualitative content analysis, the research team has been reporting the various links and themes as well as the conclusions drawn.

Preliminary results were presented by Prof. Fornalé (UNIBE) and Dr Cristani (IIR) at the Workshop on "Climate Change Litigation: International Legal Perspectives", 28th Ius Commune conference, Utrecht (The Netherlands), where they presentated on "Climate litigation on the rise: (Re)building a (new) role for actors? A first reflection from the civil society engagement exercise",[10] at the webinar “Insights from the fieldwork activities conducted in the context of climate litigation” of 23 January 2025 (opened to all Consortium members and selected stakeholders by invitation), as part of the Human Rights Justification: Empirical Webinar Series organised by the Institute of International Relations in Prague. During the webinar, Dr Petra Ditrichová (IIR) presented the preliminary observations from the fieldwork activities,[11] as well as at the 5th International Conference on Comparative and International Law organized by the Societatea de Stiinte Juridice si Administrative (Adjuris), Bucharest (Romania) and by the Law Center of the Catholic University of Petrópolis (Brazil), where Dr Cristani (IIR) held a Keynote Presentation on “Strengths and Shortcomings of Climate Change Litigation: An Empirical Analysis of Stakeholder Perspectives”.[12]

The webinar of 23 January 2025 opened to all Consortium members and selected stakeholders by invitation, also included a civil society engagement exercise. Dr. Ditrichová first introduced the project’s objectives, particularly Work Package 6 (WP6), and described the interview methodology. She then outlined key questions posed during the interviews and analyzed the most common responses. The discussion focused on how climate change affects fundamental

[10] Workshop on "Climate Change Litigation: International Legal Perspectives", 28th Ius Commune conference, Utrecht (The Netherlands), 29 November 2024. Programme available at https://research-portal.uu.nl/en/activities/climate-change-litigation-international-legal-perspectives-as-par.

[11] The presentation and video recording are available on the Intersect Observatory website (https://hrjust-intersect-observatory.eu/uncategorized/insights-from-the-fieldwork-activities-conducted-in-the-context-of-climate-litigation/) and will inform a forthcoming academic publication.

[12] 5th International Conference on Comparative and International Law organized by the Societatea de Stiinte Juridice si Administrative (Adjuris), Bucharest (Romania) and by the Law Center of the Catholic University of Petrópolis (Brazil) and held online on 27 June 2025. Programme available at https://www.comparativelawconference.eu/program_en.html. The presentation will inform a forthcoming academic publication.

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human rights, with particular emphasis on the right to life, non-discrimination, and economic and social rights. Vulnerable groups, including low-income communities, women, children, and the elderly, that are disproportionately impacted, leading to greater social inequality, were also mentioned. The role of states in addressing these issues was examined as well, highlighting their obligation to implement and enforce human rights protections through national legislation and international commitments. The effectiveness of legal arguments in climate litigation was also debated, with national laws offering clearer enforcement mechanisms, while international frameworks emphasise the global nature of the issue. It was highlighted how human rights arguments are increasingly used in litigation, although balancing competing rights remains a challenge.

The webinar emphasized that human rights provide an enforceable legal framework for climate litigation and that states have a clear obligation to respect and protect these rights. The discussion also underscored the growing importance of intersectionality in climate policies, recognizing that marginalized groups are affected in unique ways and require targeted protections.[13]

3.4. Follow-up Survey

Preliminary findings were used to inform the design of a follow-up survey distributed between March and April 2025. The survey aimed to validate preliminary conclusions. We shared selected conclusions with a group of stakeholders, including some original interview participants, and invited them to respond. The aim was to allow respondents to reflect on the interview-based findings, indicate whether they agreed with them, and offer additional insights, clarifications, or critical comments. This approach—interviews followed by a feedback survey—helped deepen the analysis and ensure the relevance and accuracy of the research.[14]

4. Drawing of conclusions and final observations

In this section, we present selected first insights and reflections that emerged from interviews.[15]

4.1. Affected Rights

When we asked our respondents which human rights, they believe are most impacted by climate change, the answers covered a remarkably broad spectrum. The variety often reflected

[13] See also Cristani, F., Heepen, R., Lukešová, B., Němec, E. N., Ditrichová, P., Lhotský, J., & Bílková, V. (2025). Systematic Ongoing Direct Civil Society Engagement (ODCSE). WP6 Report. Zenodo. https://doi.org/10.5281/zenodo.15773156.

[14] See also the relevant report on the survey research, available at the Intersect Observatory

[15] More insights and reflection will be published in a forthcoming academic publication. See also Cristani, F., Lukešová, B., Ditrichová, P., & Němec, E. N. (2025). WP6 Interview dataset. Codes, Group Codes and Quotations (Version_1_February 2025) [Data set]. Zenodo. https://doi.org/10.5281/zenodo.15078085 and Cristani, F., Lukešová, B., Ditrichová, P., & Němec, E. N. (2025). WP6 Interview Dataset. Statistical Data (Version_1_February 2025) [Data set]. Zenodo. https://doi.org/10.5281/zenodo.15078301.

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the respondents' professional backgrounds and areas of focus. Many began by listing multiple rights, underscoring the complex and far-reaching consequences of the climate crisis.

Several respondents also approached the question through the lens of climate litigation, reflecting on which rights are most invoked in court cases related to climate change. Others drew on their experience with climate activism, highlighting rights such as access to justice, freedom of peaceful assembly, and freedom of expression as particularly relevant in this context.

The most frequently mentioned right was the right to life, identified by 69% of respondents as the most affected. This was followed by the right to a healthy, favourable, or clean environment, which 50% of participants highlighted. Nearly as common was the view that climate change primarily threatens the right to health.

Interestingly, the fourth most common response was that all human rights are impacted. According to this perspective, the climate crisis affects humanity, and therefore no right remains untouched—an answer that, in a way, captures all others. As one interviewee put it, "[o]ne answer would be all human rights are affected in such an extreme way […], up to the point where it doesn't make any sense […] to distinguish between different human rights."[16] Another respondent expressed a similar sentiment, emphasizing that "everything that is related to our existence here will be affected by climate change." [17]

Respondents also pointed to other rights such as the right to private and family life, the right to education, the right to free movement, and even freedom from slavery, highlighting just how deeply and diversely climate change intersects with the human rights landscape.

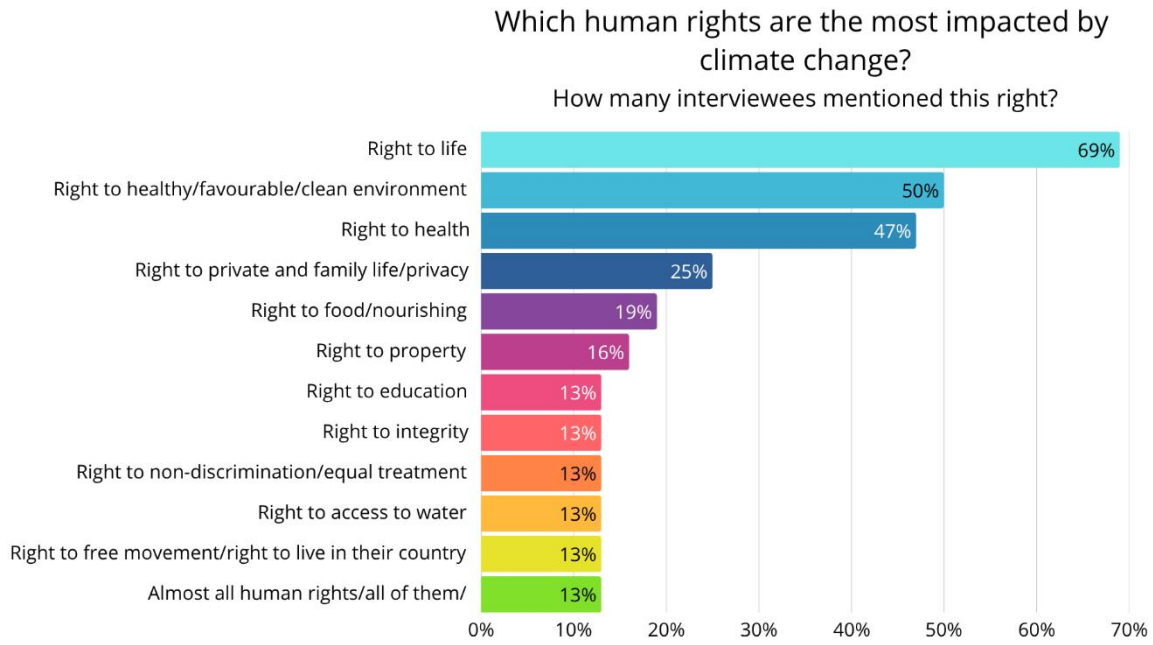

Figure 4. Human Rights mostly affected by climate change

[16] Interview with Association 6
[17] Interview with Association 9

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4.2. Vulnerable groups

In the next part of our interviews, we asked respondents which vulnerable groups they believe are most affected by climate change. As with affected rights, their answers often reflected their professional experience and areas of focus. Well-known climate litigation cases also seemed to play a role, with some respondents referring to groups that had featured prominently in those legal contexts.

The most frequently mentioned group was low-income individuals, identified by 54% of respondents. This aligns with the understanding that in any life situation, lacking financial resources tends to amplify the negative impacts of climate change. As one interviewee noted, "even when we consider vulnerability within the same city […], people […] in the highest percentiles will be more able to face and read up to extreme conditions and climate impacts rather than people in the lowest percentiles […] who actually have less instruments." [18]

Children were the second most commonly named group, with 51% of participants identifying them as highly affected. Women were followed closely, mentioned by 49% of respondents.

Older adults were also frequently mentioned—40% of respondents highlighted them as a group facing heightened climate-related risks. Their specific health, mobility, and care needs often make it harder to respond to environmental hazards.

Another major theme was the vulnerability of those whose lifestyles are deeply tied to the environment. Indigenous peoples and other traditional communities were cited by 46% of participants. For these groups, a disrupted ecosystem doesn't just mean environmental loss—it threatens culture, livelihood, and identity. This relates closely to another commonly cited group: communities vulnerable due to their geographic location, such as people living in coastal areas. This response was mentioned by 26% of respondents, emphasising the uneven geographical impact of climate change.

Respondents also pointed to populations in less developed parts of the world, noted by 11% of participants. Here, both the geographical exposure and the lack of resources come into play.

Another important theme that emerged was the vulnerability of people whose livelihoods are directly impacted by the changing climate. This includes those working outdoors, such as farmers or extraction workers, as well as those employed in industries facing major transitions, like workers in the coal industry.

Finally, an important insight came from the 14% of respondents who emphasised that the groups most affected by climate change are often those already facing systemic discrimination. From this angle, the climate crisis doesn't just create new vulnerabilities — it reinforces and deepens old ones. As one interviewee pointed out, referring to the Intergovernmental Panel on Climate Change, "people who are socially, economically, politically, institutionally or otherwise marginalized are especially vulnerable to climate change and also to some adaptation and mitigation responses."[19] This intersectional view ties together many of the

[18] Interview with Association 21
[19] Interview with Policy Officer 11

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groups mentioned, from women to indigenous peoples, underscoring how existing inequalities shape climate vulnerability.

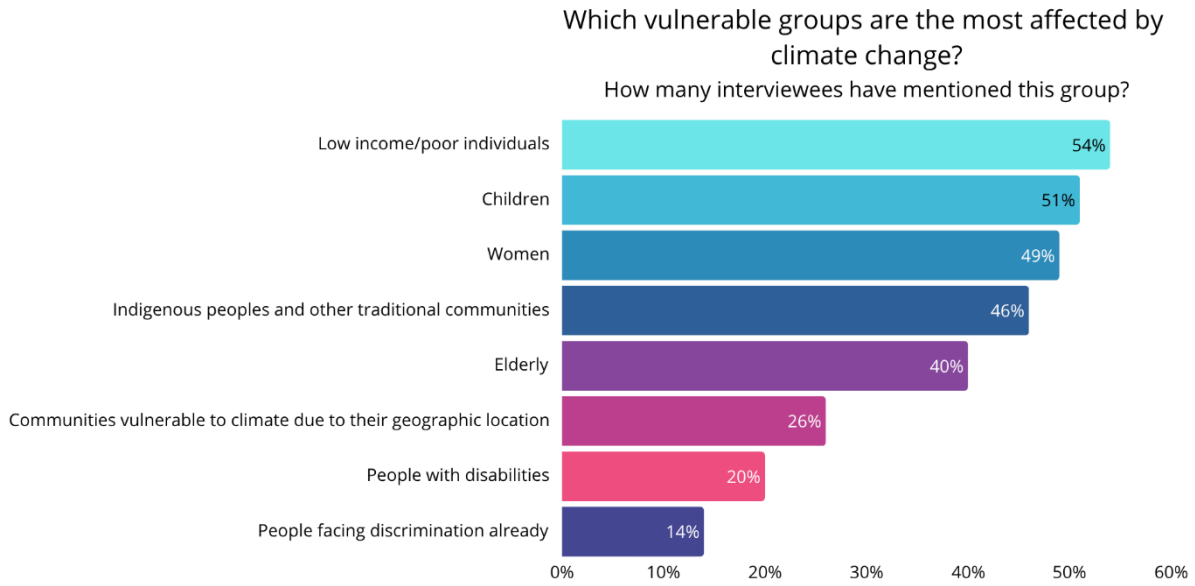

Figure 5. Vulnerable Groups most affected by climate change

4.3. Vulnerable groups Involvement

When we asked our respondents about the involvement of vulnerable groups and measures aimed at supporting them, a clear consensus emerged: participation matters. Many respondents emphasized the fundamental importance of involving these groups in any decision-making processes that directly affect them.

This inclusion is not only a matter of fairness—it has also practical implications. People from vulnerable communities often have firsthand knowledge of the issues at stake. Their insights are crucial for designing effective and context-sensitive responses. As several respondents noted, these individuals know best what their needs are, and therefore, what kind of measures are most likely to work in practice.

At the same time, meaningful participation has symbolic and psychological value. For many, it is important to witness how decisions are made, who is making them, and what consequences these decisions carry. Being involved helps prevent policies and actions from being imposed "on" vulnerable groups rather than developed "with" them. One respondent highlighted the significance of making space for affected communities to speak directly before legal or political authorities: "something that should be more used is trying to find means for traveling Indigenous leaders or people that are affected by climate change, [to go] in front of a court. To protect them – of course, with their consent – in the sense of [making] them feel comfortable. But it's important that they can give the testimony of what they are living before a court and

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before somebody. So, that they can see in the first row what is happening and how this is affecting their life."[20]

However, respondents also pointed to a number of barriers that often prevent people from these groups from being actively involved. One of the most frequently mentioned obstacles was time and capacity. A lack of resources was another recurring theme. These practical limitations often exclude the very voices that should be centred in discussions on justice and climate adaptation.

4.4. International v. national legal instruments in climate litigation

In response to our question about whether national or international legal instruments are more effective in protecting the climate, respondents generally agreed that there is not one best answer. Much depends on the specific context of each country.

One major factor is how strong or weak the national legal system is. In some places, domestic laws provide clear rules and good access to justice when it comes to environmental issues. But in others, the legal protections are limited or even missing altogether, as one interviewee described, "[…i]f legislation is lacking or the material legislation is lacking, or procedural rights are not there, probably international law and human rights law will be more effective."[21] For example, whether or not a country has adopted a climate act, and the extent to which its legal system has integrated environmental protection can significantly shape the relevance and effectiveness of national instruments: "[w]hen it comes to the national domestic law, I think the countries that have a climate act, they have an advantage, because usually when there is an act, there is also a possibility to sue."[22]

Political will was also repeatedly mentioned as a decisive factor. In states where political leadership is aligned with climate action, national law can be a powerful and efficient tool.

Several respondents pointed out that the European human rights system tends to be relatively strong and responsive compared to other regions. Several respondents pointed out the US as a good example of a country where it is better to use national instruments - international agreements are less often signed or used in court, and national law is usually the only realistic option.

Overall, if a state possesses a well-functioning domestic legal framework, respondents generally favoured using national law, citing its proximity to local realities and its potential for more immediate and context-sensitive impact. However, in the absence of strong national protections or adequate procedural rights, turning to international law becomes not just a complementary strategy, but often the only viable one: "[…] I would tend to think that typically measures at the national level are more effective because they are closer to the ground. However, […] climate change is a problem that, again, if it's not addressed at a global level, it simply cannot be improved. So I think both [...] the national level and international level are

[20] Interview with Association 9
[21] Interview with Judical Authority 4
[22] Interview with Association 3

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important - […] you need [...] international treaties [...] that can be enforced, but also […] measures at the national level."[23]

At the same time, many respondents mentioned that using both national and international tools together can be very effective. For example, reminding domestic courts of their country's international commitments can strengthen the case, especially when local laws aren't strong enough on their own. As one respondent summed, "[a] judge […] should integrate both national arguments, based on local legislation and context, and international arguments, which reflect global commitments and principles of international law. The combined use of these tools allows for the proper application of local legal norms, while ensuring compliance with international standards and contributing to a solution that reflects both national responsibilities and international commitments in the field of climate change." [24]

4.5. Using human rights arguments in climate litigation

When asked what using human rights arguments brings to climate litigation, our participants offered a variety of insights.

Several highlighted that framing climate change as a human rights issue broadens the field by involving human rights lawyers and advocacy organizations that would not otherwise engage with environmental matters. This connection has brought fresh perspectives, new actors, and additional tools into climate litigation.

An interesting observation from some respondents was that while certain environmentalists are hesitant to connect human rights with environmental protection—believing the latter should stand on its own—others see clear benefits. For example, indigenous communities often use climate-related cases to advance their human rights claims, recognizing that climate issues tend to attract more public and legal attention than indigenous rights on their own.

Many participants stressed that human rights arguments can make climate litigation stronger by opening access to more powerful legal mechanisms, such as the European Court of Human Rights (ECHR), and by invoking binding domestic human rights obligations. Especially in situations where climate legislation is weak, human rights claims can increase the legal pressure on states to act. As one respondent explained, "[h]uman rights treaties are fundamental rights treaties that provide much more guarantees and a base to ensure these rights."[25] Another added, "[i]f you look simply to the Paris Agreement, there, the enforcement tools are relatively weak and there is only access to it by the parties itself. So, these enforcement measures are not very strong. […] That's why I think people are turning to human rights law, […] there is a possibility to have access to courts under certain conditions. And […] the mechanism of implementation is stronger." [26]

[23] Interview with Judical Authority 3
[24] Interview with Judical Authority 10
[25] Interview with Association 11
[26] Interview with Judical Authority 4

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However, some participants also pointed out potential challenges: adding human rights layers can make cases more complicated, potentially confusing the legal strategy and weakening the clarity of the claims.

Finally, several respondents emphasized the importance of interpreting international frameworks, like the Paris Agreement, through the lens of human rights, underscoring the deep interconnection between climate action and human rights protections.

4.6. Case law challenges

In response to the question about the key barriers and challenges in the context of climate litigation, respondents most frequently cited the lack of access to justice and the lack of resources. Many highlighted that securing funding is a significant challenge, often requiring the mobilisation of sponsors or crowdfunding to support legal efforts. As one interviewee explained, "litigation takes a lot of time. And this is a problem also in terms of donors, […] when you work in an organization that does strategic litigation, donors or funders (…) should expect that this is not something that will happen in six months. These are long-term decisions, long-term processes [...] and sometimes it's quite difficult to get funders [...], that accompany that entire process."[27] Another common issue mentioned was the considerable time commitment involved in climate litigation, which extends well beyond a few months and demands sustained effort over the long term.

Access to justice was also identified as a major obstacle, particularly for civil society actors in jurisdictions where legal avenues are severely limited. Respondents noted that procedural barriers could further complicate the pursuit of climate-related cases. A related concern was the lack of sufficient data and scientific evidence to support climate claims, which can be crucial in building a strong case.

The issue of causality also emerged as a significant challenge. Proving a direct link between climate change and specific harm to rights or communities can be particularly difficult, as it often involves complex scientific and legal arguments. This creates a heavy burden of proof for litigants. Interviewees introduced examples, like "[i]dentification of victims, that's a huge challenge. Causation is a challenge. How do you identify the connection between the harm and have the State [...] [or] the corporation as the entity responsible?",[28] or, as another interviewee noted "[i]t can be really difficult to definitively prove […] that specific particle causes damage…"[29]

Respondents also pointed to challenges within the judiciary, noting that many judges are insufficiently trained on climate-related issues. Given the relative novelty of climate litigation, courts often struggle with how to approach such cases and how innovative they can be in their rulings.

Finally, even when a positive ruling is achieved, respondents highlighted the challenge of enforcing and implementing court decisions. The gap between a favourable judgment and the

[27] Interview with Association 9
[28] Interview with Association 13
[29] Interview with Association 10

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translation of that decision into concrete policy actions or measures remains a critical issue in ensuring the effectiveness of climate litigation.

4.7. New role for courts

When asked about the evolving role of courts in light of the climate crisis, participants highlighted that the climate crisis is pushing courts into new and sometimes uncomfortable roles. Courts are often expected to step in where political institutions have failed to act, and this includes making decisions that go beyond their traditional legal role. In some cases, they fulfil a quasi-constitutional function—even in systems where they are not formally constitutional courts by deciding how much discretion to leave to parliaments and other legislative bodies, especially in areas where political branches have been inactive or insufficiently responsive.

Several participants expressed concern about the democratic legitimacy of this shift, emphasizing the traditional principle of separation of powers. Courts are not elected bodies, and by stepping into areas usually reserved for legislatures or governments, they may disrupt the balance of power.

Participants noted that courts are increasingly asked to interpret broad and vague legal provisions—whether from constitutional, international, or European law—and turn them into specific, enforceable obligations. In doing so, courts often fill in gaps left by lawmakers, which can bring them close to a law-making role. This raises concerns about courts overstepping their traditional function and taking on responsibilities that would normally belong to the legislative or executive branches. As one interviewee expressed, "[t]hese answers should be given above all by […] the political decision […], the political representation should give it, the democratic representation through discussion, […] which is the result of bottom-up election … […]."[30]

Still, some participants stressed the positive impact courts can have. By ruling that states have concrete duties towards individuals in climate cases, courts can increase pressure on governments to take climate action – "it's not offering a concrete solution because that would be as a democratically problematic. It's just increasing the pressure […] on the legislator."[31]

At the European level, the role of the European Court of Justice (ECJ) was seen as important. Since national courts can refer questions to the ECJ, the Court can indeed play a key role in shaping how climate obligations are understood and applied across the EU.

4.8. Civil Society Involvement in Litigation

We also asked our respondents about their views on the involvement of civil society in climate litigation. Overall, the responses were largely positive. Many emphasized the valuable role that non-governmental organizations (NGOs) can play in these proceedings—not only by offering legal and financial support, but also by contributing relevant data and expertise to strengthen the case. As one interviewee put it, "[w]hen a civil society organisation intervenes or becomes

[30] Interview with Association 4
[31] Interview with Association 6

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a party in a case, the dynamics of the proceedings can change significantly, as these organisations bring with them specialised expertise and additional resources, reinforcing the arguments with detailed analysis and relevant scientific data. They often represent the interests of affected communities and mobilise public opinion in support of the case, putting pressure on authorities and courts."[32] Another participant similarly stressed that NGOs can "represent the victims in regard to human rights, to guide them in the proceedings so that they receive reparation and access to justice."[33]

Several respondents highlighted the broader influence that NGOs can exert. Their involvement often brings public attention to climate litigation cases, which can help raise awareness and place additional pressure on decision-making bodies. Beyond directly representing affected parties, respondents also pointed to the useful role NGOs can play as *amici curiae*, offering expert insights without formally joining the case as litigants. "But in terms of intervening as an amicus, which we've done on a number of occasions in local cases, we found it incredibly effective," one respondent shared, "[a]nd […], it's something that I want to encourage other NGOs to do because a lot of times there will be national courts that think there's a human rights abuse that's going totally unnoticed outside their country. But once a civil society group from another country weighs in as an amicus, they […] have to rule in a more respectful way."[34]

The only recurring concern raised in relation to NGO participation was the potential for negative public perception. In some contexts, NGOs may face scepticism or mistrust from the general public, which could undermine the legitimacy or reception of the litigation efforts they support.

4.9. Civil Society Involvement in Policy-making

When discussing the involvement of civil society in broader climate-related processes—particularly policy development and implementation—our respondents again expressed generally positive views. Many noted that NGOs and other civil society actors can contribute valuable expertise and context-specific knowledge that might otherwise be overlooked in institutional decision-making. As one of the interviewed policy officers explained, "[t]hey make our job easier by quickly identifying issues that we might not notice ourselves and providing feedback that is very useful for us."[35]

A recurring observation was that civil society is often underrepresented in these processes. Respondents emphasized that meaningful inclusion could enhance both the legitimacy and effectiveness of climate policies. Civil society organizations were seen as playing a crucial role in monitoring and holding institutions accountable—a so-called "watchdog" function. One interviewee stressed this aspect, noting that "the role of civil society in relation to climate

[32] Interview with Judical Authority 1
[33] Interview with Association 11
[34] Interview with Association 10
[35] Interview with Policy Officer 1

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change is crucial. It's crucial because, again, we are the ones that are bringing the attention of some topics that sometimes are not seen as important by some specific and powerful states."[36]
In addition, several respondents pointed out that civil society actors are essential in applying pressure on authorities to act, in raising awareness about overlooked issues, and in pushing climate-related agendas forward through lobbying and advocacy. Their presence helps ensure that climate policy is not developed in isolation from those it affects and those who can contribute unique and grounded perspectives.

4.10. State's obligations

In response to the question, "What are the state's positive obligations in relation to climate change and human rights?", the most common answers from our respondents pointed to several key areas of responsibility for states. Respondents noted that these obligations stem from multiple legal levels—from binding obligations under international human rights and environmental law, through regional frameworks, down to national constitutions and local legislation.
Firstly, respondents emphasized that states have a positive obligation to take proactive steps to prevent, mitigate, and remedy the harmful effects of climate change on human rights. This includes both direct measures to reduce emissions and broader strategies to protect vulnerable populations from the worst impacts of environmental change.
Secondly, there was a strong consensus that states must adopt adaptation measures. These are crucial to ensure that populations—particularly those most vulnerable—are equipped to cope with the immediate and long-term consequences of climate change. This could include providing resources, infrastructure, and support for communities at risk.
Finally, many respondents highlighted the importance of transparency. States are expected to demonstrate clear pathways for fulfilling their climate commitments, such as those outlined in the Paris Agreement. This involves not only setting ambitious goals but also showing concrete efforts to mitigate climate impacts and protect human rights, ensuring accountability and fostering trust among citizens and international partners.
An often overlooked but essential aspect of state obligations is environmental education and awareness-raising. States should integrate climate change and sustainability into formal education systems and broader public communication efforts.
Furthermore, climate change is a transboundary challenge. It was repeatedly stressed that states have a duty to engage in international cooperation, recognizing the collective nature of climate-related obligations. No state can address climate change alone; global solidarity, resource-sharing, and coordinated responses are necessary to safeguard human rights worldwide.
Lastly, several respondents stressed that climate change poses a threat to national security, requiring states to anticipate, acknowledge, and respond to climate-related risks such as humanitarian crises, or extreme weather events. States must be adequately prepared to

[36] Interview with Association 9

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intervene and protect populations when these risks materialize. As one respondent put it, "[i]f you have the heat wave […], that has become more probable by climate change, then […] [the] state has a positive obligation to step in and to protect human rights."[37]

These insights collectively underscore that states' obligations in the context of climate change are wide-ranging, evolving, and deeply interconnected with both the protection of human rights and the functioning of democratic, resilient societies.

4.11. State's Justifications

When asked what types of justifications states use in the context of climate change, participants highlighted a range of recurring narratives and legal-political arguments that states rely on—often instead of human rights justifications.

Participants noted that states frequently invoke their margin of appreciation or democratic discretion, suggesting that decisions about climate action fall within the domain of legislators or political actors. Courts, in this view, are seen as inappropriate venues for shaping climate policy—a position supported by references to the political question doctrine and the separation of powers. States may claim climate policy is best left to the executive or parliament, not the judiciary.

Another justification often used is the lack of causation. According to our interviewees, states argue that there is no clear, direct link between their failure to act and specific climate harms such as rising temperatures or public health concerns. Some states emphasize that natural disasters cannot be traced back to their regulatory actions—or inaction—and that individual harm is difficult to prove. As one participant explained, "[e]very time it is difficult to gather the evidence that proves that a company is connected to the effect on an environmental component associated to climate change. Why? Because those are almost unnoticeable effects. These are very large and long-standing effects."[38]

Responsibility is also frequently deflected to corporations, with states suggesting that they are not the primary actors causing environmental degradation – "[e]e didn't really realize, when we allowed this oil company to do X, (…) what the destructive impact would be" [39] – example listed by one of the interviewees.

In parallel, several participants noted that states blame citizens or other stakeholders for non-compliance, low awareness, or insufficient contribution to national environmental goals. These claims are often used to justify limited effectiveness or delays in policy implementation.

Economic and structural justifications also play a central role. Participants mentioned that many states refer to the economic costs of climate policies, scientific uncertainty, or a lack of technical and institutional capacity as barriers to stronger action. Particularly in the case of developing countries or smaller economies, arguments about limited adaptation capacity and the need for international support are invoked to justify slower progress or requests for greater global cooperation.

[37] Interview with Association 6
[38] Interview with Association 12
[39] Interview with Association 10

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In this context, national sovereignty and local specificity are emphasized as key principles. States assert their right to determine domestic policies and priorities based on their economic, social, and political context.

Interestingly, many of these same arguments are used not only to defend inaction but also to justify affirmative measures. For example, when enacting pollution controls or environmental regulations, states often refer to the need for a balanced approach—weighing environmental protection against economic development—and cite adaptation constraints or technical limitations to support their regulatory choices both at the national and international levels.

4.12. Human Rights Justifications

When asked how states use human rights justifications in relation to climate action, our interviewees noted several recurring patterns and strategic uses.

Overall, participants observed that human rights justifications are not commonly used by states in climate-related policies or strategic documents. In many cases, there is a strong disciplinary separation between legal fields, making it difficult to build interdisciplinary bridges between environmental and human rights law. This compartmentalisation contributes to the limited use of human rights arguments in the climate domain.

That said, when human rights justifications are used, they tend to serve a defensive or supportive function: rather than explaining why states fail to act, they are more often employed to legitimise existing policies. For instance, if environmental regulations are challenged by private actors—such as businesses or industry—states may defend these measures by invoking the right to a favourable environment, thereby counterbalancing claims related to property or economic freedoms.

A particularly interesting point raised by several respondents was that referring to human rights (such as the right to health or life) may be more persuasive than invoking abstract environmental values. As one interviewee noted: "the right to life, the right to family life, etcetera, these are ones that we see being really tapped into policies […] to a much greater extent than we see policies being pushed through for the moral imperative of averting climate change".[40] For example, in cases concerning pesticide regulation, states have successfully grounded their arguments in the right to health rather than in general ecological protection, thereby framing the issue as one of human wellbeing.

Human rights justifications may also appear in contexts where a policy is being challenged by citizens or other actors: here, the state may claim that making changes would infringe upon the rights of third parties, such as their health, housing, or livelihoods.

4.13. Recommendations for the European Union

Participants offered a range of recommendations for how the European Union could strengthen its response to the climate crisis.

[40] Interview with Association 19

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Respondents emphasized the need for the EU to acknowledge the human rights impacts of climate change that occur beyond its borders, especially when these are linked to the activities of EU-based companies. They stressed that the EU must take greater responsibility for cross-border harms.

Another recurring theme was the importance of inclusion and accessibility. Participants called on the EU to ensure that affected communities and vulnerable groups are not only heard but also actively involved in decision-making processes. This also means making legal and administrative procedures more accessible to those most impacted by climate change. The issue of access to justice was also raised. Respondents noted that it is currently extremely difficult for individuals or civil society groups to challenge EU climate legislation. Cases are often dismissed on procedural grounds, particularly where applicants are not deemed to be directly or personally affected. This, they argued, creates a significant gap in accountability.

Participants further recommended that EU climate policies avoid a "one size fits all" approach. While overarching goals or benchmarks are necessary, countries and regions should retain flexibility in how they meet them. Policies should reflect the specific social, environmental, and economic contexts of different regions within the EU – as one interviewee noted, "[n]ot only each nation, but also each region, has its own peculiarity, […] so policies should be adequately tailored to each country and region of interest…".[41]

Some also urged the EU to consider climate change as a factor that contributes to regional and global instability. As such, climate action must be integrated with peacebuilding, development, and migration strategies.

Finally, respondents highlighted the need to improve the resilience of critical infrastructure to climate impacts. They also called for the inclusion of climate risks in national and EU-level security and defence planning.

[41] Interview with Association 21

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Bibliography

Cristani, F., Heepen, R., Lukešová, B., Němec, E. N., Ditrichová, P., Lhotský, J., & Bílková, V. (2025). Systematic Ongoing Direct Civil Society Engagement (ODCSE). WP6 Report. Zenodo. https://doi.org/10.5281/zenodo.15773156.

Cristani, F., Lukešová, B., Ditrichová, P., & Němec, E. N. (2025). WP6 Interview dataset. Codes, Group Codes and Quotations (Version_1_February 2025) [Data set]. Zenodo. https://doi.org/10.5281/zenodo.15078085

Cristani, F., Lukešová, B., Ditrichová, P., & Němec, E. N. (2025). WP6 Interview Dataset. Statistical Data (Version_1_February 2025) [Data set]. Zenodo. https://doi.org/10.5281/zenodo.15078301

DeCuir-Gunby, Jessica, Patricia Marshall, and Allison Mcculloch. "Developing and Using a Codebook for the Analysis of Interview Data: An Example from a Professional Development Research Project." Field Methods - FIELD METHOD 23 (May 1, 2011): 136–55. https://doi.org/10.1177/1525822X10388468.

Němec, E. N., Lhotský, J., Cristani, F., Fornalé, E., & Heepen, R. (2024). Preliminary WP6 Working Paper on the Methodology for Conducting Interviews. Zenodo. https://doi.org/10.5281/zenodo.10996864.

O'Connor, C., & Joffe, H. (2020). Intercoder Reliability in Qualitative Research: Debates and Practical Guidelines. *International Journal of Qualitative Methods*, *19*. https://doi.org/10.1177/1609406919899220.

Roller M R, 'A Quality Approach to Qualitative Content Analysis: Similarities and Differences Compared to Other Qualitative Methods' (2019) 20(3) *Forum Qualitative Sozialforschung* https://www.qualitative-research.net/index.php/fqs/article/view/3385.

Schreier, M. (2012). *Qualitative content analysis in practice*. (Vols. 1-0). SAGE Publications Ltd, https://doi.org/10.4135/9781529682571.

Stewart, Lauren. 2020. "Best Practice: Inter-Rater Reliability and Inter-Coder Agreement in ATLAS.ti." *ATLAS.ti Research Hub*. Accessed July 7, 2025. https://atlasti.com/research-hub/measuring-inter-coder-agreement-why-cohen-s-kappa-is-not-a-good-choice.

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