

2025-2026

Team: Applicant

MUNLAWS LJUBLJANA
EUROPEAN COURT OF HUMAN RIGHTS

CLIMATE ACTION NOW! And Others

v.

RELENDIA and RULONIA

Submission of the Applicant

List of references:

1. Case of N.A. V. Finland, app. No. 25244/18
2. Ukraine and the Netherlands v. Russia, app. nos. 8019/16, 43800/14; 28525/20
3. Blečić v. Croatia, app. no. 59532/00
4. Roman Zakharov v. Russia [GC], app.no. 47143/06
5. Ebanks v. the United Kingdom, app. no. 36822/06
6. Airey v Ireland, app. no. 6289/73
7. Artico v Italy, app. no. 6694/74
8. Christine Goodwin v. The United Kingdom, app. no. 28957/95
9. Handyside v. The United Kingdom, app. no. 5493/72
10. Z and Others v. The United Kingdom, app. no. 29392/95
11. Budayeva and others v. Russia, app. no. 5339/02, 21166/02, 20058/02, 11673/02 and 15343/02
12. Kolyadenko and Others v. Russia, app. no. 17423/05, 20534/05, 20678/05, 23263/05, 24283/05 and 35673/05
13. Verein Klimaseniorinnen Schweiz and Others v. Switzerland, app. no. 54600/20
14. Milićević v. Montenegro, app. No. 27821/16
15. Djavit An v. Turkey, app. no. 20652/92
16. Freedom and democracy party (ÖZDEP) v. Turkey, app. No. 23885/94
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18. Case of Ezelin v. France, app. No. 11800/85
19. López Ostra v. Spain, app. no. 16798/90
20. Kudła v. Poland, app. no. 30210/96
21. Navalnyy v. Russia, app. nos. 29580/12, 36847/12, 11252/13, 12317/13 and 43746/14
22. Laguna Guzman v. Spain, app. no. 41462/17
23. Boyle and Rice v. the United Kingdom, app. no. 9659/82 and 9658/82
24. Powell and Rayner v. the United Kingdom, app. no. 9310/81
25. Vilvarajah and Others v. the United Kingdom, app. no. 13448/87
26. Chahal v. the United Kingdom, app. no. 22414/93
27. Bellet v. France, app. no. 2380/94
28. Philis v. Greece, app. no. 12750/87, 13780/88, 14003/88
29. Paulino Tomás v Portugal, 2003
30. Çelik and İmret v. Turkey, app. no. 44093/98

31. Camenzind v. Switzerland, app. no. 136/1996/755/954
32. Lithgow and Others v. the United Kingdom, app. no. 9006/80; 9262/81; 9263/81; 9265/81; 9266/81; 9313/81; 9405/81
33. Margareta and Roger Andersson v. Sweden, 61/1990/252/323
34. Schwizgebel v. Switzerland, app. no. 25762/07
35. Carvalho Pinto de Sousa Morais v. Portugal, app. no. 17484/15

Articles and other sources:

John Cerone, The abandonment of *ratione loci* in international human rights jurisprudence (2023)

Maija Dahlberg, The ECtHR as a Court of Fourth Instance, Vol. 7. No. 2 (2014)

Desai, Khraishah, Alahmad; Heat and the Heart, Yale Journal of Biology and Medicine (2023); available on: <https://pmc.ncbi.nlm.nih.gov/articles/PMC10303253/>

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EPA; Symptoms of Mental Health Effects from Smoke Exposure (2025); available on: <https://www.epa.gov/wildfire-smoke-course/symptoms-mental-health-effects-smoke-exposure>

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NSW Government, Extreme heat – the basics; available on: <https://www.safework.nsw.gov.au/hazards-a-z/working-in-extreme-heat/content-page-blocks/extreme-heat-the-basics>

Guide on Art. 14 of the ECHR and on Art. 1 of Protocol no. 12 to the ECHR

Collected edition of the “Travaux préparatoires” of the European Convention on Human Rights, vol. II, pp. 485 and 490, and vol. III, p. 651

List of abbreviations:

- Art(s). – Article(s)
- app. no(s). – application number(s)
- ECHR – European Convention on Human Rights
- EU – European Union
- UN – United Nations
- UNFCCC – United Nations Framework Convention on Climate Change
- the Court – European Court of Human Rights
- MoA – margin of appreciation

1. JURISDICTION

1. The Court is competent to adjudicate in the present proceeding.

1.1. Jurisdiction *ratione personae*

2. The Court has jurisdiction *ratione personae* to examine the application lodged by the Applicants pursuant to Art. 34 of the ECHR.

3. Under Art. 34 an application may be lodged by an person, non-governmental organisation or a group of individuals claiming to be victims of a violation.

4. Firstly, the individual Applicants are natural people and citizens of Relandia and Rulonia, which are both Member States of the Council of Europe and State Parties to the ECHR, a Member State of the EU, UN and State Party to the UNFCCC, the Kyoto Protocol and the Paris Agreement¹.

5. Secondly, the individual Applicants suffered non-pecuniary and pecuniary damages due to the Respondent States' violation of their rights under Arts. 2, 6, 8, 10, 11 and 13 of the ECHR, arising from the inadequate implementation of climate obligations and unlawful restrictions imposed by national authorities.

6. Thirdly, the Applicant Barbara Renko alleges violations of Arts 2, 8, 10, and 11 of the ECHR on her own behalf as a direct victim of the State's actions and omissions, and Articles 2 and 8 on behalf of her husband as indirect victim. According to the case law the Court has accepted that close family members of a person whose death is alleged to engage the responsibility of the State can themselves claim to be indirect victims of the alleged violation of the Convention.²

5. Finally, Climate Action Now! is a non-governmental organization advocating for the promotion of environmental policies and combatting climate change.³ The organisation was directly affected by both States' failure to act according to their international obligations and by measures taken by national authorities that hindered the organisation from fulfilling its functions.

6. As both demands of the Art. 32 are satisfied, the Court has jurisdiction *ratione personae*.

¹ Case study

² Case of N.A. V. Finland, app. No. 25244/18, § 50

³ Case study

1.2. Jurisdiction *ratione materiae*

7. The applications are within the Court's jurisdiction *ratione materiae* when the rights relied upon are protected by the ECHR and the Protocols thereto and the matters complained fall within their scope.⁴

8. The Applicants are submitting their applications before the Court claiming violation of their rights that are protected by the Art. 2, 6, 8, 10, 11 and 13 of the ECHR.

9. They accentuate that the civil proceedings infringed their right to respect for family and life, freedom of speech, assembly and association and effective remedy. All of the provision fall within and are enshrined in the ECHR and its Protocols, which both Relendia and Rulonia both have verified.⁵

1.3. Jurisdiction *ratione temporis*

10. In order to establish the Court's temporal jurisdiction, it is essential to identify in each specific case the exact time of the alleged interference.⁶

11. The civil proceedings were conducted after both Respondents had ratified the ECHR, along with its protocols, thereby binding the Respondents to the obligations of the ECHR and establishing the Court's jurisdiction *ratione temporis*.

1.4. Jurisdiction *ratione loci*

12. Jurisdiction *ratione loci* is jurisdiction by reason of place or location.⁷

13. The Court's competence *ratione loci* is present in both cases, as the alleged Respondents' violations arose on both of Respondent's territories, which are parties to the ECHR and its additional protocols.

2. ADMISSIBILITY

2.1. The exhaustion of domestic remedies

⁴ Ukraine and the Netherlands v. Russia, app. nos. 8019/16, 43800/14 and 28525/20, § 504

⁵ Case study

⁶ Blečić v. Croatia, app. no. 59532/00, § 82

⁷ John Cerone, The abandonment of *ratione loci* in international human rights jurisprudence (2023), p. 114

14. The purpose of Art. 35 § 1, which sets out the rule on exhaustion of domestic remedies, is to afford both of the Contracting States the opportunity of preventing or putting right to violations alleged against them before those allegations are submitted to the Court.⁸

15. All Applicants submitted a human-rights appeal to the Constitutional Court of their Respondent's State. Both were declared to be inadmissible. Their judgment was final.

2.2. Victim status

16. The Applicants claim that they were a victim of a violation of their rights protected under Art. 2, 6, 8, 10, 11, 13 and 14 of the ECHR.

17. The Court has consistently held that the Convention does not provide for the institution of an *actio popularis* and that its task is not normally to review relevant law and practice *in abstracto*, but to determine whether the manner in which they were applied to or affected the Applicant gave rise to a violation of the ECHR.⁹

18. In order to be able to lodge an application in accordance with Art. 34 of the ECHR, an applicant must be able to show that she was »directly affected« by the impugned measure. It is evident, that the Applicants had unequivocally been directly affected due to both Respondent's state bodies' interference with their rights to family and life, freedom of speech, assembly and association through civil proceedings and judgement, without having an effective remedy.

19. This interference resulted in pecuniary and non-pecuniary damage.

20. In conclusion, the Applicants, who have been directly affected by the Respondents' measures resulting in pecuniary and non-pecuniary damage, are more than entitled to receive victim status.

2.2. Fourth instance

21. The fourth instance doctrine does not preclude the admissibility of the present complaint.

⁸ Kudła v. Poland, app. no. 30210/96, § 152

⁹ Roman Zakharov v. Russia [GC], app.no. 47143/06, § 164

22. It is well established that under the fourth instance doctrine the Court does not address errors of fact or allegedly made by a national court, unless and insofar as such errors infringe the rights and freedoms protected by the ECHR.¹⁰

23. Although the national authorities enjoy a MoA in their decision-making¹¹, domestic law may be subject to review, where there is a serious and genuine dispute as to the lawfulness of such interference.¹² The Court recalls in established case law, such as *Artico v. Italy* and *Airey v. Ireland*, that ECHR is intended to guarantee not rights that are theoretical or illusory but rights that are practical and effective.¹³

24. Firstly, in Relandia, the national courts infringed the Applicants' right to access court, after refusing to examine their lawsuit on the grounds of protecting minors. National courts are also under a procedural obligation to address ECHR arguments in a meaningful and reasoned manner. By failing to do so, the Constitutional court of Relandia infringed their right to a fair trial.

25. Secondly, in Rulonia, the national courts failed to address the Applicants' claims, in particular those concerning the restriction of freedom of expression, which was declared legitimate on the grounds of national security, without providing explanation what national security is and how it was applied to the situation. Furthermore, they recharacterized the Applicants' case as a labour-law matter, thus avoiding giving any meaningful and reasoned explanation.

26. In conclusion, in such circumstances, the Court's intervention is warranted, as both States failed to fulfil their obligations and provide adequate safeguards, thus violating the Applicants' rights protected by the ECHR, thereby triggering the Court's supervisory function.

3. MERITS

3.1. Violation of Art. 2

27. As all Applicants invoke Art. 2 of the ECHR and their allegations relate to the same factual circumstances, it is appropriate to consider these complaints jointly.

¹⁰ Maija Dahlberg, *The ECtHR as a Court of Fourth Instance*, Vol. 7. No. 2. 2014, p. 78

¹¹ *Handyside v. The United Kingdom*, app. no. 5493/72, § 48

¹² *Z and Others v. The United Kingdom*, app. no. 29392/95, § 92

¹³ *Airey v Ireland*, app. no. 6289/73 § 24, *Artico v Italy*, app. no. 6694/74, § 33, *Christine Goodwin v. The United Kingdom*, app. no. 28957/95, § 74

28. The Applicants submit that their right to life has been violated due to the States' failure to manage the fires and failure to implement adequate measures that could have prevented a police officer's death.

29. For Article 2 to apply in the context of an activity, which is, by its very nature, capable of putting an individual's life at risk, there has to be a "real and imminent" risk to life. This may accordingly extend to complaints of State action and/or inaction in the context of climate change, notably in circumstances such as those in the present case that older adults are at "highest risk" of temperature-related morbidity and mortality.¹⁴ In climate-change context that »real and imminent« risk to life must be also understood as a grave risk of inevitability and irreversibility of the adverse effects of climate change, the occurrences of which are most likely to increase in frequency and gravity.¹⁵

30. Both Respondents had undertaken commitments, in particular under the UNFCCC, the Kyoto Protocol, the Paris Agreement and the Environmental and Climate strategy between the Republic of Relandia and the Republic of Rulonia¹⁶. The two countries failed to successfully contain the fire putting people's life at risk, thereby violating their commitment under the agreement.

31. The Applicants argued that the Respondent State failed to take the necessary steps to reduce emissions as to mitigate the effect of increasing temperatures. The State has the obligation to take appropriate steps to safeguard the lives of applicants. The Court reiterates that Art. 2 of the ECHR lays down a positive obligation on States to take appropriate steps to safeguard the lives of those within their jurisdiction.¹⁷ The obligation includes both substantive and procedural aspects, notably a positive obligation to take regulatory measures and to adequately inform the public about any life-threatening emergency, and to ensure that any occasion of the deaths caused thereby would be followed by a judicial enquiry.¹⁸

32. Firstly, the Court in case law, such as *Kolyadenko and Others v. Russia*, established that Art. 2. covers not only situations where certain action or omission on the part of the State led to a death complained of, but also situations where, although an applicant survived, there

¹⁴ Case of *Verein Klimaseniorinnen Schweiz and others v. Switzerland*, app. No. 53600/20, §511

¹⁵ *Verein Klimaseniorinnen Schweiz and Others v. Switzerland*, app. no. 54600/20, § 513

¹⁶ Case study

¹⁷ Case of *Budayeva and others v. Russia*, app. no. 5339/02, 21166/02, 20058/02, 11673/02 and 15343/02, § 128

¹⁸ Case of *Budayeva and others v. Russia*, app. no. 5339/02, 21166/02, 20058/02, 11673/02 and 15343/02, § 131

clearly existed a risk to his or her life.¹⁹ The state of Relandia failed to inform people about life-threatening emergency, especially about the effect of smoke on their health nor about any preventive measures, they can take to protect themselves from toxic gases. According to studies even short-term exposure to smoke and PM_{2.5} (particulate matter) has been linked to respiratory and cardiovascular-related morbidity and pre-mature mortality.²⁰ Ozone concentrations are prone to be elevated during wildfire smoke events, which can lead to range of respiratory effects such as reductions in lung functions, inflammation of the airways, chest pain, coughing – even in healthy people.²¹ These effects can be more serious in people with asthma and other lung diseases. Children, older adults and outdoor workers are also at increased risk of experiencing ozone-related health effects.²² During the smoke, people are faced with making daily, risk-based decisions, that result in sleep disruption, growing worry and feeling of fear, hopelessness, frustration and in this particular case especially isolation, loneliness and anxiety after the Applicants lost their home.²³ It is important that in such cases of natural disasters, the relationship between health care team members should be in place before a crisis happen. The Applicants emphasize the importance of using preventative measures and taking action to reduce smoke exposure. They argue, that the State should have prepared a formal emergency smoke response plans, to which a health care team could have refer to.²⁴

33. Secondly, as the climate changes, temperature are likely to rise. Exposure to extreme or prolonged heat can cause exhaustion, heat stroke and heart disease.²⁵ In this case, Rulonia's national authorities dispatched unprepared personnel during the strongest and hottest temperatures of the day, which has been medically proven to increase the likelihood of cardiac arrest and stroke.²⁶ The Applicant's husband, the police officer Mr. Michel Renko, was working in extreme heat for seven hours, when the outside temperatures exceeded 39°C. After feeling unwell, he sought shelter, but was later declared dead by a doctor, after failed CPR attempt. The Applicants emphasize that the Respondent should have prepared a workplace heat management plan, as working in extreme heath is identified as a workplace-hazard.²⁷ It is vital that there should have been enough water and shelter for worker working in a hot

¹⁹ Kolyadenko and Others v. Russia, app. no. 17423/05, 20534/05, 20678/05, 23263/05, 24283/05 and 35673/0, § 151

²⁰ EPA; Health Effects Attributed to Wildfire Smoke (2025)

²¹ Ibid.

²² Ibid.

²³ EPA; Symptoms of Mental Health Effects from Smoke Exposure (2025)

²⁴ EPA; Importance of Educating Patients and Health Care Professionals Before Smoke is in the Air (2025)

²⁵ EPA; Climate Change Impacts on Health (2025)

²⁶ Desai, Khraishah, Alahmad; Heat and the Heart, Yale Journal of Biology and Medicine (2023)

²⁷ NSW Government, Extreme heat – the basics

environment. In, addition working in a hot environment can contribute to other safety injuries because of a worker being fatigued, physically weak, having slower reaction times and poor judgment.²⁸ So not only, did this type of work affect the police officer, it was dangerous for other people involved. The Applicants argue that the Respondent did not fulfill its substantive and procedural obligations to take appropriate steps to safeguard the lives of Applicants according to Art. 2, nor judicial enquiry that should follow any occasion of the death.

34. In conclusion, in the present case the Applicant's lives were endangered as a result of the events complained of. In view of all the alleged facts the Applicants emphasize that both Respondents failed to fulfill their positive obligations under the ECHR, thus violating their right to life.

3.2. Violation of Art. 8

35. As all Applicants invoke Art. 8 of the ECHR and their allegations relate to the same factual circumstances, it is appropriate to consider these complaints jointly.

36. The Applicants submit that their right to respect for family and private life, which is protected under Art. 8 of the ECHR, was violated both by the States' failure to prevent forest fires and by the States' actions and omissions, which led to the death of the Applicant's husband, Mr. Michel Renko.

37. The Court has already established that Art. 8 of the ECHR may apply in environmental cases whether the pollution is directly caused by the State or whether State responsibility arises from the failure to regulate private industry properly.²⁹ The State has a positive obligation to take all measures that were not impossible or disproportionately economically burdensome with the objective of reducing GHG emissions to a safe level. The State was required to do everything in its power to do its share to prevent a global temperature increase of more than 1.5°C above pre-industrial levels. This necessarily included establishing a legislative and administrative framework to achieve that objective.³⁰

38. Firstly, the Applicants from Relandia stated, that the forest fire lasted about 12 days. During this time more than 3200 hectares of meadows, low vegetation, and forest were burned. The fire engulfed a small village, which was evacuated in time, and destroyed three family homes.

²⁸ Ibid.

²⁹ Case of Verein Klimaseniorinnen Schweiz and others v. Switzerland, app. No. 53600/20, §435

³⁰ Case of Verein Klimaseniorinnen Schweiz and others v. Switzerland, app. No. 53600/20, §§319-320

The fire was caused by spontaneous combustion due to severe drought. They lived under the constant threat of forest fires. Art. 8 of the ECHR is capable of being engaged because of adverse effects not only on individuals' health but on their well-being and quality of life and not only because of actual adverse effects but also sufficiently severe risks of such effects on individuals.³¹

39. The Applicants maintain that the Respondent interfered with their right to life protected under Art. 8 of the ECHR. The Applicants argued that the serious threat to their health, well-being and quality of life posed by dangerous wildfire sufficed to trigger positive obligations under Article 8. In the present case the Applicants submit that there was an interference with their right, contrary to the obligations the State had undertaken. The Respondent's omission and failure to act in accordance to its obligations were not necessary in a democratic society, as the conduct in question itself ran counter to the very notions of public safety and national security, as the Applicants lost their homes and land, with fire ultimately spreading into the neighbouring State. The Applicant state that the Respondent prevented them from enjoying their homes in such a way as to affect their private and family life adversely, without, however, seriously endangering their health.³² Moreover, by not acting accordingly, the State authorities also contributed to prolonging the situation.

40. Secondly, the Applicant from Rulonia stated, that the State's failure to ensure adequate measures for working in extreme environment during a natural disaster was a decisive factor leading to her husband's death.

41. The Applicant submits, that the State did not act in accordance with its obligations under Art. 8 of the ECHR, as it failed to ensure its workers well-being and to protect them from adverse effects on their health. In this connection the domestic authorities were under a duty to take reasonable preventive measures where they "knew or ought to have known at the time of the existence of a real and immediate risk" to the life or bodily integrity of an identifiable individual.³³

42. It follows from the above that complaints concerning the States' alleged failure to address climate change most appropriately fall into the category of cases concerning an activity, which is, by its very nature, capable of endangering an individual's life. The Applicants submit, that

³¹ Case of Verein Klimaseniorinnen Schweiz and others v. Switzerland, app. No. 53600/20, §435

³² López Ostra v. Spain, app. no. 16798/90, § 51

³³ Case of Milićević v. Montenegro, app. No. 27821/16, § 59

the two States violated Art. 8 by failing to fulfill their obligations under the climate agreement, thereby directly endangering the lives and health of individuals, and ultimately resulting in the death of Mr. Michael Renko.

3.2. Violation of Art. 6 and Art. 13 and Art. 14

42. As all Applicants from Relandia allege violations of Art. 6, Art. 13 and Art. 14 of the ECHR, which are in the present case inherently interrelated both factually and legally. In view of this connection, it is appropriate to consider these complaints together.

43. The Applicants' complaints that are made under Art. 6 of the ECHR, concerning the right to a fair trial, are complaints made regarding procedural fairness.³⁴ In considering whether the trial proceedings were fair within the meaning of Art. 6, the Court must consider the proceedings as a whole including the decision of the appellate courts.³⁵

44. The Court has stated in case law, such as *Kudła v. Poland*, that Art. 13 of the ECHR guarantees and effective remedy before a national authority.³⁶ The term effective means, that the remedy must be sufficient and accessible, fulfilling the obligations promptness and must enable the submission of a complaint about the alleged violation of the ECHR.³⁷ Thus, Art. 13 requires a domestic remedy before a “competent national authority” affording the possibility of dealing with the substance of an “arguable complaint” under the ECHR and of granting appropriate relief, Contracting States nevertheless being afforded a margin of appreciation in conforming with their obligations under this provision.³⁸

45. The Applicants also made complaints under Art. 14 of the ECHR, which enshrines the right not to be discriminated against in “the enjoyment of the rights and freedoms set out in the ECHR.” In practice the Court always examines Art. 14 in conjunction with another substantive provision of the ECHR.³⁹

46. Firstly, after the fires destroyed their homes and properties, the Applicants filed a lawsuit with the first-instance court in Relandia with the assistance from the organization Climate Action Now!. The lawsuit was dismissed on procedural ground, as it lacked any legal standing

³⁴ Practical Guide on Admissibility Criteria, § 354

³⁵ *Ebanks v. the United Kingdom*, app. no. 36822/06, § 74

³⁶ *Kudła v. Poland*, app. no. 30210/96, § 156

³⁷ *Paulino Tomás v Portugal*, 2003 and *Çelik and İmret v. Turkey*, app. no. 44093/98, § 59

³⁸ *Boyle and Rice v. the United Kingdom*, app. no. 9659/82 and 9658/82, § 52; *Powell and Rayner v. the United Kingdom*, app. no. 9310/81 § 31; *Vilvarajah and Others v. the United Kingdom*, app. no. 13448/87, § 122; *Chahal v. the United Kingdom*, app. no. 22414/93, § 145

³⁹ Guide on Art. 14 of the ECHR and on Art. 1 of Protocol no. 12 to the ECHR, §§ 2-3

because the organization represented among other Applicants, which was on the contrary of under Art. 77 of Relandia's Civil Procedure Act. The right to a fair trial, as guaranteed by Art. 6 of the ECHR, embodies the "right to a court", as everyone has the right to have any claim relating to his civil rights and obligations brought before a court.⁴⁰ The right to access court must be practical and effective,⁴¹ any potential limitations must not be restrict in such a way or to such an extent that the very essence of the right is impaired.

47. In this particular case, some of the Applicants represented by the organization were minors, which was contrary to the Respondent's national law. The Applicants stated that the absolute limitation of access to court did not pursue a legitimate aim, or alternatively, was not proportional to the legitimate aim pursued. The minor Applicants had no possibility to appear before the Court on their own, nor could they do so through representation by the organization. As they were unable to institute proceedings directly and independently, the very essence of their right to access court was impaired, and this could not be redressed by any remedy available under the Respondent's law.⁴² The Court has stated in case law, such as *Stanev v. Bulgaria*, that the right of access to the courts is not absolute and requires by its very nature that the State should enjoy a certain margin of appreciation. However, in situations involving minor Applicants, the State is required to put in place adequate procedural safeguards to protect such applicants to the greatest extent possible. The Respondent failed to fulfil its obligations, as there were no safeguards placed, and instead the right of access to court was subjected to an absolute restriction.

47. Secondly, as stated above, the Respondent is afforded a Moa in conforming to their obligations under Art. 13 regarding a domestic remedy and the substance of arguable complaint under the ECHR. The national authority before which a remedy will be effective may be judicial or non-judicial body.⁴³ The authority's powers and the procedural safeguards that it affords are taken into account in order to determine whether the remedy is effective. As Court stated in *Camenzind v. Switzerland*, excessively restrictive requirements may render the remedy ineffective. The remedies must be accessible for the person concerned. However, the remedy in this particular case was not ineffective just by not being directly accessible to the

⁴⁰ Guide on Art. 6 of the ECHR (civil limb), § 43

⁴¹ *Bellet v. France*, app. no. 2380/94, § 38

⁴² *Philis v. Greece*, app. no. 12750/87, 13780/88, 14003/88, § 65

⁴³ Collected edition of the "Travaux préparatoires" of the European Convention on Human Rights, vol. II, pp. 485 and 490, and vol. III, p. 651

person concerned,⁴⁴ but it was ineffective because the minors, who under domestic law lacked legal capacity, were unable to assert their rights even through a legal representative.⁴⁵

48. Thirdly, the Applicants submit that the Respondent infringed their rights protected under Art. 6 and 13, thus consequently also violating Art. 14, as it unjustifiably restricted their right of access to court and to an effective remedy on the basis of age.⁴⁶ The Applicants contend, that the Respondent's purported legitimate aim cannot be considered genuine, since it permitted active participation in one category of civil proceedings while denying it in another. Under the ECHR, the State has positive obligations to safeguard children's rights and to provide regulatory framework for their protection. The Applicants emphasize that the Respondent failed to adequately explain why such a distinction between civil proceedings was necessary. The State's actions were unjustified, unreasonable and disproportionate.

49. In conclusion, the Applicants submit that their right under Art. 6, 13 and 14 of the ECHR were violated as a result of the Respondent's failure to fulfil its obligations.

3.4. Violation of Art. 10 and Art. 11

50. The Applicants submit that the Respondent violated their right to freedom of expression and freedom of assembly and association, which are both protected by Art. 10 and Art. 11 of the ECHR.

51. The Court reiterates that notwithstanding its autonomous role and particular sphere of application, Article 11 must also be considered in the light of Article 10. The protection of opinions and the freedom to express them is one of the objectives of the freedoms of assembly and association as enshrined in Article 11.⁴⁷

52. On 1 August 2024 the applicant organised the protest against climate change and as a reminder of the severe risks associated with working in heat-hazardous conditions. The Applicants state that the organised and announced protest was dispersed by the police after they prohibited one of the Applicants, Mrs. Barbara Renko, to speak at all on the grounds of national security reasons. The Applicant complained of an infringement of their right to freedom of

⁴⁴ *Lithgow and Others v. the United Kingdom*, app. no. 9006/80; 9262/81; 9263/81; 9265/81; 9266/81; 9313/81; 9405/81 § 207

⁴⁵ *Margareta and Roger Andersson v. Sweden*, 61/1990/252/323, §101

⁴⁶ *Schwizgebel v. Switzerland*, app. no. 25762/07, § 85 and *Carvalho Pinto de Sousa Morais v. Portugal*, app. no. 17484/15, § 45

⁴⁷ *Freedom and democracy party (ÖZDEP) v. Turkey*, app. no. 23885/94, §3

expression and of assembly, in that the demonstration and the reading of a press statement had been prohibited by the police.

53. The Court observes at the outset that the right to freedom of assembly is a fundamental right in a democratic society and, like the right to freedom of expression, is one of the foundations of such a society.⁴⁸ It is clear from the Court case-law, such as *Ezelin v. France*, that the authorities have a duty to take appropriate measures with regard to lawful demonstrations in order to ensure their peaceful conduct and the safety of all citizens. The Court also notes that States must not only safeguard the right to assemble peacefully but also refrain from applying unreasonable indirect restrictions upon that right.⁴⁹ But as the Court said the freedom to take part in a peaceful assembly - in this instance a demonstration that had not been prohibited - is of such importance that it cannot be restricted in any way, so long as the person concerned does not himself commit any reprehensible act on such an occasion.⁵⁰

54. The state violated the rights under Arts. 10 and 11 by preventing the Applicant from participating and speaking at the protest without valid reasons. It unjustifiably dispersed the protest using excessive force on grounds of national security, which it failed to substantiate – following that the protest was peaceful and there were no indications that violence could occur. The sanctions complained of, however minimal, do not appear to have been "necessary in a democratic society".⁵¹ The measures taken by the Respondent were disproportionate and unreasonable, therefore the Applicants submit that the Respondent resorted to restrictive actions that endangered its own citizens rather than protecting them. It accordingly contravened Article 11. As the Court state in case law, such as *Navalnyy v. Russia*, the exceptions to the right to freedom of assembly must be narrowly interpreted. An interference with freedom of assembly in the form of the disruption, dispersal or arrest of participants in a given event may only be justifiable on specific and averred substantive grounds, which the State did not have.⁵² We are questioning the State's assertion concerning the necessity of the dispersal. It has not been argued or demonstrated that it would have been difficult for the police to contain or redirect the protesters, or control the situation otherwise, protect public safety and prevent any

⁴⁸ *Djavit An v. Turkey*, app. no. 20652/92, §56

⁴⁹ *Oya Ataman v. Turkey*, app. no. 74552/01, §36

⁵⁰ *Ezelin v. France*, app. no. 11800/85, § 53

⁵¹ *Ibid.*

⁵² *Case of Navalnyy v. Russia*, app. Nos. 29580/12, 36847/12, 11252/13, 12317/13 and 43746/14, § 137

possible disorder or crime. It follows that the authorities have not adduced relevant and sufficient reasons justifying the dispersal of the demonstration.⁵³

55. In conclusion, by not fulfilling their obligations under Art. 10 and Art. 11 the Respondent violated the Applicants' right to freedom of expression and freedom of assembly and association.

4. CONCLUSION

For the reasons above, the Applicants respectfully request the Court:

1. To adjudge and declare the application admissible;
2. To adjudge and declare that both Respondents have violated the Applicants' rights under Art. 2 and of the ECHR
3. To adjudge and declare that both Respondents have violated the Applicants' rights under Art. 8 and of the ECHR
4. To adjudge and declare that the Respondent (State of Relandia) has violated the Applicants' rights under Art. 6 and of the ECHR
5. To adjudge and declare that the Respondent (State of Relandia) has violated the Applicants' rights under Art. 13 and of the ECHR
6. To adjudge and declare that the Respondent (State of Rulonia) has violated the Applicants' rights under Art. 10 and of the ECHR
7. To adjudge and declare that the Respondent (State of Rulonia) has violated the Applicants' rights under Art. 11 and of the ECHR

⁵³ Case of Laguna Guzman v. Spain, app. No. 41462/17, § 51