

1. How has judicial decision-making on climate change issues evolved in your country over the last decade?

We have had very few cases where climate change issues are (among) main discussion points. We have one case pending now in the Supreme Court where the building permit of a new oil shale factory has been challenged. That's the first case where Estonian courts have really been forced to tackle climate issues. However, some arguments about climate impacts have been discussed in court cases about new wind parks, peat mining, forest-felling permits, and the construction of a new railway (Rail Baltic).

2. Before which type of courts is this type of litigation brought and by which type of plaintiffs?

This type of litigation is brought before administrative courts. Plaintiffs are usually NGO-s, but also affected individuals and developers (i.e., developers of wind parks in case the plan to develop a new wind park is rejected by an administrative authority).

3. What are the opportunities to this type of litigation in your country?

It is possible to seek annulment of administrative decisions (plans or projects) or the issue of an administrative act or the taking of an administrative measure.

4. What are the challenges to this type of litigation in your country?

- a) The locus standi may pose a problem: individuals cannot rely on public interests, and it is not clear whether NGO-s can rely on the threats the climate change poses on human rights.*
- b) Climate law is new to judges and climate science may be difficult to understand. Judges need good training, but it is hard for them to find initiative and time for that, given that climate cases are still quite rare.*
- c) Estonia does not have a climate law. Climate goals are found in different action plans, but sometimes these are outdated (there are already new, more stringent goals set on international level and commitments taken on political level; there are new scientific findings that render the earlier measures inadequate) and it is always not clear which part of these plans have legally binding nature.*
- d) It is difficult to find good and independent experts because the population of Estonia is small, and we don't have that many experts in specific fields.*

5. What is the average length of proceedings (including on appeal and cassation)?

Probably 2 to 3 years.

6. Which type of remedies are being ordered by the courts? What are the arguments for not ordering such remedies?

In case of a violation of law in environmental cases, the court usually annuls the administrative act challenged and orders the administrative authority to make a new decision.

If the violation is of a purely procedural nature, the court may not annul the act in case the violation could not have had an impact on the final decision. However, according to the case law of the Supreme Court, the procedural obligations (i.e., public hearing, EIA procedure) play a special role in environmental matters, so it is rarely possible to say that the violation could not have had an impact on the final decision.

7. Do the courts have powers to ensure and follow-up the enforcement of judgements in climate cases? Are there specific difficulties in this regard?

In case of failure to execute a court decision or a compromise approved by the court, the court can impose a fine of up to 32,000 euros on the participant in proceedings whose fault this is. The imposition of the fine does not relieve the participant who failed to execute the orders contained in the judgment from the obligation to execute the order.

There are no examples of climate cases where specific difficulties to enforce a court decision have arisen.

8. What are the most useful norms, legal principles or practices available to judges to ensure effective climate action by governments and businesses?

[Estonian Constitution](#) (passed 1992) has two environmental norms that give quite a strong basis to demand climate action from the state and from the individuals:

§ 5. The natural wealth and resources of Estonia are national riches which must be used sustainably.

§ 53. Everyone has a duty to preserve the living and natural environment and to compensate for damage he or she causes to the environment.

*The preamble of the constitution makes a reference to the rights of future generations: “With unwavering faith and a steadfast will to strengthen and develop the state, [---] which is for the defence of internal and external peace, and **is a pledge to present and future generations for their social progress and general welfare**, [---] the people of Estonia, on the basis of § 1 of the Constitution which entered into force in 1938, and by a referendum held on 28 June 1992, adopted the following Constitution.”*

In 2014 the [General Part of the Environmental Code Act](#) entered into force. It lays down principles of environmental law that must be considered in environmental decision-making: principle of high-level and integral protection of environment, principle of integration (“Considerations ensuring a high level protection of the environment must be taken into account in guiding the development of all fields of life in order to ensure sustainable development”), principle of prevention, precautionary principle, polluter-pays principle and principle of economical use of natural resources.

We also have an old (and quite rarely cited) [Sustainable Development Act](#) (passed 1995) that could come to play a role in climate litigation.