

MEDIA BRIEFING: CAN Europe and GLAN bring the European Commission to court over its 2030 climate targets

This document provides an overview of the ongoing legal case initiated by CAN Europe and GLAN against the European Commission’s greenhouse gas emissions allocations. The case challenges the adequacy of the annual emissions allocations set under the Effort Sharing Regulation (ESR) and argues that the current national targets fail to align with environmental and human rights standards. This briefing addresses the case background, legal grounds, implications, and next steps. Key dates: the Commission will submit its final written observations by September 2024; a public hearing in Luxembourg is anticipated by the first half of 2025; and a ruling from the General Court is expected in the first half of 2026.

Background

1. Overview of the case

This case aims at forcing the EU Commission to revise Member States’ greenhouse gas emissions as set in their annual emissions allocations under the Effort Sharing Regulation¹. The case alleges that the annual emissions allocations (AEAs) decided by the European Commission are grossly inadequate to limit the greenhouse gases of the Union’s effort sharing sector and are contrary to environmental law. Environmental law is understood in a broad sense and includes the EU Treaties, the Charter of Fundamental Rights of the EU and the Paris Agreement.

This case follows a request for internal review submitted by the applicants to the European Commission, requiring it to revise the AEAs. The Commission rejected the request. With this legal case, we ask the European Court to intervene and annul the Commission’s decision to reject our request and, consequently, to revise the AEAs.

The case underlines that the EU’s overall climate ambition remains alarmingly off-track from limiting global warming to the 1.5°C limit of the Paris Agreement. It is also a call to accelerate climate action and go beyond the inadequate level of ambition of the Fit for 55 legislative

¹ [Regulation \(EU\) 2018/842](#) on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement.

package, thus enabling steep emission reductions in the short term and achieving at least -65% gross emission reductions by 2030.

This case was given priority over other cases by the President of the General Court of the EU, highlighting its urgency and importance. This will result in a ruling being adopted faster than usual.

2. What are the main claims being made?

The applicants allege that the AEAs permitted under a Decision adopted by the European Commission contravene environmental law and international commitments, in particular the [Paris Agreement](#), the [Charter of fundamental rights of the European Union](#), and [Article 191 of the Treaty on the Functioning of the European Union](#). These different tools require the European Union's policy on the environment to preserve, protect and defend the environment, to protect human health, and to promote international measures to combat climate change.

3. Who are the applicants in this case?

The applicants in this case are the NGOs Global Legal Action Network (GLAN) and Climate Action Network (CAN) Europe. There are no individuals involved in this case.

GLAN is an independent organisation made up of legal practitioners, investigative journalists and academics. GLAN identifies and pursues legal actions that promote accountability for human rights violations occurring overseas by working in partnership with other international and local grassroots organisations. GLAN provides the necessary platform to explore and develop legal strategies by combining legal and investigatory expertise.

CAN Europe is Europe's leading NGO coalition fighting dangerous climate change. With over 200 member organisations active in 40 European countries, representing over 1,700 NGOs and more than 40 million citizens, CAN Europe promotes sustainable climate, energy and development policies throughout Europe.

The applicants are supported by the Irish NGO Community Law & Mediation, which is acting as solicitor in this case. CLM provides free legal advice, mediation, and education services focused on environmental justice, alongside strategic advocacy and has significant expertise in environmental law and public interest litigation.

4. What specific actions or inactions by the European Commission are being challenged in this lawsuit?

The applicants challenge the Commission's decision to reject their request for internal review. They consider that the reasons used by the Commission to reject their request were based on errors of law and a clear misconstruction of the procedure used.

The applicants highlight that the AEAs are the direct result of the wider 2030 target, which sets emissions targets for the EU as a whole (a 55% reduction from 1990 levels), and for the effort sharing sector (a 40% reduction in aggregate), which is set by reference to the economy-wide 55% target. The applicants point to a series of legal flaws in the 2030 target and its accompanying Impact Assessment, from which it then followed that the AEAs contravene environmental law (in particular the Paris Agreement, the Charter of fundamental rights of the

European Union, and Article 191 of the Treaty on the Functioning of the European Union). In particular, the applicants allege that:

- The European Union was obliged to make an adequate assessment of the global emissions reductions required to hold global warming to within 1.5°C, but did not make such an assessment in adopting the 2030 target, or the AEs.
- The European Union was obliged to assess what constitutes a reasonable measure of its fair share of the emissions reductions required globally, and failed to make that assessment in adopting the 2030 target, or the AEs.
- The European Union was obliged to make an adequate assessment of the domestic emissions reductions that are feasible for the EU to achieve by 2030 and to set its emissions reductions targets accordingly, and failed to make that assessment in adopting the 2030 target, or the AEs.
- The European Union was obliged to assess the impacts of climate change on relevant fundamental rights in the 2030 target impact assessment, and failed to make that assessment.

5. When was the case filed, and in which court is it being heard?

The case was filed to the General Court of the European Union, in Luxembourg, in February 2024.

In August 2023, CAN Europe and GLAN submitted a request for internal review to the European Commission. The Commission adopted a decision rejecting this request in December 2023. In July 2024, the Commission filed its defence on the case. In August 2024, the applicants were granted the right to provide a reply.

6. Why are you challenging the European Commission only now?

In order to challenge the European Commission, we needed to wait until the end of the revision process of the Effort Sharing Regulation and the adoption of its implementing decision setting the AEs.

In July 2021, the European Commission proposed the Fit for 55 Package. This started the legislative process for the revision of the Effort Sharing Regulation. The revision was finalised in March 2023 by a vote in the European Parliament. On 28 June 2023, the European Commission adopted Implementing Decision 2023/1319 which revised the annual emissions allocations. This Implementing Decision was adopted to execute the revised Effort Sharing Regulation. This is the act that has been challenged by CAN Europe and GLAN.

CAN Europe already supported a legal challenge against the Effort Sharing Regulation in 2018 when it was adopted, as part of the [People's Climate Case](#) (see question 9 below). Given the climate emergency and accumulating scientific evidence demonstrating the gravity of the climate crisis, CAN Europe and GLAN decided to use the recently revised [Aarhus Regulation](#) to require judges to assess the legality of the revised AEs. Since 2021, a revision of the Aarhus Regulation allows NGOs to challenge AEs – and other environmental decisions.

Legal grounds and objectives

6. What is the legal procedure used in this case?

NGOs – unlike Member States – do not have direct access to the EU's courts. To submit a case like today's case, they first need to complete an administrative step known as an 'internal review request'. This first step was done in August 2023. The Commission replied unsatisfactorily in December 2023. The NGOs are now challenging the Commission's reply in front of the EU General Court. The legal source for this procedure stems from the EU Aarhus Regulation which was revised in 2021.

7. How does this case relate to existing EU climate laws and regulations?

This case relates to the Effort Sharing Regulation and its implementing decisions adopted by the European Commission.

In parallel to establishing targets for the reduction of emissions in the Member States by 2030, the Effort Sharing Regulation defines AEAs for the years 2021 to 2030. For that purpose, the European Commission provides each Member States with a number of emission allocations (each corresponding to a tonne of CO₂ equivalent) for each of the years in the period, and the number of allowances decreases every year. In 2023, the target in the ESR was amended following the Fit for 55% legislative package. The Commission calculated revised AEAs for each Member States. These AEAs took effect in Commission Implementing Decision 2023/1319, which is the decision targeted by the applicants.

8. What outcomes are the plaintiffs seeking through this litigation?

With this case, the applicants request the Commission to revise the AEAs and take all necessary steps to rectify the contravention to environmental law resulting in increased efforts to cut greenhouse gas emissions by 2030 beyond the currently enshrined targets.

9. Are there any precedents for this type of climate litigation before EU Courts?

There is no precedent for directly challenging the AEAs under the Effort Sharing Regulation.

A few years ago, the [People's Climate Case](#) took place before the Court of Justice of the EU. This case was coordinated by CAN Europe and aimed at annulling the main climate legislation (ESR, ETS and LULUCF Regulations) for their insufficient climate ambition. The case was dismissed due to admissibility reasons. The EU Court refused to address the applicants' concerns, arguing that they were not directly and individually affected by climate policies and therefore not entitled to bring such a challenge.

Implications and impact

10. What could be the potential implications of this case for EU climate policy and legislation?

A favourable decision would pressure the European Commission to adopt immediate actions, additional to the current climate policies, to enable steep emission reductions in the short term and move substantially beyond the current emission reduction of 55% target by 2030, ideally towards at least 65% gross emissions reductions in consideration of the Paris Agreement goal.

11. How might a ruling in favour of the plaintiffs affect other Member States and their climate policies?

A ruling in favour of the plaintiffs would only be legally binding on the European Commission, which could be required to revise the AEAs. By doing so, this would require Member States to adopt additional policies and measures in the effort sharing sectors to achieve their revised AEAs.

12. What impact could this case have on the European Commission's ability to implement future climate initiatives?

This case will not impact the Commission's ability to implement future climate initiatives. Whatever the outcome, the Commission will keep the same competences in relation to climate change.

Next steps

16. What are the next key dates and milestones in this litigation process?

The Commission will provide written observations one last time, in September. The case will then turn to its oral phase, with a public hearing in Luxembourg. Usually, a hearing can be expected during the first half of 2025. A ruling can reasonably be expected within six months of the hearing.

17. How long is the litigation expected to take, and when might a final ruling be expected?

The procedure started with the request for internal review back in August 2023 and might end by February 2026 with the ruling by the Court.

In May 2024, the President of the Court gave this case priority over others, as per Article 67(2) of the [Rules of Procedure of the General Court](#). This means that the above timeline could be accelerated.

18. What happens if you lose/win? If the court rules against you, what will be your next steps? Are there other legal avenues you plan to pursue?

If we win, the European Commission will need to revise the AEAs. If we lose, the AEAs will remain the same as they are now.

The decisions of the General Court may, within two months, be subject to an appeal before the Court of Justice, limited to points of law.

In any case, we will continue to advocate to the EU institutions for immediate urgent actions additional to the Fit for 55 laws to enable steep emission reductions in the short term and move substantially beyond the inadequate -55-57% net EU emission reductions target for 2030, enabling the EU to achieve at least -65% gross emission reductions by 2030, compared to 1990 levels.

Broader context

19. How does this case fit into the broader global context of climate litigation?

Climate change litigation continues to grow in importance year-on-year as a way of either advancing or delaying effective action on climate change. In 2022, the Intergovernmental Panel on Climate Change (IPCC) recognised the role of litigation in affecting “the outcome and ambition of climate governance”. There are many cases that exemplify the concrete impacts of climate litigation. In 2021, a [German court](#), for instance, invalidated sections of Germany’s Federal Climate Protection Act, finding that the law conflicted with constitutional rights, such as the rights to life and health. In response, the government enacted a new law with steeper emission cuts.

Another example worth mentioning is the recent judgement from the European Court of Human Rights (ECtHR) in the [Klimaseniorinnen case](#), in which the Court found a violation of human rights in respect of Switzerland due to its inadequate climate legal framework. This ruling could influence the present case, which also raises issues relating to fundamental rights (see question below).

This case fits in this broader context. The applicants are seeking benefits beyond their sole situation.

20. What are the potential implications on this case stemming from the recent ruling from the ECtHR in the Klimaseniorinnen case?

The ECtHR held that States must adopt science-based targets consistent with limiting global warming to 1.5°C. Central to the applicants’ claim in this case is that the EU’s 2030 targets have not been adopted based on any proper assessment of the best available climate science. In its defence to the applicants’ case before the General Court, filed after the *KlimaSeniorinnen* ruling was delivered (the applicants filed their initial ‘application’ prior to this ruling), the Commission does not refer to the ruling. Nor does it contest the applicants’ claim that its emissions targets are not science-based.

The role of the European Commission

21. How has the European Commission defended its climate policies and actions in response to this lawsuit?

In its response to the request for internal review, the European Commission stated that “the Union 2030 target is fully consistent with the long-term temperature goal of the Paris Agreement”. It explained that it had duly analysed the impacts of the proposed measure in view of the relevant fundamental rights. It also asserted that there are no provisions that would have required it to carry out the science-based assessments postulated by the applicants (feasibility analysis, appropriate measure of the EU’s equitable share of the required global emissions reductions).

In its defence, the European Commission argued that the application should be found inadmissible.

22. What statements or actions has the European Commission taken since the lawsuit was filed?

The European Commission filed its defence on 8 July 2024. It has not publicly communicated about the case.

23. How might this litigation affect the European Commission's relationship with member states and other stakeholders?

If the Court rules in favour of the applicants, the European Commission will need to revise the AEAs. Each EU Member State will then have new AEAs, reflecting the need for enhanced climate action.

CONTACT:

crisrina.dascalu@caneurope.org (communications)