

The Impact of Environmental Degradation on Children's Rights in Central Europe

Abstract

This article reframes environmental degradation as not just an ecological or economic issue, but fundamentally a children's rights concern. Around the world, courts and international bodies are recognising that a safe, clean, and sustainable environment is essential for the fulfilment of fundamental human rights. Children are among the most vulnerable to environmental harm, bearing disproportionate impacts of pollution, climate change, and resource depletion. As future generations, children have a critical stake in environmental protection, raising questions of intergenerational justice and the duty of today's decision-makers to safeguard tomorrow's world. This article provides an in-depth legal analysis of the recognition of environmental rights as human rights, with a special focus on how environmental degradation affects children's rights. It offers a comparative survey of international law, examines leading case law (international and domestic, especially in Central Europe), explores theoretical frameworks like intergenerational equity, and assesses regional implementation in Slovakia, Czechia, Poland, and Hungary. The article concludes with de lege ferenda recommendations for reforms to ensure the right of every child to a healthy environment across the region.

Keywords: Environmental Rights, Human Rights, Children's Rights, Intergenerational Justice, Central Europe, Environmental Jurisprudence, Right to a Healthy Environment, Environmental Litigation, Climate Justice, European Environmental Law, Sustainable Development, Visegrád Group

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1. Introduction

In recent years, the connection between a healthy environment and human rights has been more widely recognised than ever before. Environmental degradation is no longer seen purely as an ecological or economic issue – it is increasingly framed as a human rights concern. This shift is especially evident in the context of children's rights. Climate change and pollution disproportionately affect children, undermining their fundamental rights to life, health, development, and education. Around the world, 1 billion children now face extreme risk from the impacts of climate change and environmental degradation, threatening virtually every aspect of their well-being.² More than 90% of children under 15 regularly breathe air so polluted that it endangers their health and development.³ These realities have led to a growing consensus: a safe, clean, and sustainable environment is essential for the full enjoyment of human rights, especially for children. In 2021, the United Nations Human Rights Council⁴ – followed by the UN General Assembly in 2022⁵ – formally recognised the right to a clean, healthy, and sustainable environment as a human right. This recognition has been considered a breakthrough moment for environmental justice. It is expected to embolden governments, courts, and civil society to become more active in the protection of environmental rights. It also complements the guidance from child-rights bodies, such as the UN Committee on the Rights of the Child's General Comment No. 26 (2023), which urges states to urgently address the environmental harms that compromise children's rights.⁶ Together, these global developments shift the discussion from viewing environmental protection as a policy recommendation to understanding it more as a legal obligation that is rooted in human rights.

While the developments mentioned above are definitely global, there are regions in the world where climate and environmental jurisprudence are still comparatively underdeveloped. This article will focus on one of these regions – Central Europe. The study turns to Slovakia, Czechia, Poland, and Hungary – countries that share historical and political trajectories and form the core of the so-called Visegrád Group. At first glance, this region might seem an unlikely focal point for cutting-edge environmental human rights analysis. Nevertheless, examining Central Europe is both significant and timely. Historical, political, and economic factors have uniquely shaped how these countries approach environmental protection

2 | UNICEF ECA Regional Office 2024, 2.

3 | Stanford University 2023.

4 | UN Human Rights Council 2021

5 | UN General Assembly 2022.

6 | Committee on the Rights of the Child. (2023, 22 August), General comment No. 26 (2023) on children's rights and the environment, with a special focus on climate change (CRC/C/GC/26), United Nations.

and children's rights – and understanding this context is crucial for identifying both the obstacles and opportunities for legal development. Focusing on Central Europe's approach to environmental rights as human rights – with a special lens on how environmental degradation affects children's rights – provides a compelling and necessary case study. It shows how universal human rights concepts are interpreted and applied in a particular regional context that has its own legacies and challenges. The analysis below surveys the international legal framework linking environmental degradation and children's rights, then examines key jurisprudential developments – internationally and within the four Central European states. It explores how courts and lawmakers have begun to treat a healthy environment as essential to children's well-being. It also touches on notions of intergenerational justice. It will also offer recommendations *de lege ferenda* – on how the law ought to evolve. The main goal of the study is to assess to what extent Central Europe is turning the right to a healthy environment into a reality for children. It will attempt to answer the question: what more can be done to strengthen the environmental rights of children.

2. Environmental rights in international law

International law recognises more and more that a healthy environment is integral to the enjoyment of human rights. Several treaties and instruments – ranging from global human rights conventions to climate agreements – explicitly or implicitly connect environmental protection with human well-being. This section examines key international sources, including the Convention on the Rights of the Child (CRC), the Paris Agreement, and the UN Framework Principles on Human Rights and the Environment, and how they address environmental rights and children's rights.

The CRC, adopted in 1989, does not use the phrase 'environmental rights' explicitly. However, it imposes obligations on States that directly relate to environmental conditions. Article 24 on the right to health requires States to take measures to combat disease and malnutrition "through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution".⁷ In other words, the CRC explicitly recognises that environmental pollution is a major threat to children's health and obliges states to address it. Furthermore, Article 29 of the CRC (on education) calls for children's education to include the development of respect for the natural environment. This clearly shows the importance of environmental awareness for the full development of the child.

In recent years, the CRC's monitoring body, the Committee on the Rights of the Child, has taken a much more direct stance on environmental issues, especially

7 | UN General Assembly 1989.

climate change. In 2021, in the ‘Sacchi et al. v. Argentina’ case, the Committee considered complaints by youth activists about climate inaction (ultimately dismissing them for not exhausting domestic remedies) but acknowledged that foreseeable harm from climate change falls within states’ CRC obligations.⁸ Building on this, in 2023 the Committee adopted General Comment No. 26 on children’s rights and the environment with a special focus on climate change, which for the first time explicitly articulates children’s right to a clean, healthy and sustainable environment as part of the CRC.⁹ General Comment 26 emphasises the need to address the adverse effects of environmental degradation on children. It also affirms that states have obligations under the CRC to prevent foreseeable environmental harm to children. It notes, for example, that environmental pollution and climate change infringe on multiple rights of the child – including the rights to life, health, development, and an adequate standard of living – and that states must consider children’s best interests in all environmental decision-making.¹⁰ The Committee is urging states to take action against climate change and other environmental harms for the sake of children. Children’s views must be heard and their status as human rights defenders in environmental matters must be recognised.¹¹ General Comment 26 provides guidance on implementing a child-rights-based approach to environmental protection. Simply put, states must ensure a safe climate and healthy environment as part of fulfilling children’s rights to life, health, and development, and they must guarantee children’s procedural rights – access to information, participation, and remedies – in environmental matters. Although GC26 is not itself a binding law, it is an authoritative interpretation of the CRC – effectively a roadmap for governments, courts, and advocates to operationalise the child’s right to a healthy environment.

Other international instruments reinforce this trend. The 2015 Paris Agreement under the UN Framework Convention on Climate Change (UNFCCC) is primarily a climate change treaty, but it also acknowledges human rights and intergenerational equity. In its preamble, the Paris Agreement calls on Parties to “respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations” when taking action on climate change.¹² This language – unprecedented in a global environmental treaty – explicitly includes the rights of children as a consideration in climate action. It recognises that climate change is not just an environmental or economic issue but one that touches on fundamental rights and vulnerable

8 | Chiara Sacchi et al. v. Argentina (Communication No. 104/2019, CRC/C/88/D/104/2019, adopted 22 September 2021).

9 | UN Committee on the Rights of the Child 2023.

10 | CRC Committee 2023, para. 16.

11 | *Ibid.*, para. 26.

12 | UNFCCC 2015, Preamble.

populations. Although the Paris Agreement's operative provisions focus on mitigation, adaptation, and finance, the inclusion of children's rights in the preamble signals the international community's awareness that failing to address climate change will undermine the rights of the most vulnerable, including children.

The principle of intergenerational equity is also evident in the Paris Agreement. Its goal of holding global warming well below 2°C and pursuing efforts to limit it to 1.5°C seeks to protect present and future generations as well by aiming to prevent “dangerous anthropogenic interference” with the climate system.¹³ This aligns with the idea that States have duties not only to their current citizens but also to coming generations – a concept that is deeply relevant for children alive today who will live to see the future impacts of climate policy (or failure thereof). The Paris Agreement's emphasis on long-term temperature goals and global stocktaking encourages governments to plan for the long-term sustainability of the planet. The Paris Agreement was a key milestone in taking a long-term perspective to escape irreversible damage, with the aim of reducing the costs on future generations.

Another important international reference is the set of Framework Principles on Human Rights and the Environment (2018)¹⁴ developed by the UN Special Rapporteur on human rights and the environment. These 16 principles are not a treaty but rather guidelines summarising how existing human rights law relates to environmental protection. They affirm that “a safe, clean, healthy and sustainable environment”¹⁵ is integral to human rights, and they elaborate duties of States, such as ensuring a legal framework for environmental protection, securing access to information and justice, and paying special attention to the rights of those most vulnerable to environmental harm. The Framework Principles also stress the principle of non-discrimination in environmental policy. This encompasses protections for children as a vulnerable group. For instance, Principle 14 calls on States to take additional measures to protect those who are most at risk from environmental harm, explicitly including children and future generations as those owed heightened duties.¹⁶

Furthermore, recent developments at the United Nations have solidified the idea of an autonomous human right to a healthy environment. In October 2021, the UN Human Rights Council recognised for the first time the human right to a clean, healthy and sustainable environment (HRC Res. 48/13),¹⁷ and in July 2022, the UN General Assembly affirmed this right by consensus (GA Res. 76/300).¹⁸ These resolutions are historic. While they are not legally binding, they present a global commitment that every human being, including every child, is entitled to

13 | UNFCCC 2015, Art. 4.

14 | UN Special Rapporteur on Human Rights and the Environment 2018.

15 | UN Special Rapporteur 2018, para.1.

16 | UNICEF 2023, 4.

17 | UN Human Rights Council 2021.

18 | UN General Assembly 2022.

an environment of quality that permits a life of dignity and well-being. Commentary traces these recognitions to a mature body of UN framework principles that specify state duties on participation, information, non-discrimination, and access to justice in environmental matters.¹⁹

Beyond human rights treaties, environmental treaties, and soft-law declarations have increasingly acknowledged children and future generations. For example, the 1992 Rio Declaration on Environment and Development proclaims in Principle 3 that “the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations”,²⁰ reinforcing intergenerational equity.²¹ The Stockholm Declaration of 1972, a key document of international environmental law, stated that humanity bears “a solemn responsibility to protect and improve the environment for present and future generations.”²² This wording laid the early groundwork for conceiving environmental protection as a duty owed to young people and those not yet born. More concretely, the Aarhus Convention (1998)²³ – while regionally focused on Europe – enshrines procedural environmental rights (access to information, public participation, access to justice)²⁴ and has been used to empower youth to have a voice in environmental matters. All four Central European countries in focus of this study (Slovakia, Czechia, Poland, Hungary) are parties to the Aarhus Convention. This means a commitment to participatory rights that can enable children and youth (often through representation) to engage in environmental decision-making.

Contemporary international law exhibits a clear trajectory towards recognising environmental rights as human rights. Instruments like the CRC highlight states’ obligations to shield children from environmental harms, and global climate agreements and principles emphasise protecting the environment for current and future generations. This international consensus was the catalyst behind litigation and policy development linking environmental degradation to violations of human rights – especially the rights of children who will inherit the consequences of today’s actions.

Intergenerational climate litigation has broken new ground in courts worldwide, often led by children or on behalf of future generations. One early landmark was *Minors Oposa v. Factoran* (Philippines, 1993), where the Philippines Supreme Court allowed a group of children to sue to stop deforestation, recognising their legal standing as representing both themselves and future unborn generations.²⁵ The court held that the Filipino Constitution’s guarantee of a healthy environment²⁶

19 | Knox & Pejan 2018, 15.

20 | United Nations 1992.

21 | Brown Weiss 1992, 386.

22 | United Nations 1972.

23 | United Nations Economic Commission for Europe (UNECE) 1998.

24 | Pallemmaerts 2004, 14–22.

25 | *Minors Oposa v. Factoran* (1993) G.R. No. 101083, Supreme Court of the Philippines, 30 July 1993.

26 | Constitution of the Republic of the Philippines 1987, Article II, Section 16.

imposed a duty to refrain from jeopardising the needs of future generations – a pioneering affirmation of intergenerational justice. Following this ruling, the Philippines further strengthened environmental protection through the Writ of Kalikasan, a unique legal remedy designed to safeguard the constitutional right to a balanced and healthy ecology. Introduced by the Philippine Supreme Court in 2010 under Rule 7 of the Rules of Procedure for Environmental Cases, the writ allows individuals or groups to seek judicial intervention against large-scale environmental harm that endangers life, health, or property across multiple cities or provinces.²⁷ Unlike traditional writs such as amparo or habeas corpus, which protect fundamental rights, the Writ of Kalikasan specifically addresses environmental justice.²⁸

Another frequently-cited case is *Leghari v. Pakistan* (Lahore High Court, 2015),²⁹ where a farmer (not a child but invoking future generation concerns) succeeded in getting the court to direct enforcement of climate adaptation policies as a matter of fundamental rights, leading to the creation of a Climate Change Commission to protect citizens' rights from climate harms.³⁰

In Europe, the *Urgenda v. Netherlands*³¹ case links human rights with climate action. Brought by an NGO on behalf of 886 Dutch citizens (including youth), *Urgenda* led to a 2019 Dutch Supreme Court ruling that the government's inadequate greenhouse gas reductions violated the rights to life and to private/family life under the European Convention on Human Rights (ECHR). The Court, applying ECHR Articles 2 and 8, found the state has a positive obligation to protect its people from the real and immediate risks posed by climate change, even if those risks fully materialise only in the future. By ordering the Netherlands to cut emissions at least 25% by 2020 (relative to 1990 levels), the decision took into account the welfare of young and future generations who would face the brunt of climate change.

Another important decision came from the German Federal Constitutional Court in 2021.³² In a case brought by several young people, the Court struck down parts of Germany's climate law as unconstitutional for failing to set adequate emissions reduction targets beyond 2030. The Court held that the German Basic Law's rights to life and human dignity, read in light of the state's duty to protect natural foundations of life (and the climate), require the government not to push the burden of emissions reductions onto the period after 2030. Allowing high emissions now means that the law would have to force drastic curbs later, endangering

27 | Philippine Supreme Court 2010.

28 | Davide 2011, 593.

29 | *Leghari v. Pakistan* (2015) W.P. No. 25501/2015, Lahore High Court, Pakistan, 4 September 2015.

30 | Mahaseth & Goyal 2021, 125.

31 | *Urgenda Foundation v. State of the Netherlands* (2019) ECLI:NL:HR:2019:2007, Supreme Court of the Netherlands, 20 December 2019.

32 | Federal Constitutional Court of Germany 2021.

the freedoms of the young generation. The Court emphasised that the constitution compels³³ the state “to leave [the natural environment] in such condition that future generations are not forced to engage in radical abstinence” to salvage it. In short, excessive use of the remaining carbon budget today impinges on the liberties of future citizens. This groundbreaking reasoning explicitly framed insufficient climate action as an injustice to children and future generations, affirming that intergenerational justice has constitutional force.

In 2023–2025, the interface of environmental protection and human rights reached new heights with significant legal developments. Two are especially noteworthy: the climate change judgments of the European Court of Human Rights (ECtHR) in April 2024, and the International Court of Justice’s Advisory Opinion on Climate Change delivered in July 2025. Both developments, while not focused exclusively on children, have powerful implications for children’s rights and state duties in the environmental context.

On 9 April 2024, the ECtHR’s Grand Chamber issued its first decisions addressing states’ obligations to mitigate climate change. These were highly anticipated cases brought by vulnerable groups against multiple governments. In ‘Verein KlimaSeniorinnen Schweiz and Others v. Switzerland’,³⁴ an association of elderly Swiss women (along with some individual members) claimed Switzerland’s inadequate climate policies violated their rights to life and private/family life under the European Convention on Human Rights.³⁵ In ‘Carême v. France’, a former mayor of a coastal town in France alleged that France’s failure to meet emissions targets violated his rights by exacerbating flood risks.³⁶ And in ‘Duarte Agostinho and Others v. Portugal and 32 Others’, six Portuguese youth (supported by an NGO) sued 33 states, arguing that insufficient climate action across Europe endangered their rights to life, health, and non-discrimination.³⁷ The ECtHR’s rulings made global headlines. While the Court dismissed the Carême and Duarte Agostinho applications on procedural grounds, it upheld key aspects of the KlimaSeniorinnen complaint, finding that Switzerland’s climate efforts were inadequate and breached its human rights obligations.

In ‘KlimaSeniorinnen v. Switzerland’, the ECtHR broke new ground. It was affirmed that climate change can trigger positive obligations under the right to private and family life (Article 8 ECHR). The Court held that Article 8 encompasses a right to be protected from serious climate-related harms to life and well-being. Also, the Court accepted that a duly established NGO can have standing to

33 | Basic Law for the Federal Republic of Germany 1949, art. 20

34 | European Court of Human Rights (2024, April 9), *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* (Grand Chamber, Application No. 53600/20).

35 | Council of Europe 1950.

36 | European Court of Human Rights. (2024, April 9). *Carême v. France* (Grand Chamber, Application No. 7189/21) (inadmissibility decision).

37 | European Court of Human Rights. (2024, April 9). *Duarte Agostinho and Others v. Portugal and 32 Other States* (Grand Chamber, Application No. 39371/20) (inadmissibility decision).

represent its members in such a climate case – the Swiss association was granted victim status under Article 8, even though the individual women's complaints were deemed inadmissible for lack of showing a pressing need for individual protection. On the merits, the ECtHR found that Switzerland had not fulfilled its obligations because its regulatory framework fell short of what is required for effective climate mitigation. The judgment spelled out, in perhaps the clearest terms yet, what Convention compliance means in the context of climate change: States must adopt and implement measures aimed at reducing greenhouse gas emissions in line with the best available science and international goals. The Court emphasised that to honour Article 8, states should be on a path to achieve net-zero emissions around mid-century, with concrete interim targets and timely policies to avoid serious and irreversible harm to human rights. It identified specific positive obligations: for instance, legislating clear climate targets and carbon budgets, demonstrating progress in cutting emissions, and acting in an adequately prompt manner so as not to defer unjustifiable risks to the future. Applying these criteria, the ECtHR noted critical gaps in Switzerland's climate strategy – such as the absence of a binding intermediate emissions trajectory or sufficient measures to reach its 2050 neutrality goal – and held that these gaps violated the duty of care owed under Article 8. In addition, the Court found Switzerland violated Article 6(1) (right of access to court) by denying the association a hearing on the merits domestically. *KlimaSeniorinnen* established that States may be found in breach of the ECHR if they fail to enact and implement an adequate climate change response, especially where vulnerable groups are affected.

By contrast, the companion cases *Carême* and *Duarte Agostinho* were declared inadmissible. In *Carême*, the French applicant's situation had changed – he had moved away from his high-risk municipality – such that the Court held he was no longer a victim of the alleged harm. Lacking a personal stake after moving, his case could not proceed. In *Duarte Agostinho*, the hurdle was the rule of exhaustion of domestic remedies. The Portuguese youth had filed directly in Strasbourg without suing in each of the 33 respondent states; they argued that trying national courts across so many jurisdictions would be futile and too slow. The Grand Chamber disagreed: in a unanimous decision, it insisted that at least some domestic legal avenues should have been attempted, and it found no truly exceptional circumstances to excuse the omission. The Court also noted that it would only examine Portugal's own emissions in any event, not the collective emissions of dozens of states – implicitly suggesting that each state's responsibility for climate harm must be litigated within that state's jurisdiction first. As a result, the application was dismissed for non-exhaustion of remedies. While this was a disappointment for the youths and their supporters, the ECtHR's climate trilogy as a whole is still incredibly important. It confirms European states have enforceable human rights obligations to take climate change mitigation seriously, and it opens the door (at

least in principle) to future cases by those who can show direct, pressing risks and who have tried domestic legal paths.

On 23 July 2025, the International Court of Justice (ICJ) delivered a historic Advisory Opinion on the Obligations of States in respect of Climate Change.³⁸ Requested by the UN General Assembly, this opinion provides the first authoritative pronouncement by the court on climate change and international law. While advisory and not binding on states, the ICJ's opinion still carries significant weight. The Court affirmed what many legal scholars and advocates have long argued: states have binding obligations under international law to prevent and redress environmental harm, including climate change. The ICJ drew from multiple sources – climate treaties (UNFCCC, Paris Agreement), general international law, the no-harm principle, human rights law, and the principle of intergenerational equity – to articulate a comprehensive view of states' duties.

Among the opinion's conclusions is the recognition of a human right to a clean, healthy, and sustainable environment in international law. The ICJ observed that environmental degradation and climate change significantly impair the enjoyment of certain human rights, explicitly naming rights such as the right to life, the right to health, an adequate standard of living, the right to a healthy environment, and the rights of children (as well as women, Indigenous peoples, etc.). In fact, the Court incorporated the right to a healthy environment into its interpretation of states' obligations, treating it as a binding norm of customary international law. This is a groundbreaking development – the ICJ acknowledged that the widespread affirmation of the right to a healthy environment (e.g. by the UN General Assembly and in many national laws) is an evolution of international law, even though not all states have codified it. At the same time, the Court did not go so far as to declare that future generations themselves hold direct legal rights; it characterised intergenerational equity as an important principle guiding the interpretation of existing obligations, rather than a source of standalone rights for the unborn. Nonetheless, the opinion leaves no doubt that today's children and youth – as right-holders under human rights law – must be protected from the foreseeable, grave harms of climate change.

The ICJ opinion also clarified and reinforced states' substantive duties. It confirmed that obligations under the Paris Agreement (such as pursuing the 1.5°C temperature goal and submitting emissions-reduction targets) are to be understood in light of more general international law duties to prevent significant transboundary harm. All states, regardless of their individual share of emissions, have a common responsibility to protect the climate system; even states outside specific treaties or those with smaller emissions remain bound by customary duties to prevent environmental harm. It extended the no-harm rule (historically applied to

38 | International Court of Justice. (2025, July 23). Advisory Opinion on the Obligations of States in Respect of Climate Change (Case No. 187).

transboundary pollution) to the global atmosphere and climate, declaring that the duty to prevent harm to the environment fully applies to climate change.³⁹ The ICJ linked inadequate climate adaptation to human rights violations: failure to build resilience and protect people from climate impacts can violate the duty to protect rights to life, health, an adequate standard of living, etc., on par with failures in mitigation. This elevates climate adaptation from a policy preference to a legal obligation.

The ICJ further addressed state responsibility and remedies. It confirmed that if states breach their climate-related obligations, the well-developed rules of state responsibility apply: the responsible state must cease the wrongful act, guarantee non-repetition, and make full reparation for injuries caused. The Court made clear that activities like issuing new fossil fuel licenses or subsidies can constitute breaches of international law if they are incompatible with the need to protect the climate system. Citing scientific consensus, the ICJ noted that to meet the 1.5°C target, no new fossil fuel extraction projects should be developed. Two judges in a joint declaration went even further, stressing that environmental impact assessments for any fossil project must account for its downstream (Scope 3) emissions, and that states must regulate and phase out fossil fuel use consistent with the remaining carbon budget. The implication is very clear: continuing business-as-usual in fossil fuel expansion is now squarely at odds with states' international obligations. The ICJ's opinion did not itself assign liability or award damages (being advisory), but it opens the door for courts and litigants to argue that insufficient climate action is an internationally wrongful act. The Opinion's declaration that climate obligations are owed *erga omnes* – to the international community as a whole – suggests any state could call out any other state's failures, increasing the prospects for cooperative enforcement or even future litigation among states. The ICJ Opinion clearly supports the idea that children and future generations are owed legal duties by states: it explicitly frames climate change as a threat to the rights of children and acknowledges a duty to preserve the environment for future generations (even if the latter are not direct right-holders).

The international framework over the past few years – from the CRC Committee's General Comment No. 26 to the UN resolutions on a healthy environment, to the ECtHR's climate judgments, and the ICJ's 2025 Advisory Opinion – shows a normative shift. Environmental protection is being codified as a matter of legal obligation tied to human rights, with special emphasis on the protection of children and future generations. This international context forms a backdrop (and sometimes a direct source) for developments in national and regional law, including in Central Europe. We turn now to how these trends manifest in the constitutions, courts, and legal practices of Slovakia, Czechia, Poland, and Hungary.

39 | American Society of International Law 2025.

3. Environmental rights in Central Europe: national frameworks and case law

All four Central European countries under review – Slovakia, Czechia, Poland, and Hungary – have constitutionally enshrined environmental principles and have seen growing recognition of environmental rights in their jurisprudence. This strengthens courts' willingness to read classic rights in environmentally protective ways.⁴⁰ Historically, these nations adopted constitutional provisions on environmental protection, some inspired by global trends in sustainable development and others by the tangible pollution crises experienced under socialism. In recent years, we have observed these broad principles being tested and given concrete meaning through litigation and policy. This section provides a comparative survey of each country's legal framework related to environmental protection and children's rights. It focuses on how each state's courts and institutions have addressed claims that environmental degradation – whether air pollution, climate change, or other harm – violates human rights, especially the rights of children or future generations.

The Constitution of the Slovak Republic guarantees environmental rights in strong terms. Article 44 of the Slovak Constitution declares that "Everyone has the right to a favourable environment," and it imposes corresponding duties: "Everyone is obliged to protect and enhance the environment and cultural heritage," and "No one may, above the law, endanger or damage the environment."⁴¹ It further mandates the State to ensure the prudent use of natural resources and to safeguard ecological balance for present and future generations.⁴² These provisions, adopted in the early 1990s, encapsulate the principle that environmental protection is a fundamental value of society. In practice, however, Slovakia's courts have often channeled environmental claims through specific legislation (such as laws on nature protection, air quality, or land use) rather than treating Article 44 as directly justiciable. The constitutional right to a favourable environment has typically functioned as an interpretive guidepost and an aspiration, invoked in preambles of environmental statutes and occasionally cited by courts.

One notable international case involving Slovakia opened a debate on how a constitutional environmental right can reinforce access to justice. *Lesoochránárske zoskupenie VLK v. Slovakia*⁴³ was a 2012 admissibility decision of the European Court of Human Rights concerning an environmental NGO's exclusion from domestic environmental proceedings. The applicant association argued that being

40 | Boyd 2010, 20.

41 | Constitution of the Slovak Republic 1992.

42 | Maslen 2022, 403.

43 | European Court of Human Rights (2 October 2012), *Lesoochránárske zoskupenie VLK v. Slovakia* (Application No. 53246/08, Third Section, Decision on Admissibility).

denied formal party status in administrative proceedings (regarding post-storm logging measures in a national park) violated its right to a fair hearing under Article 6(1) of the ECHR and impeded its access to justice; it also invoked the Slovak Constitution's guarantee of a favorable environment in support of its claim. The ECtHR, however, unanimously declared the application inadmissible as manifestly ill-founded.⁴⁴ The Court reasoned that the complaint was essentially about the NGO's procedural standing rather than the determination of any of its own civil rights or obligations, especially given that the association failed to substantiate any concrete impact of the forestry decision on the environment or on its members' rights. While the judgment acknowledged the growing importance of public participation and access to justice in environmental matters at national, European and international level,⁴⁵ the Court emphasised that it "is not to review the relevant domestic law and practice *in abstracto*"^{46,47} but to assess their application in the case at hand. In the specific circumstances, the Court noted that Slovak law provided a path for redress if the NGO had been directly affected – namely, the association could have lodged an administrative appeal and sought judicial review of the forestry decision. Accordingly, the Court found no breach of Article 6(1) and rejected the Article 6 complaint as manifestly ill-founded. (The applicant's parallel attempt to frame its grievance as a violation of the right to private life under Article 8 – essentially arguing for a right to a good environment – was likewise dismissed.)

Overall, *VLK v. Slovakia* is procedurally significant as it delineated the bounds of Article 6(1) in environmental disputes: the Strasbourg Court refused to extend fair-hearing rights to a public-interest NGO absent a direct legal interest, even as it recognised the broader trend towards enhanced public participation in environmental decision-making.⁴⁸ This cautious approach – deferring in part to evolving EU/Aarhus Convention norms that had prompted Slovak courts to adjust their laws⁴⁹ – highlights both the potential and the limitations of using the ECHR as a vehicle for environmental access-to-justice claims in Central Europe.

Domestically, Slovakia has begun to see litigation invoking environmental rights, though not yet on the scale of some Western European countries. Slovakia has not faced a high-profile youth-led climate lawsuit yet. However, its courts have adjudicated cases balancing property or development interests with environmental protection, often citing Article 44.⁵⁰ For example, residents have invoked their

44 | European Court of Human Rights, 2012, para. 84

45 | *Ibid.*, para. 80.

46 | *Ibid.*, para. 81.

47 | For example, *Allen v. the United Kingdom*, no. 18837/06, § 40, 30 March 2010.

48 | Peters 2018, 1–27.

49 | On 21 October 2011, the National Council of the Slovak Republic adopted amendments to environmental legislation, including the NLP Act. The amendment entered into force on 1 December 2011 as Act No. 408/2011 Coll.

50 | Supreme Court of the Slovak Republic. (2018, January 30). Judgment No. 1Sžk/17/2017 (ECLI:SK:N SSR:2018:3009200353.8).

right to a favourable environment to challenge permits for polluting installations (such as waste dumps or industrial facilities) near homes and schools. In one case, a community fought a waste landfill permit by arguing that exposure to odours and pollutants infringed their constitutional environmental right, especially affecting children's health in the area. The courts examined the claim seriously, though the outcome ultimately hinged on compliance with detailed environmental regulations rather than directly on the constitutional clause. The Slovak Constitutional Court has indicated that Article 44's broad right is justiciable only insofar as it is concretised by implementing legislation⁵¹ (a common approach in Central Europe). This means an individual – including a minor via a representative – could seek judicial relief if a specific environmental law aimed at protecting health or environmental quality is violated.

Beyond the courts, Slovakia's ombudspersons have started to integrate environmental concerns into their work. Institutionally, Slovakia employs a dual ombuds system that addresses human rights and children's rights, and these bodies have begun to engage with environmental issues. The Public Defender of Rights, established by law in 2001 under a constitutional mandate (Art. 151a), is an independent ombudsman charged with protecting constitutional rights in proceedings before public authorities. The Public Defender can investigate maladministration, including failures by authorities to uphold environmental laws, and indeed receives thousands of complaints annually – among them over a hundred related to environmental protection in a typical year.⁵² However, before 2015 there was no separate institution exclusively for children; children's issues were handled by a department within the Public Defender's office. In 2015 Slovakia created the Commissioner for Children as a standalone children's rights ombudsperson. The Commissioner for Children can receive individual complaints from or on behalf of minors and initiate investigations *ex officio* on issues affecting children. Both the Public Defender and the Children's Commissioner are empowered to refer matters to the Constitutional Court or other authorities when systemic problems are found. In terms of international networks, Slovakia uniquely has two members in the European Network of Ombudspersons for Children (ENOC): the Children's Commissioner is a full ENOC member, and the Public Defender's office is an associate member.⁵³ This shows the overlapping mandates, but in practice, the Children's Commissioner now takes the lead on child-specific advocacy. The Slovak Commissioner for Children has started to integrate environmental concerns into his agenda, recognising their importance for children's rights. One notable example is the Commissioner's collaboration with the Slovak Environmental Agency on a project to improve access to clean drinking water in marginalised

51 | Maslen 2022, 404.

52 | Public Defender of Rights 2025.

53 | Lux 2023, 18.

Roma communities.⁵⁴ Through this initiative, the Commissioner worked with local municipalities and NGOs to support a project that secured a safe water supply and reduced pollution in local watercourses. Beyond this, the Commissioner's office has also emphasised environmental education as a key area of cooperation with environmental authorities. These activities demonstrate the institution's growing understanding that issues like water quality, sanitation, and pollution directly affect children's well-being and require rights-based advocacy.

Slovak children's rights institutions are also increasingly involving young people in environmental discourse. The Children's Commissioner has an advisory Children and Youth Parliament, whose members regularly meet with the Commissioner to inform his work, including on environmental topics. This kind of engagement is crucial in a country that, while not yet facing climate litigation by children, is laying the groundwork for future advocacy.

In summary, Slovakia's legal framework strongly affirms environmental protection and has the seeds of rights-based enforcement. The combination of constitutional text, EU environmental law (which is influential in Slovakia as an EU member), and growing public awareness suggests that children or youth in Slovakia could, in the future, bring successful environmental rights claims. They have a constitutional hook, and with the inspiration of cases abroad (and support from NGOs), it is plausible that Slovakia could soon see its first youth-driven climate or pollution lawsuit. The foundation is there; it may just be a matter of time and awareness before it is tested in court.

The Czech Republic likewise embeds environmental rights in its constitutional order, albeit with important qualifiers that affect enforcement. The Czech Republic's Charter of Fundamental Rights and Freedoms⁵⁵ (which has constitutional force) similarly guarantees environmental rights. Article 35 of the Charter states: "Everyone has the right to a favourable environment" and the right to timely and complete information about the environment, and it prohibits conduct that causes undue environmental damage. However, the Charter also stipulates that these rights may be asserted only within the limits of laws that implement them – meaning the legislature must delineate how the right is enforced. In recent years, Czechia witnessed its first major climate lawsuit. This lawsuit brought new life to Article 35. In 2021, a group of Czech citizens, including youth, sued the government for failing to adequately cut emissions. In a June 2022 judgment,⁵⁶ the Prague Municipal Court upheld the plaintiffs' claims in part, finding that the government's climate inaction infringed their rights, notably the right to a favourable environment guaranteed by Article 35. The court acknowledged that neglecting climate goals would "jeopardise the plaintiffs' constitutionally guaranteed rights",

54 | Eurochild 2025.

55 | Charter of Fundamental Rights and Freedoms of the Czech Republic 1991.

56 | Municipal Court in Prague (2022, June 15), Judgment No. 14A 101/2021 (Czech Climate Litigation Case).

including the right to life and a healthy environment. It ordered the government to take measures to reduce greenhouse gas emissions in key sectors. This judgment explicitly recognised that climate change threatens fundamental rights of the current young generation of Czechs. This decision was remarkable as the first time a Czech court explicitly connected the constitutional environmental right with concrete climate action duties. However, it is important to note that the government appealed, and in 2023, the Supreme Administrative Court set aside the Municipal Court's judgment on procedural grounds, remanding the case for further review. Despite the procedural setback, the episode was a very important moment in Czech jurisprudence, demonstrating the potential of Article 35 when coupled with proactive judicial interpretation. It also showed Czech youth asserting their rights in the environmental realm, even in the absence of a direct mention of children in the constitutional text.

Turning to institutional mechanisms, Czechia differs from Slovakia in that it does not have a standalone children's ombudsman. Instead, the general ombudsman – the Public Defender of Rights (Veřejný ochránce práv) – handles a wide range of issues, including those affecting children. Established by the Act on the Public Defender of Rights in 2000,⁵⁷ this office was created in the classic mould of an ombudsman: an independent authority overseeing public administration and protecting citizens against maladministration. The Public Defender can conduct inquiries, enter and inspect offices, recommend corrective measures, and even initiate court proceedings (such as filing a motion to repeal a law or intervening in administrative court cases). The office receives a high volume of complaints annually (roughly 8,000 per year in recent times) and has a broad mandate covering areas from equality and detention monitoring to family and social affairs. Within the office, there is a specialised Department of Family, Healthcare and Labour that deals with children's issues among other social matters. Since 2012, the Public Defender's deputy has been explicitly responsible for agenda items related to children's rights, meaning children's complaints are funneled to staff with relevant expertise. To make the institution accessible to young people, a dedicated child-friendly website and email were introduced, and any complaint from a child is given priority and handled in an informal, supportive manner (ombudsman staff typically contact the child within a couple of days to discuss how best to help). This child-sensitive approach shows the office's commitment to being reachable by minors, even without a separate Children's Ombudsperson. The U.N. Committee on the Rights of the Child has noted the Public Defender's involvement in protecting children's rights, but has "encourage[d] the State Party to establish an independent ombudsperson for children"⁵⁸ to strengthen focus and accessibil-

57 | Czech Republic 1999.

58 | United Nations Committee on the Rights of the Child (2003), Concluding observations: Czech Republic (U.N. Doc. CRC/C/15/Add.201), para 17, United Nations.

ity. As of 2019–2020, draft legislation was indeed under consideration to either designate a specific deputy for children within the Public Defender's office or to create a new children's rights institution, reflecting ongoing discussions about improving the institutional framework for children. The Czech Parliament enacted an amendment to the Act on the Public Defender of Rights in early 2025,⁵⁹ formally creating the institution of the Children's Rights Ombudsman. The amendment was signed into law by the President in March 2025, and the new office was expected to begin its operations on 1 July 2025. It is important to note however, that at the time of writing this article, the ombudsperson has not been elected. Until the first Children's Ombudsman is elected, the responsibilities of this role are temporarily performed by Deputy Ombudsman Vít Alexander Schorm and his team. This is a significant step in reinforcing the institutional protection of children's rights in Czechia.

Poland approaches environmental rights through a framework of constitutional principles and active ombuds institutions. Poland's Constitution explicitly references environmental protection and even future generations, though it frames these largely as state policy directives. Article 74 commits public authorities to "pursue policies ensuring the ecological security of current and future generations" and declares that environmental protection is the duty of public authorities.⁶⁰ It also guarantees everyone the right to access information on the environment's quality and obliges authorities to support citizens' environmental initiatives. Additionally, Article 68 of the Polish Constitution (on health protection) mandates public authorities to combat disease and "prevent the negative health consequences of environmental degradation", especially important for children's health. Article 86 of the Polish Constitution imposes a duty on every person to care for the environment and to bear responsibility for any harm they cause to it. Although the constitution stops short of granting an individual justiciable right to a clean environment, Polish courts have seen a wave of litigation asserting traditional rights in an environmental context.⁶¹

In practice, Polish courts have been cautious in reading these articles as directly enforceable rights, but they have recognised that the Constitution's environmental directives guide the interpretation of statutes and influence the State's duties. For instance, Polish administrative courts have cited Article 74 when reviewing government decisions on industrial permits or waste management, to ensure authorities considered intergenerational environmental impacts. Poland's constitutional model emphasises environmental protection as a collective goal and a precondition to other rights (such as health and life). This provides a supportive backdrop for children's environmental claims, even if those claims usually must

59 | Czech Republic 2025.

60 | Constitution of the Republic of Poland 1997.

61 | Habuda 2019, 116.

be brought under specific laws (like the Environmental Protection Act or Clean Air Act).

Poland's ombudsman system is bifurcated into a general human rights ombudsman and a dedicated children's rights ombudsman, and both have been active in the environmental domain. The Commissioner for Human Rights (*Rzecznik Praw Obywatelskich*), established in 1987, is Poland's National Human Rights Institution (NHRI) with 'A-status' accreditation. The Commissioner (often referred to simply as the Ombudsman) has a broad mandate to safeguard constitutional and human rights, which includes addressing environmental issues that affect the public. The Commissioner can receive complaints from any individual (including on behalf of children) and launch investigations or even approach the courts (for example, by challenging the legality of administrative decisions or lodging constitutional complaints). However, when it comes to children specifically, the leading role is played by the Ombudsman for Children (*Rzecznik Praw Dziecka*), a separate independent office created in 2000. The Ombudsman for Children is tasked exclusively with protecting children's rights and interests. This office has legal powers to intervene when children's rights are endangered, to review laws, and to request action from other state bodies. Poland's Children's Ombudsman has been very vocal on issues where environmental harm and children's welfare intersect. For example, the Ombudsman for Children received a significant complaint about the impact of air pollution on children – specifically, how smog and poor air quality were limiting children's outdoor activities. In response, the Ombudsman formally addressed the Minister of Climate and Environment, and advocated for measures to improve air quality for the sake of children's health.⁶² This kind of direct intervention shows the Ombudsman's willingness to frame environmental conditions as a children's rights issue (in this case, tying it to the right to health, play, and development) and to hold government accountable for addressing it.

Beyond handling complaints, the Polish Children's Ombudsman has proactively sought to involve young people in environmental decision-making. An important initiative in this regard was the creation of a Youth Climate Council at the national level. In June 2020, the Ombudsman for Children and the Ministry of Climate and Environment signed an agreement to establish a Youth Environmental Council composed of 32 young people from across Poland.⁶³ The purpose of this council is to give youth a voice in climate and environmental policy – a platform to share their perspectives and advise on solutions. This Council has since provided input on issues like climate legislation, sustainable development education, and local environmental problems. Additionally, Polish children (with support from the Ombudsman's office) have participated in international forums. Poland's Ombudsman for Children has been a very active member of ENOC – in fact, it has been a

62 | *Rzecznik Praw Dziecka* 2017.

63 | Government of the Republic of Poland 2020.

full member since the early 2000s and even held the ENOC Chairmanship twice (in 2005 and 2011).⁶⁴

Poland's judicial and administrative bodies have also started to respond to children's environmental concerns, often with the Ombudsman's prompting. One prominent line of cases in Poland involves citizens suing the government over air pollution, arguing that the poor air quality violates their personal rights, such as health, privacy, and even the right to life. In a 2021 ruling,⁶⁵ a Polish civil court ordered the State to pay compensation to a plaintiff for health damage from air pollution, finding that the State's failure to ensure air quality violated the individual's rights.⁶⁶

More recently, in 2024, two Polish citizens (including the family of a five-year-old child with asthma) launched cases against the government for worsening their health by failing to tackle smog.⁶⁷ The child's family argues that clean and healthy air isn't a luxury; it's a necessity for his survival and well-being, and that the state's inaction on air pollution infringes the child's right to health. These cases, supported by NGOs, claim compensation and aim to establish state liability for breaching fundamental rights through environmental negligence. It is also worth noting that Poland was found in breach of EU law for excessive air pollution (Court of Justice of the EU, 2018),⁶⁸ which pressures the government to act for the sake of public health.

Poland demonstrates a model where high-level constitutional commitments to the environment are coupled with energetic institutional advocacy for children. The constitutional provisions (Articles 74 and 86) set out a state duty toward environmental protection for future generations. Meanwhile, the Polish government's own Climate Policy⁶⁹ cites intergenerational responsibility in its preamble, referring to the constitutional mandate of Article 74. However, there are plenty of implementation gaps – e.g., continued heavy reliance on coal has serious implications for both climate and local air quality. On the flip side, the strong stance of the Ombudsman and the activism of young people indicate a progressively rights-conscious approach.

Hungary's legal framework stands out due to its strong constitutional language and institutional innovations regarding environmental rights and future generations. The Fundamental Law of Hungary (2011) declares in its National Avowal (preamble) that the Hungarian nation expresses responsibility for the fate of future generations and will protect the natural foundations of life for them. It states: "We bear responsibility for our descendants and therefore we shall

64 | Lux 2023, 14.

65 | *Palarz v. Poland* (2021) Judgment of the District Court in Gliwice, 9 December 2021.

66 | *Marszałek* 2021, 157.

67 | ClientEarth 2023.

68 | Court of Justice of the European Union (CJEU) 2018.

69 | Polish Government 2019.

protect the living conditions of future generations by making prudent use of our material, intellectual and natural resources.”⁷⁰ Article P of the Fundamental Law provides that natural resources, biodiversity, and cultural assets are the common heritage of the nation and the State and every person shall “protect and maintain them, and to preserve them for future generations”. Moreover, Article XXI (in the chapter ‘Freedom and Responsibility’) states: “Hungary shall recognise and endorse the right of everyone to a healthy environment.” This is an explicit, justiciable right. Article XXI(2) adds that anyone who causes environmental damage must restore it or bear the costs, indicating a strong polluter-pays principle at constitutional level.

The Hungarian Constitutional Court has a rich jurisprudence on the environmental provisions. The seminal case is Decision 28/1994 (XII.20.) of the Constitutional Court,⁷¹ which interpreted the old Constitution’s environment article (the content of which is carried forward in the new Fundamental Law). In that case, the Court struck down a law that weakened protection for certain protected lands, holding that once a high level of environmental protection is achieved, the State cannot roll it back arbitrarily because that would violate the right to a healthy environment.⁷² The Court established a non-regression principle: environmental protection levels may not be reduced unless justified by an equivalent protection of some other fundamental right. Since no such justification existed, the law was unconstitutional. This decision constitutionalised the idea of sustainable development and intergenerational justice – making sure that short-term political decisions do not endanger long-term environmental safeguards. Subsequent Constitutional Court decisions in Hungary have reinforced this protection: for example, the Court has invalidated regulations that would permit new pollution exceeding previous limits, citing the state’s duty to protect the environment for future generations as a constitutional value on par with immediate economic interests. Hungarian Constitutional Court, Decision 13/2018 (IX.4.) AB reaffirmed the non-regression and precautionary approach by annulling a deregulation that would have weakened groundwater protection, grounding its reasoning in Article P (protection of natural resources for future generations) and Article XXI (right to a healthy environment).⁷³ Hungary’s constitutional framework explicitly embeds the prohibition of regression (non-derogation principle) and the precautionary principle as key safeguards of the environmental rights of future generations. Together, the non-regression rule and the precautionary principle ensure that Hungary’s environmental obligations to children and future generations are enforceable at the highest level of law: the State may not roll back

70 | Fundamental Law of Hungary 2011.

71 | Hungarian Constitutional Court (1994) Decision 28/1994 (XII.20.), 20 December 1994.

72 | Szabó 2022, 80.

73 | Hungarian Constitutional Court (2018) Decision 13/2018 (IX.4.) AB (adopted 28 August 2018; promulgated 4 September 2018).

environmental protections, and it must proactively protect against foreseeable environmental harms.⁷⁴

Unlike Poland and Slovakia, Hungary does not have a separate ombudsman solely for children's rights. Instead, since 2012, Hungary has consolidated its ombudsman system into a single office: the Commissioner for Fundamental Rights (CFR), which functions as a general ombudsman for all human rights (including the rights of the child). The CFR is assisted by two deputies with specialised roles – one is the Deputy Commissioner for the Rights of National Minorities, and the other is the Deputy Commissioner for Future Generations (often referred to as the 'Green Ombudsman'). This institutional design has its roots in an earlier system: from 2008 to 2011, Hungary actually had a standalone Parliamentary Commissioner for Future Generations, a unique ombudsman dedicated to environmental protection and the interests of future (including today's youth and unborn) generations.⁷⁵ That office was merged into the new unified Ombudsman framework by the 2011 Fundamental Law and the 2011 Ombudsman Act. The result is that today the Deputy for Future Generations (DFG) operates within the CFR's office as the guardian of environmental and ecological interests, while the CFR covers all fundamental rights generally. Children's rights, by law, are explicitly part of the CFR's mandate – the Ombudsman Act even lists the protection of children's rights as a primary duty of the Commissioner. However, there is no dedicated Children's Ombudsman or Deputy Commissioner for Children in Hungary. This means the responsibility for children's issues must compete for attention within a broad human rights agenda, and in environmental contexts it is effectively split: the CFR is responsible for children's rights in general, while the DFG focuses on environmental issues, albeit for the whole population. In theory, this could still cover children's environmental rights – for instance, the CFR and DFG could collaborate on a case involving a child's exposure to pollution. In practice, though, this split has led to a diffusion of focus. The Deputy for Future Generations pursues a general environmental agenda (covering topics like nature conservation, air quality, noise regulation, and climate policy).

The year 2013 stands out as a high point when the Commissioner for Fundamental Rights actively focused on children's environmental rights. In that year, the CFR dedicated its annual thematic program to the 'Fundamental Right of Children to a Healthy Environment', resulting in a series of investigations and reports. Two comprehensive reports were published: one on environmental education in schools (report no. AJB-676/2013) and another on children's access to safe drinking water (report no. AJB-677/2013). The latter was a joint effort between the Ombudsman and the Deputy for Future Generations, examining issues such as water quality in disadvantaged regions and how lack of access to clean water affects children's

74 | Olajos-Mercz 2022, 79.

75 | Bándi 2022, 59.

health and equality. The Ombudsman highlighted, for example, that the quality of the environment of an expectant mother, unborn child, and young child is decisive for later health, and pointed to the particular challenges faced by Roma children in poor housing conditions without clean water or adequate sanitation. The 2013 initiative was widely praised and raised expectations that the Ombudsman would continue championing environmental issues as part of children's rights. Unfortunately, that momentum was not sustained.⁷⁶

On a positive note, the Deputy for Future Generations does work in environmental protection that indirectly benefits children. The DFG handles dozens of cases each year, covering topics like industrial noise, air quality standards, nature conservation, water management, and environmental impact assessments. The Deputy has the power to initiate or join court proceedings (for instance, the DFG can petition the Constitutional Court if a law threatens environmental rights). A notable success was the DFG's contribution to the 2018 Constitutional Court decision mentioned above that annulled a law weakening forest protection – a case framed around Article P's duty to protect natural heritage for future generations.⁷⁷

In 2025 the Constitutional Court delivered a landmark decision in case II/3536/2021 on Hungary's Climate Protection Act.⁷⁸ Fifty members of Parliament had challenged Article 3(1), arguing that the 2030 target of a 40 percent reduction in greenhouse gas emissions from 1990 levels fell short of scientific advice and EU commitments, and did not reflect the Paris Agreement's temperature goals. The Court held Article 3(1) unconstitutional for breaching Article P(1), Article XX(1), and Article XXI(1) of the Fundamental Law, stressing intergenerational justice, the right to physical and mental health, and the right to a healthy environment. While the Court did not find a treaty conflict, it underscored the State's constitutional duty to adopt climate measures consistent with broader international objectives. It annulled Article 3(1) with deferred effect to 30 June 2026 and, acting *ex officio*, found a legislative omission, ordering Parliament to adopt more ambitious and concrete mitigation, adaptation, and resilience measures by the same date.

Such outcomes, while not child-specific, certainly serve the interests of children by preserving Hungary's environment. In conclusion, Hungary presents a paradox: it has one of the strongest constitutional foundations for environmental and future-generational rights in Central Europe, yet its institutional practice has been less assertive in linking these rights to children. The absence of a dedicated children's ombudsperson means there is less visibility and priority given to how environmental issues uniquely affect minors. The Hungarian Ombudsman's

76 | Lux 2023, 13.

77 | Constitutional Court of Hungary, Decision of Constitutional Court of Hungary: Forest protection / natural heritage (English translation), ClientEarth, <https://www.clientearth.org/media/hm1cvgxj/decision-of-constitutional-court-of-hungary-ext-en.pdf>

78 | Constitutional Court of Hungary (2025, June 12), Decision in Case No. II/3536/2021 on the constitutionality of Article 3(1) of the Climate Protection Act.

structure can lead to children's issues being overshadowed by other agendas. Strong constitutional rights alone are not enough – institutional will and focused advocacy are critical to truly protect children's rights in the face of environmental degradation.

Across these four Central European countries, we see a common recognition that a healthy environment is essential to the well-being and rights of the child, but the degree of implementation and advocacy varies. All V4 countries have incorporated environmental protection into their constitutions – whether as an explicit right (Slovakia and Hungary) or as guiding principles and state duties (Poland and Czechia) – which provides a legal platform for linking environmental quality with human rights. Each country has also ratified the UN Convention on the Rights of the Child and participates in international frameworks like the Aarhus Convention on environmental democracy, signalling a commitment to children's environmental rights on paper. However, the institutional mechanisms differ significantly, influencing how these rights are realised in practice. Poland and Slovakia (and hopefully Czechia in the very near future), which have standalone children's rights commissioners, exhibit more proactive engagement on environmental issues affecting children. Their specialised ombudspersons have both the mandate and visibility to prioritise children's environmental health. A standalone institution (or at least a dedicated focal point) for children's rights correlates with more visible, accessible, and effective advocacy in this domain.

Case law in Central Europe is gradually aligning with the global trend that treats environmental degradation as a human rights issue. While none of the V4 countries have a long history of children's environmental litigation, courts are increasingly receptive to arguments that environmental degradation violates fundamental rights. Czechia's first climate judgment, Poland's anti-smog lawsuits for children's health, and Hungary's constitutional jurisprudence all exemplify a growing recognition: when the environment is harmed, the rights of people – especially vulnerable groups like children – are at stake. While Slovakia and others are at earlier stages in terms of litigation, their laws provide tools that could be used to similar effect. Each country also faces implementation challenges; for instance, having a right to a healthy environment on paper does not automatically clean the air or water. Nonetheless, courts are increasingly willing to enforce these rights, adding legal pressure on governments to prioritise environmental and intergenerational welfare.

Regionally, Central Europe faces common challenges. One is pollution from energy and agriculture – for instance, high reliance on coal (Poland, Czechia), causing air pollution, or intensive agriculture, causing water pollution (nitrates in water affect infants). Each country has EU obligations to meet certain environmental standards (e.g., under the Ambient Air Quality Directive, Water Framework

Directive, etc.).⁷⁹ EU law has indirectly strengthened children's environmental rights by forcing improvements (for example, EU pressure led to phase-outs of leaded petrol, which has been beneficial for child health). However, enforcement at the national level can lag. Another challenge is climate change adaptation – heatwaves in Central Europe are becoming more frequent, posing risks to children (who are less able to regulate body temperature).

A positive regional trend is the recognition of education and youth engagement in environmental matters. Slovakia, Czechia, Poland, and Hungary all include environmental themes in school curricula (partly a legacy of the 1970s-80s when environmental consciousness rose). Governments have begun to respond: for instance, Slovakia's President has frequently dialogued with students about climate action, and Poland's government in 2019 created a Youth Climate Council to advise the Ministry of Climate – an initiative recognising that young people should have a say in policies that affect their future.

Hungary's constitutional and ombudsman model stands out for safeguarding future generations' interests. Czechia's judiciary taking climate rights seriously is commendable. Poland's citizen-led litigation for clean air is forging new remedies for environmental rights. Slovakia's comprehensive constitutional provisions provide a strong foundation and could support future legal actions as awareness grows. For all, continued development of case law and policy aligning with those high-level commitments is needed. This includes explicitly considering children in environmental health action plans, ensuring that environmental impact assessments evaluate effects on children (e.g., how a new factory might affect a nearby elementary school), and dedicating resources to enforcement so that the right to a healthy environment becomes a reality, not just a promise.

4. Intergenerational justice and rights-based environmentalism

There is a theoretical framework that supports all the case law discussed in this article, which is what connects environmental law with human and children's rights. Two key concepts stand out: intergenerational justice and rights-based approaches to environmental protection. These ideas help explain and justify why courts and lawmakers are increasingly treating environmental degradation as a violation of rights – and why children are central to this shift.

Intergenerational justice refers to fairness or equity between present and future generations. In the environmental context, it posits that the current generation has obligations to avoid depriving future generations of natural resources, a stable climate, and a healthy planet. This idea has deep roots in international

79 | Szilágyi 2022, 50.

discourse – from the World Commission on Environment and Development's 1987 report *Our Common Future*⁸⁰ (which popularised sustainable development), to principles in treaties like the UNFCCC (which calls for protecting the climate for present and future generations). For legal systems, intergenerational justice raises the question: Can future generations be rights-holders, and can today's policies be judged by their impact on tomorrow's people?

Courts increasingly answer yes. The German Constitutional Court's climate decision explicitly invoked intergenerational justice, insisting that the state cannot shift burdens to the future in a way that 'endangers future freedoms' of the young. It essentially operationalised intergenerational justice by requiring proportional distribution of emissions reduction efforts across generations. Similarly, the Philippines Supreme Court in *Oposa* spoke of "the right of the next generations to a balanced and healthful ecology", allowing current minors to sue on their behalf – a clear nod to future persons having interests the law should protect. Even without explicitly naming future generations, many constitutions (like Poland's and Hungary's) embed the concept by obligating the state to consider future impacts (e.g., Poland's mandate to ensure ecological security for current and future generations, Hungary's duty to preserve resources for future generations). These provisions create a constitutional space for intergenerational arguments.

From a theoretical standpoint, scholars like Edith Brown Weiss have argued for "planetary rights" of future generations and correlative duties of the present.⁸¹ Such theories help the legal reasoning that it is unjust for the present generation to consume resources or pollute in ways that irreversibly compromise the welfare of those to come. Children's rights provide a concrete bridge to future generations: children alive today will live into future decades, so protecting their long-term rights effectively means protecting the future generation of adults they will become. As the IUCN (International Union for Conservation of Nature) has observed, youth climate activism and litigation have made intergenerational justice a pressing justiciable issue – what was once abstract philosophy is now being translated into legal claims and court judgments. Courts stepping into this arena are "showing leadership in promoting equity [...] protecting current and future generations".⁸²

There are many challenges to intergenerational justice. One is the question of representation: future unborn generations cannot speak for themselves, so we rely on proxies (like children, youth activists, or institutions like Hungary's Ombudsman for Future Generations) to raise their interests. Another is balancing present needs against future needs – a task often left to the political process. However, rights discourse is influencing this balance by asserting some environmental minimum that must be left intact for the future. The 'public trust doctrine'

80 | World Commission on Environment and Development (WCED) 1987.

81 | Brown Weiss 1990, 200.

82 | IUCN 2021.

(originating in U.S. law but influential globally) encapsulates this: the state holds natural resources in trust for the public and future generations, and must prevent their substantial impairment. This doctrine has appeared in some youth-led climate cases (such as *Juliana v. U.S.*⁸³), arguing the government violates its trustee duty to youth and future citizens by allowing fossil fuel exploitation.

For children's rights, intergenerational justice reinforces that the well-being of children today is linked to the state of the environment they will inhabit decades from now. So failing to mitigate long-term environmental threats could be seen as violating not only future generation rights, but the current rights of children to survival and development. Indeed, the UN Committee on the Rights of the Child in General Comment 26 emphasised that states' obligations to children include protecting them from foreseeable future harm caused by environmental degradation and climate change⁸⁴ – a direct application of intergenerational justice in a human rights treaty context.

Traditionally, environmental law has been grounded in statutes, regulations, and policy balancing, often under a cost-benefit framework. A rights-based approach shifts the perspective: it frames environmental protection as an obligation stemming from fundamental rights, rather than just policy discretion. This has several implications. Environmental protection is seen as non-negotiable up to a minimum standard, similar to how we treat core civil rights. For instance, if clean air is a right, the state cannot simply decide that a certain community must live with toxic air for economic development reasons without breaching that right. Victims of environmental harm gain the language of rights to make claims. A child suffering from contaminated water can claim a breach of her right to health or even a stand-alone environmental right, rather than relying solely on political lobbying for cleaner water. A rights-based approach often enhances accountability and access to justice. Rights can be invoked in court, forcing judicial review of environmental inaction or regressions.

We have seen this play out in case law: the *Urgenda* case tied climate action to the right to life;⁸⁵ the Polish asthma cases tie clean air to the right to health. In both, plaintiffs use rights as levers to compel action. A rights-based approach is also evident in many national constitutions that have adopted an enforceable right to a healthy environment. This effectively constitutionalises environmental policy and empowers citizens (including children, through representatives) to demand better environmental quality.

Importantly for children, a rights-based approach intersects with the principle of the 'best interests of the child', a core tenet of the CRC. If a government action

83 | *Juliana v. United States* (2018) 217 F. Supp. 3d 1224 (D. Or.), United States District Court for the District of Oregon, 10 November 2016; appeal at 947 F.3d 1159 (9th Cir. 2020).

84 | CRC Committee 2023, para. 11.

85 | Supreme Court of the Netherlands (2019, December 20), *State of the Netherlands (Ministry of Economic Affairs and Climate Policy) v. Urgenda Foundation* (ECLI:NL:HR:2019:2007).

or inaction (say, permitting a polluting factory or failing to curb emissions) will impact children, their best interests should be a primary consideration. Courts and agencies can use this principle to, for example, require an environmental impact assessment to specifically evaluate impacts on children or require that children's health be given priority weight.

It is clear that incorporating children's rights into environmental decision-making leads to more protective outcomes, because children's vulnerability demands higher safety margins. Indeed, UNICEF notes that "taking [children's] rights and their views into account would lead to more ambitious and effective policies on environmental protection".⁸⁶

Another theoretical framework is the concept of ecological rights of children. This goes beyond seeing the environment as only a means to health, and suggests children might have a right to nature or to experience a healthy ecology as part of their development. While not yet formally recognised in law, this concept has been advocated by child-rights scholars and could gain traction as awareness grows that issues like biodiversity loss affect children's cultural and recreational rights (for instance, the CRC guarantees the right to play, which a safe natural environment enables).⁸⁷

Courts have begun to frame the environment-children's rights intersection in compelling ways. The Colombian Supreme Court's 2018 *Future Generations v. Ministry of the Environment* decision (a case brought by youth plaintiffs) declared the Amazon rainforest a subject of rights and ordered the government to create plans to stop deforestation.⁸⁸ The court invoked the rights of children and future generations to a healthy environment, essentially merging an environmental rights-based approach with children's constitutional rights. Similarly, when the ECHR eventually issues decisions in the pending youth climate cases, it will likely have to articulate how the failure to reduce emissions implicates the rights to life (Article 2) and family life (Article 8) of the youth applicants – thereby setting a rights-based standard for climate policy.

Rights-based environmentalism aligns with the idea of environmental justice – ensuring that no group (including future children) bears an unfair share of environmental burdens or is denied equal access to environmental benefits. Children, as a group that lacks political power, are increasingly recognised in environmental justice discourse. For example, policies on the placement of waste sites or polluting industries now sometimes consider if they are too close to schools or playgrounds, acknowledging children's rights to safety.

In conclusion, intergenerational justice provides the ethical foundation that we should protect the environment for those to come (with children as the bridge to that future), while a rights-based approach provides the legal mechanism to

86 | UNICEF 2023, 8.

87 | Garayová 2023, 61.

88 | Supreme Court of Justice of Colombia (2018) *Future Generations v. Ministry of the Environment*, Judgment STC4360-2018, 5 April 2018.

enforce that protection now. Together, these frameworks are reshaping both international and domestic law. They lead to courts recognising concepts like the rights of future generations, the best interests of the child in environmental matters, non-regression in environmental law, and the human right to a healthy environment – all of which fortify the legal claim that environmental degradation is fundamentally a children's rights issue.

5. Conclusion

Environmental rights are increasingly recognised as fundamental human rights, and nowhere is this more evident than in the context of children's rights. International law – from the Convention on the Rights of the Child to climate agreements – acknowledges that a safe and healthy environment is a prerequisite to children's survival and development. Courts around the world, including in Central Europe, are affirming that governments have legal duties to prevent environmental degradation that threatens human rights, with special solicitude for the young and unborn who will inherit the planet. The concept of intergenerational justice has moved from theory to justiciable principle, as seen in cases holding states accountable for climate inaction to protect future generations.

Central European countries provide a microcosm of both the progress and the challenges in implementing these ideals. They have strong legal frameworks recognising environmental protection (often influenced by their socialist-era and democratic transition experiences that valued a clean environment), and recent litigation and activism in the region show a growing demand that those promises be honoured in practice. Ensuring that children's rights are protected in the face of environmental threats requires translating high-level rights into real-life practical changes – cleaner air, safer water, a stable climate, and resilient food systems. This, in turn, links closely with agricultural and environmental law: how we regulate industries and land use, how we support sustainable farming, and how we respond to ecological crises will directly shape the world that today's children grow up in.

There are some *de lege ferenda* recommendations that can be distilled from the research above. Central European states should consider enshrining an explicit right to a healthy environment in their constitutions or high-level statutes if they have not done so. Slovakia and Hungary already recognise this right expressly; Czechia and Poland could elevate the environmental interests of individuals (including children) by adopting clearer constitutional wording. Hungary's approach of listing natural resources as part of the nation's common heritage (to be preserved for future generations) could be emulated by neighbours.

Procedurally, all four countries should review their civil procedure and administrative procedure rules to lower barriers for environmental litigation, especially by young people. This might include granting legal standing to minors and youth

organisations to sue in environmental matters (with appropriate representation). Courts should be empowered to appoint a guardian ad litem or allow class-action style suits for groups of children affected by environmental harm.

Rather than waiting for disputes, law reform can infuse child-centric considerations into everyday governance. For instance, Environmental Impact Assessment (EIA) laws and strategic planning statutes can be amended to require a 'Child Impact Statement' as part of any major project or policy assessment. This would mean that when, say, a new power plant, highway, or waste facility is proposed, the EIA must explicitly evaluate how the project could affect children's health, development, or welfare (differentiating from general population effects).

Education is both a right and a means to empower children in environmental matters. Central European countries should fully implement Article 29 of the CRC by integrating stronger environmental and climate education into school curricula. Beyond knowledge, this should include teaching about rights – e.g., informing students that they have a right to be heard on issues affecting their environment. Ministries of Environment could establish Youth Councils (like Poland's Youth Climate Council) in each country and give them real consultative weight on environmental policies.

Finally, looking forward, legal systems must be adaptive as new environmental health issues emerge. For example, the rise in extreme heat due to climate change poses special risks to children (who cannot regulate body temperature as effectively). Laws may need to ensure, say, all schools and kindergartens have climate adaptation plans (cooling, greenery, etc.), and that labour laws allow teenagers to avoid outdoor work during heatwaves – all framed as protecting the right to health.

As climate change accelerates and environmental crises multiply, courts and policymakers are likely to see more claims where environmental and children's rights meet. We can expect, for instance, further climate cases invoking children's right to a livable future, or litigation over toxic exposures in which claimants argue their rights to health and a safe environment were breached. Contemporary courts are increasingly willing to hold that children have a right to inherit a world that is not irreversibly damaged. Environmental law, agricultural policy, and human rights law must continue to converge to ensure that this right is respected.

Recognising environmental rights as human rights, and enforcing them through a child-sensitive lens, offers a powerful way to drive stronger environmental action. It places the human face – indeed the child's face – on abstract problems like pollution and climate change. It reminds us that the ultimate measure of sustainable development is whether we leave our children a world in which they can thrive. Protecting the environment is no longer just about conserving plants and animals in isolation; it is about fulfilling our most fundamental duty to the next generation – upholding their rights to life, health, and dignity on a habitable planet.

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