WRITTEN SUBMISSION IN ACCORDANCE WITH RULE 44 OF THE RULES OF THE COURT IN THE CASE OF **39371/20 Cláudia DUARTE AGOSTINHO et autres contre le Portugal et 32 autres États** PENDING BEFORE THE IV SECTION OF THE EUROPEAN COURT OF HUMAN RIGHTS

BY THE ALL-YOUTH RESEARCH PROJECT AND TAMPERE UNIVERSITY PUBLIC LAW RESEARCH GROUP

1. INTRODUCTION

The ALL-YOUTH research project includes five sub-projects at three universities. Tampere University, the University of Helsinki and the University of Eastern Finland. "ALL-YOUTH – All youth want to rule their world" is a multidisciplinary research project which explores the capacities of young people (aged between 16 and 25) and the obstacles that hamper their engagement with society. We also explore the visions of youth regarding a sustainable future, growth and well-being. Tampere University Public Law Research Group is part of the Faculty of Management and Business at Tampere University. One of its key research fields is European human rights law.

On 27 November 2020 we organized a virtual conference "Youth, Climate Change and the ECtHR."[1] The impact of climate change is causing more harm to youth and future generations than to any other population segment.

We recognize that the case of **Duarte Agostinho and others v. Portugal and others** is an important opportunity for the Court to establish principles for application in cases related to climate change. Since the case of *Öneryildiz v. Turkey* (30.11.2004) there has been an obligation for states to prevent environmental disasters under Article 2 of the Convention. There was a lack of adequate protection "by law" safeguarding the right to life and deterring similar life-endangering conduct in the future. At the same time there is relevant environmental case-law on Article 8 and whether the States have succeeded in striking a fair balance between the public interests and the applicants' effective enjoyment of their right to respect for home and private and family life.

The duty to prevent environmental disasters such as climate change at the global level is clearly in line with object and purpose of the Convention.[2] The Court's interpretation in Duarte Agostinho can shed light on general principles, especially in relation to the state

[1] The video of the conference can be watched via the Tampere University site https://tuni.cloud.panopto.eu/Panopto/Pages/Viewer.aspx?id=551f5f05-2f59-421f-8b1f-ac830082fa3b

[2] See e.g. UN Human Rights Council Resolution on the environment and human rights, 17 March 2021, A/HRC/46/L.6/Rev.1, https://undocs.org/A/HRC/46/L.6/Rev.1

responsibility for combatting climate change, the potential victim status of youth, the burden of proof and the extraterritorial nature of environmental hazards.

Our aim is to contribute to developing principles (in order) for the Court to interpret in accordance with the object and purpose of the Convention and following an evolutive approach recognizing the Convention as a living instrument which should be interpreted in light of present-day conditions.

In our submission, we aim to discuss particularly the role of youth and its vulnerability in climate change and how this should be taken into account in the Court's analysis. In addition, this intervention encourages the Court to develop its case-law further by adopting an interpretation on such questions that were not elucidated in its earlier case-law: especially in relation to extraterritoriality and burden of proof.

The quote in *Fadeyeva* provides guidance in the climate change litigation:

> *"However, it is certainly within the Court's jurisdiction to assess whether the Government approached the problem with due diligence and gave consideration to all the competing interests."*

2. GENERAL OBSERVATIONS ON CLIMATE CHANGE AND THE STRASBOURG CASE-LAW

2.1. Emerging international consensus and trends relevant for climate change cases

One of key concepts to be used is international trends and consensus. In cases like *Al-Adsani v. the UK*, the Court established a strong comparative approach. The Court has stated in numerous cases that the Convention should not be interpreted in a vacuum but mindful of its special character as a human rights treaty. This means that international law and the contributions of the international human rights network and cross fertilization are relevant in interpreting any global human rights issue. This approach is relevant in environmental case-law and especially appropriate for understanding climate change and its various links to human rights protection.

Observing established case-law, the emerging consensus may consist of numerous factors: consensus within a Member State, consensus between Member States, scientific consensus, case-law from national courts, case-law from international courts and supervisory organs. Climate crisis is an increasing interest in societies as states have enacted national climate laws and policies. In 2020 the EU Commission made a proposal for European Climate Law[3] and international climate agreements have become an integral part of international law. The case of *Brincat and others v. Malta* is especially relevant for climate adjudication because it is founded on the concept of scientific consensus. In the Brincat case, the reasoning on scientific consensus on asbestos can easily be transferred to other environmental issues, where science-based evidence is a key argumentation. The Court concluded that the Maltese Government knew or ought to have known of the dangers arising from exposure to asbestos at least as of the early 1970s. It based its analysis on a number of documents, especially on an enormous amount of scientific literature. This argumentation is easy to transfer to current circumstances in understanding the risks of

[3] See European Climate Law proposal https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020PC0080&from=EN

climate change to individuals' rights under Articles 2, 3 and 8.

A strong scientific consensus prevails that climate change has serious impacts on human rights. It is common knowledge that States' actions, and also failure to act, may irreversibly violate the welfare of present and future generations.[4]

In addition to scientific consensus, the international trends argumentation can be based on the growing amount of jurisprudence from national courts.[5] Such an international trend has been disseminated worldwide. Interestingly, national courts are applying the principles developed by the Strasbourg Court. It is cases like the Dutch case of Urgenda (Supreme Court of Netherlands 19/00135, 20 December 2019) and the Irish Climate case ([2020]IESC 49 (Supreme Court of Ireland) that have introduced concrete standards that can be applied as a foundation for reviewing the existing case-law and its applicability in the context of climate change.

The main issue in these cases is the responsibility to take legislative and necessary actions in order to combat climate change and mitigate the harm that it has caused. Together with established scientific consensus on climate change[6] there is a strong indication that authorities should take positive measures that can be understood to form an emerging international trend in climate change cases.

The Court should also acknowledge additional evidence of international consensus. The applicable framework for state responsibility can be structured on established principles of international environmental law. Possible risks to the environment and the right to health, the precautionary principle[7], along with the principles of harm avoidance[8] and common but differentiated responsibilities[9], provides a justification and guidelines for states to take actions. The principle of sustainable development[10], with environmental protection and the conservation of natural resources its central elements, is inextricably linked to an adequate standard of living. Moreover, the principle of common concern of humankind[11] creates the link between climate change prevention and, inter alia, core human rights, children's rights and intergenerational justice.

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[4] See Emissions Gap Report 2020 | UNEP - https://www.unep.org/emissions-gap-report-2020

[5] See Climate change litigation database Sabin Center for Climate Change law http://climatecasechart.com/climate-change-litigation/

[6] See Intergovernmental Panel on Climate Change (IPCC), Special Report on Global Warming of 1.5°C: Summary for Policymakers, 2018, p. 11-12.

[7] The precautionary principle is included in Art. 3 (3) of the 1992 United Nations Framework Convention on Climate Change (UNFCCC).

[8] The obligation to not cause harm to the environment of other States, or to areas that are beyond a State's jurisdiction, is included in the preamble of the UNFCCC. In order to minimize the risk of harm, the principle is also acting with principles of due diligence and polluter pays.

[9] The principle is included in Art. 3 (1) of the UNFCCC and in Art. 4 (3) of the 2015 Paris Agreement.

[10] The concept of sustainable development is originally defined in the Brundtland Commission Report (1987) as 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs', and it is referred to, as an objective and a principle, in the preamble of the UNFCCC, along with its Arts. 2 and 3, and in the preamble and the Arts. 2, 4 (1), 6, 7 (1), 8 (1) and 10 (5) of the Paris Agreement.

[11] It is acknowledged in the preamble to the UNFCCC that 'change in the Earth's climate and its adverse effects are a common concern of humankind', and in the preamble to the Paris Agreement that 'climate change is a common concern of humankind'.

The Court has already acknowledged that the Aarhus Convention constitutes a strong international commitment on right to information, participatory rights and access to court. One of the key arguments is related to the shared understanding that there is a need to provide access to courts so that people can challenge national governments' climate legislation before the domestic courts. The Aarhus Convention is mentioned in *Tatar v. Romania* (27.1.2009, para 118), where the Court noted access to information, public participation in the decision-making process and access to justice in environmental matters are enshrined in the Aarhus Convention of 25 June 1998.

The concept of future generation can be found in Article 1 of the Aarhus Convention, entitled 'Objective', provides that '[i]n order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party [to the convention] shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention'.

There is evidence that in certain countries participation of young people and children has been taken seriously, but at the same time the Aarhus Convention's other provisions are not fulfilled. One of the key arguments which should also be noted in the climate change context is that there is a possibility to challenge actions before the courts. This is the one argument under the Aarhus Convention that needs further legislative actions to be taken in the Council of Europe Member States. Even supreme courts have recognized such deficits. During the ALL-YOUTH conference in November 2020, the President of the Finnish Supreme Administrative Court, Kari Kuusiniemi, conceded that in practice it is very difficult to gain access to justice in climate cases.

There is an ongoing dialogue founded on national constitutional environmental rights providing extra argumentation for emerging consensus. In a recent decision by the Finnish Deputy Chancellor of Justice, the need for information on climate was mentioned as a key factor for the enjoyment of environmental constitutional rights. On 28.01.2020 Dnro OKV/10/50/2019, while reviewing the failure by the government to provide annual climate reporting, he expressed the principle view in the environmental rights context and highlighted the obligation for authorities to provide necessary environmental information. He considered that "[u]ltimately, it is a matter of safeguarding the inviolability of human dignity and the freedom and rights of the individual, as well as the promotion of justice in society, which are among the foundations of the constitution provided for in Article 1 (2) of the Constitution."[12]

2.2. Positive obligations

In the case of Tyrer v. UK, the Court introduced its evolutive approach. The Convention is a living instrument. The treaty obligations should be interpreted in light of present-day conditions. This approach has become instrumental in the doctrine of positive obligations. The Court has linked its balancing test to a number of factors. One of the key factors that puts emphasis on evolutive interpretation is when science has provided new information that has to be taken into account. This is especially relevant in situations not recognized at the time when the Convention was drafted and thus the Court could not rely on *travaux préparatoires*. In order to properly approach climate change adjudication, the Court has to build its argumentation on established principles. It is clear that environmental risks

[12] https://www.okv.fi/media/filer_public/58/8c/588cc810-453b-4348-a3fc-64142c37415e/okv_10_50_2019.pdf

prejudicial to the right to life (Art. 2) and to private and family life (Art 8) have become a human rights question incrementally. Also, Article 3 has been applied in severe consequences for people's health, e.g. through smoke.[13]

The climate change related application can be examined under the same principles of positive obligations that have been established since the case of *Hamer v. Belgium* and *Demir and Baykara v. Turkey*. These cases provide a strong continuum referring to both national legislation and international treaties. The obvious interpretative message is that each Member State's obligation should be considered in light of their own national legislative measures obligating authorities to ensure that necessary measures are taken in order that environmental planning is built on the sufficient reduction of emissions. At the same time the relevant national legislation should be in compliance with international treaty obligations.

We believe that a relevant positive obligation test in the climate change context can be structured on the basis of the main criteria that would prevent states from circumventing their obligations and ensure that rights are practical and effective. This would also be in accordance with the spirit of the Convention (Soering v. the United Kingdom, para. 87).

A positive obligations test in a climate context would include (*Kolyadenko and others* (2012, para.173)) effective and practical measures preventing risks caused by climate change. The Court has detailed very practical measures: 1) The states must govern the licensing, setting up, operation, security and supervision of the activity and 2) must make it compulsory for all those concerned to take practical measures to ensure the effective protection of citizens whose lives may be endangered by the inherent risks (Kolyadenko and others para. 158). 3) Positive obligations should also include necessary impact assessment (Tatar para 100) and other appropriate measures for protecting life. 4) A need to enact adequate legislation is mentioned in numerous cases (e.g. Fadeyeva (2005, para 89). The Court pointed out that the state's responsibility in environmental cases may arise from a failure to regulate private industry. 5) It is relevant to ensure that individuals obtain sufficient information and are able participate in advance in order to estimate the seriousness of environmental pollution (Fadeyeva para. 97 and 120).

Striking a fair balance in relation to the duty to accept a positive obligation in the climate context has to be linked to the knowledge of authorities concerning the hazardous consequences of climate change. The situation is analogous to Brincat (see above 2.1), where the Court considered whether the government knew or ought to have known for a long time about the dangers arising from exposure to asbestos

3. . CLIMATE CHANGE AND YOUTH AS A VULNERABLE GROUP

Climate change causes structural human rights problems as its impacts disproportionately those who have contributed least to the problem on a global scale: people in developing countries as well as children and future generations[14]. Intergenerational justice becomes an important concept in climate justice, as climate change, with substantial risk to health, security of food supply, availability of water, housing, agriculture and natural ecosystems, affects younger generations disproportionately more than older generations. The most

[13] Florea v. Romania, 14 September 2010, Elefteriadis v. Romania, 25 January 2011

[14] Sanson A.V., Burke S.E.L. (2020) Climate Change and Children: An Issue of Intergenerational Justice. In: Balvin N., Christie D. (eds) Children and Peace. Peace Psychology Book Series. Springer, Cham.

severely affected will be children in developing countries and the those yet to be born. Climate justice is thus not only a question of individual lifestyle or political activism, but a question of global equality and intergenerational justice. Climate justice[15] is about reducing emissions from fossil fuels, supporting a just transition to clean energy, demanding climate leadership and promoting participation. Climate change further exacerbates the deep existing social, geographical, economic and intergenerational inequalities[16].

There is emerging an international response to the excessive burden of climate change on youth and future generations. The youth application *Sacchi and others v. Argentina and others*, (23.9.2019) is currently before the UN Committee on the Rights of the Child. The argumentation in that case is also relevant from a more general approach to climate change and its human rights implications. The applicants claim that the foundational principles of the Convention are at stake in the climate crisis: non-discrimination and the prioritization of the best interests of the child. They further argue that "Both principles are undermined by delaying climate-change mitigation, because delay shifts the burden onto children and future generations, with irreversible human rights consequences. The international consensus is clearly starting to emerge through these cases and it is of course written in the Paris Agreement acknowledging intergenerational equity".

Climate change entails different types of vulnerability. Vulnerability can be understood to affect 1) the entire population 2) young people and children 3) young people and children from the perspective of situation vulnerability. One of the key terms that should be included in the doctrinal discussion is "situation vulnerability".[17] These situations may include environmental projects or environmental problems rendering individuals vulnerable due to changes in the living environment. The vulnerability is related to the circumstances that render vulnerable almost every individual in the same geographic area except those with the financial capacity to take preventive measures. It affects more severely those who cannot participate and lack sufficient information and understanding regarding the consequences of the environmental problems or alternatively the financial means. The case of Fadeyeva v. Russia (2005) discussed this relationship between environmental problems and elevated susceptibility to diseases.

One of the important precedents on situation vulnerability for children and young people is the case of *O'Keeffe v. Ireland* (2014, para. 144-146). In the context especially of primary education and Article 3, the Court came to the conclusion that, given the particularly vulnerable nature of children, it is an inherent obligation of government to ensure their protection from ill-treatment, through the adoption, as necessary, of special measures and safeguards. We also refer to *Tarakhel v. Switzerland* (para. 121), where the Swiss authorities did not have sufficient assurances that, if returned to Italy, the applicants would be taken charge of in a manner adapted to the age of the children.

In general, we consider that climate change disproportionately affects young generations. Because young people and children do not have the same opportunities to influence and

[15] Schlosberg, D. & Collins, L. (2014). From environmental to climate justice: climate change and the discourse of climate justice. *Wire's climate change*, 5, 359–374.

[16] Walker 2020. Uneven solidarity: the school strikes for climate in global and intergenerational perspective. *Sustain Earth* 3, 5.

[17] See Heta-Elena Heiskanen: Towards Greener Human Rights Protection, 2018, p.108.

participate in climate change related decision-making, this situation vulnerability of young people and children should be taken into account while striking a fair balance relevant to assessing whether states have failed in their positive obligations. A further relevant factor to be considered is that children and young people are less independent to protect themselves from the negative impacts of climate change by reason of not being able to take concrete measures like migration or other necessary safeguards.

4. ESTABLISHING GUIDELINES FOR APPROPRIATE BURDEN OF PROOF FOR CLIMATE CHANGE LITIGATION

The changing regular burden of proof is a fundamental issue when considering climate case applications in alleged cross-border violations. It is obvious that there needs to be an applicable set of guidelines to enable individual applications against alleged border-crossing environmental human rights violations. The shifting of burden of proof has been problematic. The key case of *Nachova and others v. Bulgaria* (GC 6.7.2005) laid down the principles of the distribution of burden of proof (para. 147). The distribution of the burden of proof is intrinsically linked to the specificity of the facts, the nature of the allegation made and the Convention right at stake. The Court is also attentive to the seriousness that attaches to a ruling that a Contracting State has violated fundamental rights.

The Grand Chamber proposed that in certain situations it would approve change in burden of proof, but saw no need to change the burden of proof in the situation of Nachova and others, despite some dissenting and concurring opinions. Later, in the case of D.H. v. Czech Republic (para. 186), the Court took a bolder view on discrimination and burden of proof, lowering the threshold in the case of indirect discrimination. The Court states that “In order to guarantee those concerned the effective protection of their rights, less strict evidential rules should apply in cases of alleged indirect discrimination”.

This approach under discriminatory treatment introducing less strict evidential rules is also analogical to the situation of climate change applications. The significance of the seriousness of the complaint would support choosing a more lenient and less restrictive approach to climate change applications.

In subsequent cases like El-Masri v. FYROM (13.12.2012) the interpretative line was confirmed including the idea that the burden of proof in Article 2 or 3 cases may be regarded as resting with the authorities to provide a satisfactory and convincing explanation. We think that this is also necessary for climate change cases. Otherwise the threshold would likewise be high in the case of climate change claims. In any case relating to climate change the high threshold would ultimately deny individuals their right to petition under Article 35.

The El-Masri case is proof of using large amounts of indirect evidence to corroborate an applicant’s account. Not only official studies but also including media articles which constitute reliable sources in reporting practices resorted to or tolerated by the US authorities. We believe that this should provide guidelines when the Court seeks to consider the climate change applications.

5. EXTRA-TERRITORIAL ASPECT OF CLIMATE CHANGE APPLICATIONS

Discussion on "jurisdiction"[18] in cross-border environmental hazards constitutes an underdeveloped part of the Strasbourg environmental case-law. Extraterritorial responsibility has mainly been used in armed conflicts and lately also in immigration cases and means that a state may be responsible for individuals outside its normal jurisdiction. The conditions are normally very strict and potentially difficult to apply in the environmental context. The key elements are "exceptional circumstances" resulting from "acts of (– –) authorities", the acts may take place inside or outside national boundaries, the acts have adverse effects outside the territory of the state responsible, and the state should have effective control over the person or area. However, we try to argue by using object and purpose approaches together with the aim of deterring the circumvention of rights and by adding the distinction technique so that climate change would fall within the scope of extraterritorial responsibility.

Instead of focusing excessively on the current exceptional circumstances terminology, we contend that more central issues should place emphasis on the deterrence of the circumvention of rights. In the environmental context, activities are often carried out despite reports warning of the severity of the consequences. In these circumstances, when intention is involved, the threshold for responsibility should be lower than in other circumstances. This is the important logic behind the reasoning in "the extraordinary rendition" case of El-Masri v. FYROM (2012).

In order to develop the existing continuum, we would rely on the object and purpose of the Convention as a reason for reviewing extraterritoriality doctrine in climate change cases. The extension of extraterritorial liability is possible due to the doctrines of cross fertilization of rights and of the Convention as a living instrument. In the case of Application no. 63235/00 Vilho Eskelinen and others v. Finland (para.56) the Court stated: "While it is in the interests of legal certainty, foreseeability and equality before the law that the Court should not depart, without good reason, from precedents laid down in previous cases, a failure by the Court to maintain a dynamic and evolutive approach would risk rendering it a bar to reform or improvement".

In the Ilascu case, the Court referred to positive obligations "to take the diplomatic, economic, judicial or other measures that it is in its power to take and are in accordance with international law to secure to the applicants to the rights guaranteed by the Convention." The same kind of positive obligations would also be applicable in the field of climate cases. Also, in the case of *Rantsev v. Cyprus and Russia* (2010) it is confirmed that several countries can have a shared responsibility to investigate a case involving cross-border elements. Thus, shared responsibility to investigate outside the traditional understanding of jurisdiction seems to provide one of the relevant continuums to be applied in the field of climate change.

In Ilascu and others v. Moldova and Russia (2004, paras 318-319), the Court made clear its argument that under the Convention, "a state's authorities are strictly liable for the conduct

[18] Article 1 of the Convention: "The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of [the] Convention." See more Heiskanen, Heta-Elena - Viljanen, Jukka: Reforming the Strasbourg Doctrine on Extraterritorial Jurisdiction in the Context of Environmental Protection. European Law Reporter, 2014, p. 285-295.

of their subordinates; they are under a duty to impose their will and cannot shelter behind their inability to ensure that it is respected". In Al-Nashiri v. Poland (509,517) the ECtHR restated the existence of State's responsibility for ill-treatment administered by private individuals, also in the context of the rights set forth in Article 3. The State's responsibility may therefore be engaged where the authorities fail to take reasonable steps to avoid a risk of ill-treatment about which they knew or ought to have known.*

In the environmental rights context one of the key arguments in favour of expanding extraterritorial jurisdiction is the need to address the possibility of circumventing positive obligations. In addition to the fact that the severity threshold has already been reached in the environmental context in non-extraterritorial cases, environmental harm often involves the circumvention of human rights, which has been a central theme of the extraterritorial jurisprudence under Article 3 of the Convention. This was mentioned e.g. in the case of Hirsi Jamaa v. Italy (paras 156-158), where the Court considered that the Italian authorities knew or should have known the problems related to the situation in Libya under Article 3. The responsibility could be engaged if a State knowingly causes cross-border harm or fails to control private entities conducting extraterritorial actions. Thus, the reasoning based on the circumvention of rights can also lower the threshold in the environmental context.

In order to establish a new approach applicable in the field of extra-territorial case-law, we recognize the technique of distinction. The technique of distinction relates to distinguishing between cases already decided and the case which is under review. The technique of distinction is a common feature in case-law culture. Thus, the distinction technique could also be described as a case-by-case approach. It is based on the method of creating piles of interpretation formed by judgments that are normally very close to each other. The Court frequently uses the distinction method when the interpretation is to be made in a context of "existing case-law". A new judgment modifies "the pile", but the previous case-law does not become invalid, instead of revoking the existing case-law, the new jurisprudence is laid down alongside the established praxis.

It is clear that the prevailing doctrine on extraterritorial jurisdiction does not satisfy the climate change context. We would request the Court to take this opportunity to use the distinction technique and apply the extraterritorial doctrine in a new context. In order to make a relevant comparison between global environmental disaster and previous case-law focusing on extraterritorial obligations necessitates reverting to interpreting not just different scales of impact, but also earlier distinction cases.

Therefore, the obvious conclusion is that all countries have some responsibility for the global climate emergency. It is then for the Court to systematize whether these countries should be allocated to different categories according to their activities or lack thereof in taking preventive measures in the given case and its particular circumstances. One potential example would be that the shared responsibility could be divided so that some countries are considered to be principally responsible for violations. On the basis of the Rantsev case this could mean that a different share of responsibility relies on the Government of the applicant's country of residence.

6. CONCLUDING SUMMARY OF OUR SUBMISSION

First, according to our submission there is an established continuum of case-law based on international trends and scientific consensus that should be taken into account while considering the appropriate level of positive obligations. We recommend that the Court place emphasis on the object and purpose of the Convention. The argumentation can be based on solid scientific consensus on climate change about which governments knew or ought to have known, at the relevant time, that there was a real risk that the population would be subjected to treatment contrary to Articles 2, 3 and 8 of the Convention. The Brincat case showed that scientific consensus should be instrumental in weighing different interests related to positive obligations.

Secondly, we argue that the Court should recognize the vulnerability of youth as a decisive factor in the Court's scrutiny of climate applications. The applicable test should take into account that climate change does not treat young people equally with those of other generations. Thus, young people are especially vulnerable to the harmful consequences of climate change and these effects will burden them for a considerable time. The Court's judgment would follow the international trend and pending applications before the Committee on the Rights of the Child (Sacchi and others).

Finally, in our view, the Court should consider extending extraterritorial responsibility on the grounds that this provides a deterrent to the circumvention of the Convention rights. In addition, the scale of environmental harm related to climate change emergency far exceeds any other natural disaster, thus the severity aspect also supports a distinction technique and evolutive-dynamic interpretation in the issue of extraterritorial responsibility.

7. CONTRIBUTORS TO THE INTERVENTION

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