



Fundamental Rights and Climate Change

Exploring New Perspectives and Corresponding Remedies

EDITED BY

Alicja Sikora-Kalèda • Inga Kawka

Krakow Jean Monnet
Research Papers

Fundamental Rights and Climate Change

**Exploring New Perspectives
and Corresponding Remedies**

Krakow Jean Monnet Research Papers

4

Fundamental Rights and Climate Change

Exploring New Perspectives and Corresponding Remedies

EDITED BY

Alicja Sikora-Kalèda · Inga Kawka



**KSIĘGARNIA
AKADEMICKA
PUBLISHING**

Kraków 2025

Alicja Sikora-Kalèda
Jagiellonian University, Kraków, Poland
ID <https://orcid.org/0009-0001-1204-7020>
✉ alicja.1.sikora@uj.edu.pl

Inga Kawka
Jagiellonian University, Kraków, Poland
ID <https://orcid.org/0000-0001-6909-5798>
✉ inga.kawka@uj.edu.pl

© Copyright by Wydział Prawa i Administracji UJ and individual authors, 2025

Review: Prof. dr hab. Dagmara Kornobis-Romanowska

Language editor: Lily Buchanan

Cover image: © *Celadon lakes* by Alicja Sikora-Kalèda (2022)

Cover design: Marta Jaszczuk

ISBN 978-83-8368-246-4 (print)

ISBN 978-83-8368-247-1 (PDF)

<https://doi.org/10.12797/9788383682471>

With the support of Jean Monnet Activities within ERASMUS+ Programme of the European Union

Co-funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Education and Culture Executive Agency (EACEA). Neither the European Union nor EACEA can be held responsible for them.



Co-funded by
the European Union

KSIEGARNIA AKADEMICKA PUBLISHING

ul. św. Anny 6, 31-008 Kraków

tel.: 12 421-13-87; 12 431-27-43

e-mail: publishing@akademicka.pl

Online bookstore: <https://akademicka.com.pl>

TABLE OF CONTENTS

Introduction	7
ALICJA SIKORA-KALÉDA	
Rights in the Era of Climate Change: Contemplating the Limits of Human Rights as Instruments of Pressure for the Planetary Cause.....	9
ILONA PRZYBOJEWSKA	
The Bad Condition of the Environment as the Grounds for Liability of the State Treasury: Reflections on the Background of the Resolution by Polish Supreme Court of 28 May 2021 in the Case III CZP 27/20	47
MARIUSZ BARAN	
Damage Action for the Individual – Challenges for the National Courts in the Enforcement of EU Environmental Law: Remarks on the Judgment of the Court of Justice in the Case C-61/21 <i>Ministre de la Transition Écologique</i> (JP).....	79
MARTYNA KRYSZMAN-RYDLEWICZ	
Between the Legal Qualification of Climate Claims and the Law Applicable to Their Resolution from the Perspective of Polish Law	111
ANNA PODOLSKA, OLGA ŚNIADACH	
Reframing Human Rights: Addressing Food Insecurity in a Global Context	135
OLGA HAŁUB-KOWALCZYK	
Food Security and the Right to Food in the European Union	153

ANETA SUCHOŃ
Proposal for a Directive of the European Parliament and of the Council
on Soil Monitoring and Resilience (Soil Monitoring Directive) of 5 July 2023
in the Context of the Right to Health, Food and Information Concerning
the Environment169

INGA KAWKA
Enhancing the EU Green Transition through the Protection of Fundamental
Rights in the Digital Environment193

DIANA IONESCU
Environmental Public Interest Litigation in Romania: Recent Developments
in Domestic Courts and the Implications of the CJEU Judgment
in Case C-252/22213

ELŻBIETA SZCZYGIEŁ, PAULINA SZYJA, KATARZYNA KOWALSKA, RENATA ŚLIWA
Development of Green Skills as an Educational Platform243

YOUNG SCHOLARS SECTION

NIKOLAS KECKHUT
Climate-Induced Migration, a Dangerous Legal Gap in European Asylum
Law.....263

Name Index.....275

INTRODUCTION

*The environment is where we all meet;
where we all have a mutual interest;
it is the one thing all of us share.*

Lady Bird Johnson

The monograph outlines the growing importance of fundamental rights in the European Union, particularly in the context of environmental protection and the fight against climate change. These rights have become a cornerstone in shaping policies that address ecological challenges while balancing economic and social aspects. The European Green Deal (EUGD), a landmark initiative, embodies the EU's commitment to transitioning into a climate-neutral, modern economy by 2050. This ambitious goal requires comprehensive legislative action and coherence in implementing policies across various sectors, ensuring that all measures align with and uphold fundamental rights as enshrined in the EU legal framework.

This monograph is the culmination of scholarly work inspired by discussions from the conference titled 'Fundamental Rights and Climate Change in EU Law and Beyond – Mapping Fundamental Rights, Nature's Rights, and Corresponding Legal Remedies,' organized in September 2023 as part of the Jean Monnet Module project, 'Sustainability and Climate Change in EU Law.' This academic event, hosted by the Chair of European Law at the Jagiellonian University, brought together experts from diverse fields to discuss and exchange perspectives on sustainability and the legal frameworks within the EU. The insights shared during the conference laid the foundation for the analyses presented in this book, highlighting the complex interplay between fundamental rights, environmental challenges, and legislative coherence.

The chapters of this book reflect a collective scholarly effort to explore diverse aspects of fundamental rights and their intersections with environmental law within the EU framework. The opening chapter, authored by Alicja Sikora-Kalèda investigates the limits of human rights as instruments to advocate for global climate action. It examines how climate litigation impacts human rights and evaluates the potential evolution of environmental rights in EU law. Ilona Przybojewska contributes with an analysis of how poor environmental conditions can lead to state liability, referencing a notable 2021 Polish Supreme Court resolution. Her work probes the extent to which environmental issues can be recognized as affecting personal rights and the broader implications of this recognition.

This monograph aims to serve as a comprehensive resource for legal practitioners, scholars, and policymakers, encouraging further dialogue on the integration of environmental and human rights within the EU legal system.

Alicja Sikora-Kalèda

Inga Kawka

ANNA PODOLSKA¹

OLGA ŚNIADACH²

REFRAMING HUMAN RIGHTS

ADDRESSING FOOD INSECURITY IN A GLOBAL CONTEXT

ABSTRACT: The purpose of this chapter is to draw attention to the flawed perception of the right to food solely from the perspective of a social right, whereas it is inextricably linked to other human rights. The right to food is very often cited as exemplifying the weakness of human rights. It illustrates a situation in which there is a perceptible inconsistency between the rights on one side and the obligations on the other. The right to food is not unattainable, but it is unfortunately unrealised. Food is the most basic human need, the lack of food security has negative effects on all other levels: economic, social and political. In the past, problems related to food provision were local in nature, nowadays, in a globalising world, the food problem has become a global problem. Global problems are inter-linked. Human rights, in their universality, contain prerogatives that are vested in everyone. The addressee of these rights is the state and, increasingly as of late, the international community.

KEYWORDS: human rights, food security, right to food

1. Introduction

Humanity has struggled with food access for almost all of recorded history. Malnutrition is still a major problem notwithstanding the unquestionable advancement of technology and overall improvement in living standards. The right to food was included in the list of human rights during the time of their codification, mainly

¹ Anna Podolska, University of Gdańsk, Faculty of Law and Administration, <https://orcid.org/0000-0002-5380-9570>.

² Olga Śniadach, University of Gdańsk, Faculty of Law and Administration, <https://orcid.org/0000-0003-1707-4535>.

as a social right.³ On the one hand, this emphasises the importance of food for human beings and, in line with the idea of human rights, creates new responsibilities for governments. On the other hand, conceiving of it a social right undermines its realisation.⁴ Framing the human right as a social right means that the obligation of the state changes from “must” to “should”.

The purpose of this chapter is to draw attention to the flawed perception of the right to food solely from the perspective of a social right, whereas it is inextricably linked to other human rights. Given the difficulties in establishing claims based on social rights, this approach makes it possible to assert the responsibility of states for malnutrition. Such an argument can be drawn from the jurisprudence of international bodies: UN committees, the European Court of Human Rights (hereinafter the “ECHtR”), the Inter-American Court of Human Rights (hereinafter the “IACHR”), the African Court of Human and Peoples’ Rights (hereinafter the “ACHP”), and the Court of Justice of the European Union (hereinafter the “CJEU”). However, it is important to be aware that, for the time being, we are at the beginning of the journey of strengthening the right to food in international courts. In this context, however, it is necessary to consider not only the formal control of the implementation of international obligations by states, but rather the possibility of actually realising the right to food. Such a question is particularly pertinent in the context of the long-standing debate on the food insecurity. While climate change has been the primary cause of the decline in food security, other unexpected factors that have shaken food security in recent years are a pandemic and the war in Ukraine. Furthermore, it will be debated how the right to food is realised in the face of these ongoing crises and the fact that there is still a significant proportion of consumers in the world who do not have sufficient income to buy food. The realisation of the right to food rests on two pillars: legislating the right to food and implementing the right through jurisprudence and policy.

2. Food insecurity

At the World Food Conference of 1974 the first definition of food security was given: ‘availability at all times of adequate world food supplies of basic foodstuffs to sustain a steady expansion of food consumption and to offset fluctuations in production and

³ E.g.: United Nations, *International Covenant on Economic, Social and Cultural Rights*, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights> (28.09.2024).

⁴ The term “realisation” is used in the text to refer to the real (not just theoretical) provision of the right to food.

price.⁵ The Food and Agriculture Organization of the United Nations (hereinafter “FAO”) broadened the definition of food security in 1983 by suggesting that “ensuring food security means that all people at all times have both physical and economic access to the basic food they need.”⁶ Probably the most well-known definition of food security was put forth later at the World Food Summit (1996): “Food security, at the individual, household, national, regional and global levels is achieved when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life.”⁷ The four pillars of food security are availability, access, utilisation, and stability. In 2020, the High-Level Panel of Experts for the Committee on World Food Security⁸ recommended adding agency and sustainability to these pillars.

By 2050, the world’s population is predicted to reach 9.8 billion people.⁹ Therefore, in order to maintain the current levels of consumption, agriculture must produce 60% more food globally. Urbanisation will lead to an increase in food demand. Due to the fact that the global food system is currently responsible for at least 30% of the greenhouse emissions that contribute to climate change, existing assessments are concerned about how the growing demand for meat and milk will affect crop productivity and the intensification of agricultural production. It means that agriculture contributes to climate change and is also impacted by negative effects of climate change.¹⁰ The effects of recent climate-related extremes, like heat waves, droughts, floods, and hurricanes, highlight how vulnerable certain ecosystems and numerous human systems are to the current variability in the climate. Global warming is expected to increase the risks associated with climate change to human security, livelihoods, food security, water supply, and economic growth. It is predicted that yield reductions for maize, rice, wheat, and possibly other cereal crops will be less significant if global warming

⁵ United Nations, *Report of the World Food Conference*, Rome 1974.

⁶ Food and Agriculture Organization of the United Nations, *World Food Security: A Reappraisal of the Concepts and Approaches*, Rome 1983.

⁷ United Nations, *Rome Declaration on World Food Security and World Food Summit Plan of Action*, Rome 1996.

⁸ High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security, *Food Security and Nutrition: Building a Global Narrative towards 2030*, Rome 2020.

⁹ United Nations, *World Population Projected to Reach 9.8 Billion in 2050, and 11.2 Billion in 2100*, <https://www.un.org/en/desa/world-population-projected-reach-98-billion-2050-and-112-billion-2100> (24.09.2024). Estimates vary slightly depending on the source, e.g. see: United Nations, *Population*, <https://www.un.org/en/global-issues/population> (24.09.2024).

¹⁰ M. Adamczak-Retecka, O. Śniadach, *Climate Change and Food Security: The Legal Aspects with Special Focus on the European Union*, Gdańsk 2018, p. 21.

is kept to 1.5°C.¹¹ Depending on the degree of changes in feed quality, the spread of diseases, and the availability of water resources, it is predicted that livestock will suffer from rising temperatures.¹²

There are approximately 900 m. people who suffer from hunger in the world, with the majority of them living in Asia and Africa. The overwhelming figures and statistics in this respect may be viewed from a variety of perspectives, with human rights being one, if not the central, perspective. Hunger is a global problem and it should be treated as such. It has also become an interdisciplinary issue with a common platform of hot discussion driven towards the creation of a food security concept that does not only embrace human existence, but it also corresponds to and correlates with economic, energy or ecological security categories.

Food, despite its elemental importance for humanity, is treated as a product in free market relations. Expenditure on food consumes more than 6.7 to 56% of global expenses, depending on the region. It is worth pointing out that the spread of the share of consumption in household budgets given above presents a characteristic trend – in countries where obesity is a problem (USA, UK), less than 10% of all costs are spent on food. In African countries (the situation is worst in Nigeria and Kenya), which are mainly affected by hunger, it is more than 50%.¹³ Although we are theoretically able to feed 12 billion people, access to it (the growth of overweight people is much faster than that of undernourished people) and the structure of food (too many carbohydrates and fats) do not provide security now or in the future. More than 900 million individuals were severely food insecure in 2022.¹⁴ Nearly one-third of the global population lacks access to adequate food, and approximately 3 billion individuals cannot afford a healthy diet.

¹¹ See more: Ch. Zhao et al. *Temperature Increase Reduces Global Yields of Major Crops in Four Independent Estimates*, "Proceedings of the National Academy of Sciences" 2017, vol. 114, no. 35. Intergovernmental Panel on Climate Change, *Summary for Policymakers* [in:] *Global Warming of 1.5°C: An IPCC Special Report on the Impacts of Global Warming of 1.5°C Above Pre-Industrial Levels and Related Global Greenhouse Gas Emission Pathways, in the Context of Strengthening the Global Response to the Threat of Climate Change, Sustainable Development, and Efforts to Eradicate Poverty*, Cambridge 2018.

¹² *Ibidem*, p. 32.

¹³ *Jaką część dochodów wydajemy na jedzenie?*, "Forsal" 2016, <https://forsal.pl/artykuly/1003797,jaka-czesc-dochodow-wydajemy-na-jedzenie-infografiki.html> (28.01.2024).

¹⁴ FAO, IFAD, UNICEF, WFP, WHO, *The State of Food Security and Nutrition in the World Report 2023: Urbanization, Agrifood Systems Transformation and Healthy Diets across the Rural-Urban Continuum*, Rome 2023, <https://reliefweb.int/report/world/state-food-security-and-nutrition-world-report-2023-urbanization-agrifood-systems-transformation-and-healthy-diets-across-rural-urban-continuum> (29.01.2024).

Food is to be considered as any substance or product of plant or animal origin that is intended to be consumed. Food is a specific subject of regulation, due to its characteristics which have no equivalent in any other product, above all because it is the only product necessary for human existence. As Philip Alston underlined, food is first and foremost a commodity which is traded annually for billions of dollars and its status as human right is very much secondary to this fact.¹⁵ The idea of looking at hunger through the prism of human rights was initiated and crystallised upon the publication by Amartya Sen of “Poverty and Famines.”¹⁶ He has noted that markets are interconnected with human rights in terms of economy, social and cultural rights.

3. The right to food

The inaugural World Climate Conference took place in Geneva in 1979, and since then it has been evident that climate change-related phenomena, such as droughts, elevated temperatures, heightened soil salinity, more frequent storms, and other extreme weather events, are significantly impacting agriculture and ultimately food security. In 2015 Hilal Elver, the UN Special Rapporteur on the Right to Food has stated that climate change ‘poses severe and distinct threats to food security.’¹⁷ A. Saab points out that many researchers believe that climate change will become the main cause of food insecurity in the future.¹⁸ However, recent events, most notably the conflict in Ukraine, have served as a reminder that warfare is also a very significant threat. Access to food is a dangerous tool of political pressure. It is dangerous because it is possible to exterminate populations (not only from countries directly affected by the conflict), without much cost or risk to military forces. European Commission pointed out major problems that started with global food security – as the Russian invasion in Ukraine has serious consequences for global food security mainly in Africa, the Middle East, and Western Balkans. Those regions are already affected by pre-existing food insecurity. “We are witnessing how Russia is weaponizing its energy supplies.

¹⁵ P. Alston, *International Law and the Right to Food* [in:] *Food as a Human Right*, A. Eide et al. (eds), Tokyo 1986, p. 163.

¹⁶ A. Sen, *Poverty and Famines: An Essay on Entitlement and Deprivation*, Oxford 1981.

¹⁷ United Nations, *Climate Change Poses Major Threat to Food Security, Warns UN Expert: Climate Change and Food Security*, 2015, <https://www.ohchr.org/en/press-releases/2015/11/climate-change-poses-major-threat-food-security-warns-un-expert> (23.09.2024).

¹⁸ A. Saab, *Narratives of Hunger in International Law: Feeding the World in Times of Climate Change*, Cambridge 2019, p. 3.

And this is having global repercussions. Unfortunately, we are seeing the same pattern emerging in food security,” said Ursula Von der Leyen in May 2022.¹⁹

The idea of the right to sufficient food is closely related to the idea of food security. The right to food was proclaimed in the acts of international law as well as in the constitutions of a number of countries. Discussion should thus open up with the Universal Declaration of Human Rights,²⁰ which under Art. 25 provides that “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food (...)”. From the normative perspective, the Covenant on Economic, Social and Cultural Rights,²¹ which under Art. 11 defines the right to food, carries a fundamental significance. It is also worth noting that a closer study shows that the same provision does apparently determine two rights. On the one hand, it stipulates the right to an adequate standard of living, including food, while on the other hand, paragraph 2 of this Article recognises the right of everyone to be free from hunger. In fact, this Covenant creates a connection among the right to life, the right to physical integrity, the right to be protected against genocide and the right of any person to be protected against hunger. In its General Comment No. 12,²² the CESCR indicated that the “core content” of the right to food implied “[t]he availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture” and “[t]he accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights”. A variety of reports and publications have been produced by the Food and Agriculture Organization of the United Nations (FAO), the Committee of Economic, Social, and Cultural Rights (CESCR), and the Office of the High Commissioner for Human Rights (OHCHR) to provide an explanation of the right to food. A few of important documents that should be mentioned at the regional level are the African System of Human Rights²³ and the Charter of the Organization of American States,²⁴ namely Article 34.

¹⁹ EU's von der Leyen Says Russia Is Using Food Supplies as a Weapon, “Reuters” 2022, <https://www.reuters.com/world/europe/eus-von-der-leyen-says-russia-is-using-food-supplies-weapon-2022-05-24> (28.09.2024).

²⁰ United Nations, *Universal Declaration of Human Rights*, Paris 1948, <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (20.09.2024).

²¹ United Nations, *International Covenant...*

²² United Nations High Commissioner for Refugees, *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, 1999.

²³ United Nations, *International Norms and Standards Relating to Disability*, <https://www.un.org/esa/socdev/enable/comp303.htm> (24.09.2024).

²⁴ Cf. <https://www.iachr.org/Basicos/English/Basic22.Charter%20OAS.htm> (23.09.2024).

There are a number of national constitutions that take into account the right to food or some of its aspects. The constitutional recognition of the right to food can be broken down into four categories: direct recognition as a human right, the right to food implicit in broader human rights, explicit recognition of the right to food as a goal, and indirect recognition through the interpretation of other human rights.²⁵ In accordance with the report by FAO on the implementation of the right to food in the world, 23 states recognise the right to food as a human right, including nine states that recognise it as an autonomous right (e.g. Art. 27 of the Constitution of the Republic of South Africa), ten states guarantee in their constitutions the right to food solely to certain categories of people, such as children (Art. 44 of Colombia's Constitution), with five states in this group pointing at this right as a component of another human right (e.g. Art. 21 of the Constitution of the Republic of Belarus).²⁶ Notwithstanding the fact that constitutional standards do not correspond directly to the right to food in a number of states, the right in question derives from other human right, *inter alia*, the right to life. Thus it seems rather indisputable that the absence of a direct reference to the right to food in the domestic law does not amount to the absence of safety and security in this range.

The right to food has been classified among social, economic, and cultural rights, the so-called second generation of human rights. While in traditional understanding, first-generation rights are subject to unconditional realisation by the state, which is primarily to refrain from acting; the so-called second-generation rights are realised through the active action of the state, which gradually, according to its capacities, ensures their realisation. Such norms are considered programmatic norms, which do not create hard obligations but rather define an obligation to pursue general social goals, are open-ended, and leave their addressees free to choose their path. In fact, the meaning of programmatic norms is a description of goals and not of rights. However, as with other human rights, the right to food requires the state to act in a way that respects, protects, and realises this right. Respect is to be understood in this case as state behaviour that does not prevent access to food. Protection on the part of the state is to ensure that it takes appropriate measures to ensure that subjects are not deprived of access to food. States have two categories of duties relating to right to food. They have domestic duties and external duties to fulfil. The other duty-holders are individuals

²⁵ L. Knuth, M. Vidar, *Constitutional and Legal Protection of the Right to Food around the World*, Rome 2011, p. 14.

²⁶ Food and Agriculture Organization Legal Office, *Implementation of the Right to Food in National Legislation* [in:] *The Right to Food: Extracts from International Instruments*, <https://www.fao.org/4/w9990e/w9990e11.htm> (24.09.2024).

and the international community.²⁷ This division is of great importance in the context of the ongoing crises, which are global in nature and have a definite impact on the perception of food security. Pointing out that the responsibility rests with different categories of actors should provide a platform for finding solutions in a spirit of solidarity. The Right to Food Resolution encourages all the States to “take steps with a view to achieving progressively the full realization of the right to food.”²⁸

4. Recognition of a right to food as a civil or social right?

The real problem with the right to food lies in its enforcement. While dignity, which encompasses the right to food, is a right that must be absolutely respected, access to food itself is treated as a social right. This applies not only from the doctrinal division of rights into personal rights, political rights and social, economic and cultural rights, but also to the positioning of the right to food in acts dedicated to precisely this third group of rights. Moreover, this has legal consequences. The language used to instrumentalise these rights is also characteristic, e.g.: “will take appropriate steps”, “recognise the right”, “shall take (...) the measures.”²⁹ In practice, this means fewer responsibilities for the state and a more difficult way for individuals to assert the implementation of the right. States are held accountable for their ability and efforts to ensure an appropriate standard. Absolute implementation is not expected, but states shall do what is possible in a given social or economic situation.

The primary form of legal redress for the realisation of human rights and, in practice, also for the redress of violations taking place, are complaint procedures to international bodies. Of course, it should be noted that international bodies act in a subsidiary manner when previous steps taken directly against a state are ineffective. States must also agree to the jurisdiction of the international body. International agreements guaranteeing social rights are not as widely ratified as documents containing personal or political rights and complaints procedures are mostly contained in optional protocols to the agreement.

The Committee on Social, Economic and Cultural Rights ensures the monitoring of compliance with the International Covenant on Economic, Social and Cultural

²⁷ P. Alston, *International Law...*, p. 169.

²⁸ United Nations General Assembly, *The Right to food: Resolution Adopted by the General Assembly*, 2023, <https://www.refworld.org/legal/resolution/unga/2003/en/12600> (24.09.2024).

²⁹ United Nations, *International Covenant...*, Art. 11.

Rights in individual cases acts on the basis of the Optional Protocol.³⁰ Although this was the first international agreement that explicitly referred to the right to food as a human right, so far the Committee has not dealt with the implementation of this right.³¹

The complexity of the right to food and its interrelationships with other rights means that cases concerning this matter will also arise in the adjudication of actors other than those dedicated to economic, social and cultural rights.

The Human Rights Committee, which upholds compliance with the International Covenant on Political and Civil Rights, has spoken out on the extensive soybean cultivation and the indiscriminate use of toxic agrochemicals causing contamination of the water supply and food insecurity (in the mainly right to life context).³² In the case considered by the Committee on the Rights of the Child, on the other hand, the right to food was invoked in the context of adequate housing.³³ In none of the cases has the right to food been the basis of the complaint, it has only been referred to in the grounds, illustrating the difficult situation of the complainants. Also, no other specialised Committee has so far dealt with a complaint of neglect of the right to food.³⁴

The right to food, or more broadly, the matter of access to food appears much more frequently in the jurisprudence of the European Court of Human Rights primarily, however, in relation to Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter the “ECHR”).³⁵ Another

³⁰ United Nations, *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*, New York 2008, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsq_no=IV-3-a&chapter=4 (29.09.2024).

³¹ In one case, the Committee, in deciding on an adequate alternative housing, examined state social support consisting, inter alia, of the provision of food by national authorities, see: United Nations, *Views Adopted by the Committee under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, Concerning Communication No. 134/2019*, 2 May 2023.

³² Human Rights Committee, *Views Adopted by the Committee under Article 5 (4) of the Optional Protocol, Concerning Communication No. 2751/2016*, 20 September 2019; Human Rights Committee, *Views Adopted by the Committee under Article 5 (4) of the Optional Protocol, Concerning Communication No. 2728/2016*, 24 October 2019.

³³ United Nations Committee on the Rights of the Child, *Decision Adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, Concerning Communication No. 134/2020*, 7 March 2023.

³⁴ Nevertheless, there is no doubt that the UN system recognises the problem of hunger. It has established the Special Rapporteur on the right to food. The activity of the Special Rapporteur on the right to food is based on the drafting of reports and recommendations, while it is not equipped with the power to deal with individual complaints, see: United Nations, Special Rapporteur on the Right to Food, <https://www.ohchr.org/en/special-procedures/sr-food> (28.01.2024).

³⁵ European Court of Human Rights, *Convention for the Protection of Human Rights and Fundamental Freedoms*, Rome 1950. E.g.: European Court of Human Rights, *Case of Ciorap V. The Republic*

grounds to which the Court has referred is the right to life or the right to privacy.³⁶ Clare James notes that the cases in which food access was considered can be divided into three categories.³⁷ In the first place, and these are the most frequent cases, these are the rights of the detainees – the lack of adequate food (which may also refer to individual dietary requirements, both on the grounds of health and religion), was an element justifying the finding of a violation of the prohibition of torture.³⁸ It should be pointed out, however, that the right to food was one element, but not the only or main one. In such cases, it was also linked to other violations, such as inadequate sanitary conditions.³⁹ The second group of cases involves people isolated in psychiatric hospitals. The third type of situation involves migrants.⁴⁰ The common feature is the detention and the degree of dependence of the applicants on the State. The Court classifies them as ‘vulnerable persons’.

Although there have not yet been any judgements that explicitly recognise the lack of access to food as a violation of the ECHR, it is likely that if there are any, they will relate to “extreme poverty” and inadequate social protection.⁴¹ A lack of access to adequate food is thus treated, as in the jurisprudence of UN Committees or the European Committee of Social Rights, as a situation strongly related to poverty, which also confirms the thesis of A. Sen.⁴²

Based on the ECtHR’s case law, the following conclusions can be drawn:

- (a) The State is only responsible for access to food when a person is dependent on a State institution (situations of detention or cases of highly vulnerable

of Moldova (No. 3) (Application no. 32896/07), Strasbourg 2012, European Court of Human Rights, *Case of Rotaru v. Moldova (Application no. 51216/06)*, Strasbourg 2011.

³⁶ It should be noted that a Council of Europe has established the European Social Charter with the European Committee of Social Rights as its guardian. The Committee only deals with group complaints and so far food issues have secondary to health care, social support, including the family, the fight against poverty and social exclusion.

³⁷ C. James, *Food, Dignity, and the European Court of Human Rights*, “Legal Studies” 2023, vol. 44, no. 3.

³⁸ Recently e.g.: European Court of Human Rights, *Ukraine v. Russia (re Crimea) [GC] – 20958/14 and 38334/18*, 2024; European Court of Human Rights, *Case of Zarema Musayeva and Others v. Russia (Application no. 4573/22)*, Strasbourg 2024; European Court of Human Rights, *Case of K.J. and Others v. Russia (Applications nos. 27584/20 and 39768/20)*, Strasbourg 2024.

³⁹ European Court of Human Rights, *Case of Necula v. Romania (Application no. 33003/11)*, Strasbourg 2014.

⁴⁰ E.g. European Court of Human Rights, *Case V.I. v. The Republic of Moldavia (Application no. 38963/18)*, Strasbourg 2024.

⁴¹ European Court of Human Rights, *Budina against Russia (Application no. 45603/05)*, Strasbourg 2009.

⁴² A. Sen, *Rozwój i wolność*, tłum. J. Łoziński, Poznań 2002.

persons). Complaints in this regard will be based mainly on Article 2 or 3 of the ECHR.

- (b) The right to food is treated in the broader perspective of extreme poverty, which implies that in the absence of detention, social security ‘absorbs’ the right to food as a separate⁴³ guarantee. This is understandable insofar as malnutrition (quantitative, but mostly also qualitative) results from poverty.

Considering the *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* ruling, it is very possible that issues of right to food will be decided in the context of climate change.⁴⁴

The ECHR is a living instrument, which means that the way it is interpreted and the rights derived from it should be adapted to social changes.⁴⁵ Therefore, it is not necessary to create additional regulations to protect people from hunger on the basis of such rudimentary rights as the right to life or dignity.

The right to food emerges even more rarely in CJEU rulings, despite the Union’s active involvement in the sphere of ensuring food security. This is, of course, due to the fact that the CJEU is not a classic court of human rights and the access of individuals to the CJEU is very limited. So far, there has been no opportunity to give a straightforward answer on how the right to food is to be understood under EU law, and what obligations this imposes on the Union and the Member States.⁴⁶

The signal for European courts to approach poverty in a more sensitive way was expressed by the Inter-American Court of Human Rights: “(...) unlike the European and African human rights systems, the inter-American and the universal systems reveal a tendency to consider that individuals who are in a situation of poverty con-

⁴³ A. Mowbray, *The Creativity of the European Court of Human Rights*, “Human Rights Law Review” 2005, vol. 5, no. 1.

⁴⁴ European Court of Human Rights, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC] – 53600/20, Strasbourg 2024. Although in the referenced case the right to food was not explicitly used in the reasoning of the decision, it did appear in the ruling. More about this case, see: M. Zemel, *The Rise of Rights-Based Climate Litigation and Germany’s Susceptibility to Suit*, “Fordham Environmental Law Review” 2018, vol. 29, no. 3, pp. 484–527; R. Harvey, *What’s Paris Got to Do with It? Community Lawyering for Climate Justice at Europe’s Highest Court*, “Socialist Lawyer” 2023, no. 93, pp. 32–37; R. M. Lange, *The Right to Adequate Housing for IDPs in the Context of Slow-Onset Climate-Induced Disasters within the European Union*, “Renewable Energy Law and Policy Review” 2022, vol. 11, no. 1, pp. 11–22.

⁴⁵ A. Mowbray, *The Creativity...*

⁴⁶ In the case *Vadim Nikolaevich Moshkovich v. Council*, the General Court had the opportunity to consider EU regulation in the context of ensuring global food security, see: *Judgment of the General Court (First Chamber) of 20 December 2023. Vadim Nikolaevich Moshkovich v Council of the European Union*, Case T-283/22, ECLI:EU:T:2023:849.

stitute a group in a situation of vulnerability that differs from the groups traditionally identified as such; this situation is recognized as grounds for special protection and part of the prohibition of discrimination based on “economic status” expressly included in Article 1(1) of the American Convention.”⁴⁷ Despite this, the right to food is invoked extremely rarely before the Inter-American Court of Human Rights, with only a few cases. As at the ECtHR, these cases mostly concern the rights of detainees.⁴⁸ An interesting group of cases are those involving indigenous communities.⁴⁹ In the Case of the Indigenous Communities of the Lhaka Honhat Association, for the first time a property right was combined with the right to food. According to the claimants, the deprivation of land from the indigenous people resulted in them being barred from obtaining food in the traditional way for them. At the same time, the lack of state assistance and care led to starvation or the gathering of food in violation of their dignity and even their lives. It was considered a violation of Article 26 of American Convention on Human Rights, according to which: “The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires.”

The problem of hunger is a major concern in Africa, however, the jurisprudence of the African Court on Human and Peoples’ Rights has so far not developed a significant jurisprudence in this area.⁵⁰ One of the few cases in which the Court referred to the right to food had to do with the right of indigenous people to land and to

⁴⁷ Inter-American Court of Human Rights, *Case of Hacienda Brasil Verde Workers V. Brazil: Judgment of October 20, 2016 (Preliminary Objections, Merits, Reparations and Costs)*. In this case, malnutrition was one of the elements arguing for the recognition of working conditions as slavery.

⁴⁸ Inter-American Court of Human Rights, *Case of Rodríguez Revolorio et al. VS. Guatemala: Judgment of October 14, 2019 (Preliminary Objection, Merits, Reparations and Costs)*; Inter-American Court of Human Rights, *Case of Amrhein et al. v. Costa Rica: Judgment of April 25, 2018 (Preliminary Objections, Merits, Reparations and Costs)*.

⁴⁹ Inter-American Court of Human Rights, *Case of Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina: Judgment of February 6, 2020 (Merits, Reparations and Costs)*; Inter-American Court of Human Rights, *Case of the Sawhoyamaya Indigenous Community v. Paraguay: Judgment of March 29, 2006 (Merits, Reparations and Costs)*; Inter-American Court of Human Rights, *Case of Yakye Axa Indigenous Community v. Paraguay: Judgment of June 17, 2005 (Merits, Reparations and Costs)*.

⁵⁰ Whereas the progressive jurisprudence in South Africa is noteworthy, see: T. M. Makunya, M. Bwanaisa, *Right to Food Security*, https://www.pulp.up.ac.za/edocman/pulp_commentaries/protocol_to_ACHPR/Article_15.pdf (29.01.2024).

cultivate their own traditions, including those of obtaining food.⁵¹ The Commission also ruled on the violation of the right to food caused by environmental pollution.⁵² Access to food issues were also raised in the case concerning the displacement of the Endorois community.⁵³

5. Conclusions

The right to food is considered in international instruments as a separate human right. The rather poor jurisprudence of the controlling bodies of these instruments emphasises a close interconnection between the right to food, human dignity and other human rights, with the right to food itself forming more of a mere background consideration. This is precisely due to the framing of the right to food as a social right.⁵⁴ Another option may be to ground the complaint on a basis other than the right to food. Invoking the right to life or the prohibition of torture puts more responsibility on states, which cannot be reduced by economic arguments. This seems to be the reason that determines the social character of the right to food, rather than the very nature of the human need that is expressed in the right to food.

Pursuing liability for failure to provide food on the basis of the right to life, the prohibition of torture or the right to property is not an ideal solution, as it forces the complainant to prove the specific conditions linking to the right in question, while the issue of malnutrition constitutes (a) a reason (in the case of a violation of the right to life), (b) a consequence (e.g. deprivation of property) or (c) a circumstance ‘building up’ the violation (in the case of the prohibition of torture). It is necessary to

⁵¹ AfCLR, *African Commission on Human and Peoples’ Rights v. Republic of Kenya (Application No. 006/2012)*, 23 June 2022.

⁵² African Commission on Human and Peoples’ Rights, *The Social and Economic Rights Action and the Center for Economic and Social Rights v. Nigeria*, 13–27 October 2001, paras 65–66.

⁵³ African Commission on Human and Peoples’ Rights, 276/2003 – *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on Behalf of Endorois Welfare Council v Kenya*.

⁵⁴ A different perspective on the realisation of social rights is offered by the Inter-American Court of Human Rights: “Notwithstanding the justiciability of a right – civil or social – its absolute protection cannot be assumed in all litigation. Every case, whether civil or social law, must always be resolved through an imputation analysis and by verifying how the obligations of respect and guarantee operate with respect to each situation that is alleged to violate a given right.” The different approach is that the limitation of the exercise of social rights is not based on their nature, but depends on the circumstances of the case. Inter-American Court of Human Rights, *Case of Canales Huapaya et al. v. Peru: Judgment of June 24, 2015 (Preliminary Objections, Merits, Reparations and Costs)*.

make a logical connection between malnutrition and the violation of another right. Another limitation that arises from the case law is the dependence of the complainant on the state, which refers primarily to detention or the vulnerable group.

In the light of such complex causes and consequences of malnutrition, as well as the shape of human rights protection mechanisms, the question also arises as to whether access to food can in practice be treated as an enforceable per se human right, or whether the issue of access to food and related food security should be placed only on the political agenda.

It is to be expected that the position of the tribunals will evolve in the future. Perhaps it is a matter of the number of cases in which citizens assert their right to food still being too small. If one were to look at its implementation from the perspective of the judiciary, one might conclude that it is not a global problem. This may be related to a low awareness of the entitlement or a public perception only for the course of action and not the basis of the claim. The provision of food is mainly regarded as an individual's responsibility.⁵⁵ This is presumably to some extent influenced by the fact that people who struggle every day to provide the basic needs of existence direct their energies precisely towards survival rather than institutional disputes. The activism of citizens and NGOs is therefore so important, especially since the problem of malnutrition paradoxically does not disappear, despite constant economic growth and adequate resources. On the other hand, new factors causing the problem and new faces of malnutrition are emerging, which may influence the progressive attitude of judicial bodies.

Ensuring food security for all and eradicating hunger are imperative objectives that are consistent with the human right to adequate food. Not only are these responsibilities the responsibility of national governments, but the global community as a whole should share them. There is an obligation to take the necessary steps in order to achieve the goal if we already know them; we must select a path that can be reasonably anticipated to lead us to the objective. If the assumption were made that the actors responsible for the realisation of these rights are only states, one could point to politics. However, there is increasing talk of the responsibility of the international community as a whole, which is obliged to realise this right.⁵⁶

We should more broadly consider the question of responsibility for the realisation of this right. If the narrative of the universality of human rights has become a permanent part of the language of lawyers, but also of politicians, one has to wonder who

⁵⁵ It is difficult to be precise about the number of complaints about violations of the right to food, as the procedures for dealing with complaints foresee various forms of preliminary examination of cases brought and rejection at this stage results in the decision not being published.

⁵⁶ A. Eide, *The International...*, p. 165.

and how should one guarantee the realisation of such a basic need as the right to food. What is certainly needed is action at different levels and in different areas, including science, policy and society. It is also important to shift in consciousness. Holden Karnofsky points out that we have become accustomed to a “Business as usual” headspace – somehow everything will regulate itself. Instead, the author suggests a change to a “This cannot go on” headspace.⁵⁷ Changes on a mental level are also needed at the starting level, thinking about people and their future.

On 25 September 2015, the 193 Member States of the United Nations adopted the 2030 Agenda for Sustainable Development, including 17 Sustainable Development Goals (SDGs) with 169 targets and 230 indicators. Agenda 2030 is a global vision for all people living on the planet and for a long-time perspective. The aims are very comprehensive, as they cover all challenges facing the planet today: poverty, hunger and climate change, while achieving inclusive growth. The 2030 Agenda for Sustainable Development commits the international community to act together to overcome them and transform our world for present and future generations. Meeting commitments to sustainable development can be a guide to developing new solutions. It is now argued that the concept of food security should be based on the additional pillar of sustainability. Living in a more interconnected world globally, it is necessary to change the approach towards issues like food, climate and agricultural policy, and to understand that actions taken by one state – or its negligence – have transboundary effects and an impact on the wellbeing of peoples living in distant parts of the world. As Hilal Elver, the UN Special Rapporteur on Right to Food has underlined: ‘At the same time, hunger and malnutrition in Africa, Asia or Middle East can have a severe security impact on places that have no immediate food problem by generating the migration of desperate people. It is becoming painfully obvious that it is important for the international community to address the root causes of hunger and food insecurity as an urgent matter of shared global interest, reinforced by commitments to uphold and fulfill human rights obligations.’⁵⁸

Bibliography

- Adamczak-Retecka M., Śniadach O., *Climate Change and Food Security: The Legal Aspects with Special Focus on the European Union*, Gdańsk 2018.
- AfCLR, *African Commission on Human and Peoples' Rights v. Republic of Kenya (Application No. 006/2012)*, 23 June 2022.

⁵⁷ H. Karnofsky, *This Can't Go On*, <https://www.cold-takes.com/this-cant-go-on/> (29.01.2024).

⁵⁸ H. Elver, *The Lasting Legacy from Milan Expo 2015*, Milan 2015, p. 1.

- African Commission on Human and Peoples' Rights, 276/2003 – *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on Behalf of Endorois Welfare Council v Kenya*.
- African Commission on Human and Peoples' Rights, *The Social and Economic Rights Action and the Center for Economic and Social Rights v. Nigeria*, 13–27 October 2001.
- Alston P., *International Law and the Right to Food* [in:] *Food as a Human Right*, A. Eide et al. (eds), Tokyo 1986.
- Elver H., *The Lasting Legacy from Milan Expo 2015*, Milan 2015.
- EU's von der Leyen Says Russia Is Using Food Supplies as a Weapon, "Reuters" 2022, <https://www.reuters.com/world/europe/eus-von-der-leyen-says-russia-is-using-food-supplies-weapon-2022-05-24>.
- European Court of Human Rights, *Budina against Russia (Application no. 45603/05)*, Strasbourg 2009.
- European Court of Human Rights, *Case of Ciorap V. The Republic of Moldova (No. 3) (Application no. 32896/07)*, Strasbourg 2012.
- European Court of Human Rights, *Case of K.J. and Others v. Russia (Applications nos. 27584/20 and 39768/20)*, Strasbourg 2024.
- European Court of Human Rights, *Case of Necula v. Romania (Application no. 33003/11)*, Strasbourg 2014.
- European Court of Human Rights, *Case of Rotaru v. Moldova (Application no. 51216/06)*, Strasbourg 2011.
- European Court of Human Rights, *Case of Zarema Musayeva and Others v. Russia (Application no. 4573/22)*, Strasbourg 2024.
- European Court of Human Rights, *Case V.I. v. The Republic of Moldavia (Application no. 38963/18)*, Strasbourg 2024.
- European Court of Human Rights, *Convention for the Protection of Human Rights and Fundamental Freedoms*, Rome 1950.
- European Court of Human Rights, *Ukraine v. Russia (re Crimea) [GC] – 20958/14 and 38334/18*, 2024.
- European Court of Human Rights, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland [GC]^o 53600/20*, Strasbourg 2024.
- FAO, IFAD, UNICEF, WFP, WHO, *The State of Food Security and Nutrition in the World Report 2023: Urbanization, Agrifood Systems Transformation and Healthy Diets across the Rural-Urban Continuum*, Rome 2023, <https://reliefweb.int/report/world/state-food-security-and-nutrition-world-report-2023-urbanization-agrifood-systems-transformation-and-healthy-diets-across-rural-urban-continuum>.
- Food and Agriculture Organization Legal Office, *Implementation of the Right to Food in National Legislation* [in:] *The Right to Food: Extracts from International Instruments*, <https://www.fao.org/4/w9990e/w9990e11.htm>.
- Food and Agriculture Organization of the United Nations, *World Food Security: A Reappraisal of the Concepts and Approaches*, Rome 1983.
- Harvey R., *What's Paris Got to Do with It? Community Lawyering for Climate Justice at Europe's Highest Court*, "Socialist Lawyer" 2023, no. 93.
- High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security, *Food Security and Nutrition: Building a Global Narrative towards 2030*, Rome 2020. <https://www.iachr.org/Basicos/English/Basic22.Charter OAS.htm>.
- Human Rights Committee, *Views Adopted by the Committee under Article 5 (4) of the Optional Protocol, Concerning Communication No. 2751/2016*, 20 September 2019.
- Human Rights Committee, *Views Adopted by the Committee under Article 5 (4) of the Optional Protocol, Concerning Communication No. 2728/2016*, 24 October 2019.

- Inter-American Court of Human Rights, *Case of Amrhein et al. v. Costa Rica: Judgment of April 25, 2018 (Preliminary Objections, Merits, Reparations and Costs)*.
- Inter-American Court of Human Rights, *Case of Canales Huapaya et al. v. Peru: Judgment of June 24, 2015 (Preliminary Objections, Merits, Reparations and Costs)*.
- Inter-American Court of Human Rights, *Case of Hacienda Brasil Verde Workers V. Brazil: Judgment of October 20, 2016 (Preliminary Objections, Merits, Reparations and Costs)*.
- Inter-American Court of Human Rights, *Case of Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina: Judgment of February 6, 2020 (Merits, Reparations and Costs)*.
- Inter-American Court of Human Rights, *Case of Rodríguez Revolorio et al. VS. Guatemala: Judgment of October 14, 2019 (Preliminary Objection, Merits, Reparations and Costs)*.
- Inter-American Court of Human Rights, *Case of the Sawhoyamaya Indigenous Community v. Paraguay: Judgment of March 29, 2006 (Merits, Reparations and Costs)*.
- Inter-American Court of Human Rights, *Case of Yakye Axa Indigenous Community v. Paraguay: Judgment of June 17, 2005 (Merits, Reparations and Costs)*.
- Intergovernmental Panel on Climate Change, *Summary for Policymakers [in:] Global Warming of 1.5°C: An IPCC Special Report on the Impacts of Global Warming of 1.5°C Above Pre-Industrial Levels and Related Global Greenhouse Gas Emission Pathways, in the Context of Strengthening the Global Response to the Threat of Climate Change, Sustainable Development, and Efforts to Eradicate Poverty*, Cambridge 2018.
- Jaką część dochodów wydajemy na jedzenie?, "Forsal" 2016, <https://forsal.pl/artykuly/1003797,jaka-czesc-dochodow-wydajemy-na-jedzenie-infografiki.html>.
- James C., *Food, Dignity, and the European Court of Human Rights*, "Legal Studies" 2023, vol. 44, no. 3, <https://doi.org/10.1017/lst.2023.34>.
- Judgment of the General Court (First Chamber) of 20 December 2023. Vadim Nikolaevich Moshkovich v Council of the European Union*, Case T-283/22, ECLI:EU:T:2023:849.
- Karnofsky H., *This Can't Go On*, <https://www.cold-takes.com/this-cant-go-on/>.
- Knuth L., Vidar M., *Constitutional and Legal Protection of the Right to Food around the World*, Rome 2011.
- Lange R., *The Right to Adequate Housing for IDPs in the Context of Slow-Onset Climate-Induced Disasters within the European Union*, "Renewable Energy Law and Policy Review" 2022, vol. 11, no. 1, <https://doi.org/10.4337/relp.2022.01.03>.
- Makunya T.M., Bwanaisa M., *Right to Food Security*, https://www.pulp.up.ac.za/edocman/pulp_commentaries/protocol_to_ACHPR/Article_15.pdf.
- Mowbray A., *The Creativity of the European Court of Human Rights*, "Human Rights Law Review" 2005, vol. 5, no. 1, <https://doi.org/10.1093/hrlrev/ngi003>.
- Saab A., *Narratives of Hunger in International Law: Feeding the World in Times of Climate Change*, Cambridge 2019, <https://doi.org/10.1017/9781108670906>.
- Sen A., *Poverty and Famines: An Essay on Entitlement and Deprivation*, Oxford 1981, <https://doi.org/10.1093/0198284632.001.0001>.
- Sen A., *Rozwój i wolność*, tłum. J. Łoziński, Poznań 2002.
- United Nations, *Climate Change Poses Major Threat to Food Security, Warns UN Expert: Climate Change and Food Security*, 2015, <https://www.ohchr.org/en/press-releases/2015/11/climate-change-poses-major-threat-food-security-warns-un-expert>.
- United Nations, *International Covenant on Economic, Social and Cultural Rights*, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.
- United Nations, *International Norms and Standards Relating to Disability*, <https://www.un.org/esa/socdev/enable/comp303.htm>.
- United Nations, *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*, New York 2008, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mt_dsg_no=IV-3-a&chapter=4.

- United Nations, *Population*, <https://www.un.org/en/global-issues/population>.
- United Nations, *Report of the World Food Conference*, Rome 1974.
- United Nations, *Rome Declaration on World Food Security and World Food Summit Plan of Action*, Rome 1996.
- United Nations, *Special Rapporteur on the Right to Food*, <https://www.ohchr.org/en/special-procedures/sr-food>.
- United Nations, *Universal Declaration of Human Rights*, Paris 1948, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.
- United Nations, *Views Adopted by the Committee under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, Concerning Communication No. 134/2019*, 2 May 2023.
- United Nations, *World Population Projected to Reach 9.8 Billion in 2050, and 11.2 Billion in 2100*, <https://www.un.org/en/desa/world-population-projected-reach-98-billion-2050-and-112-billion-2100>.
- United Nations Committee on the Rights of the Child, *Decision Adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, Concerning Communication No. 134/2020*, 7 March 2023.
- United Nations General Assembly, *The Right to food: Resolution Adopted by the General Assembly*, 2023, <https://www.refworld.org/legal/resolution/unga/2003/en/12600>.
- United Nations High Commissioner for Refugees, *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, 1999.
- Zemel M., *The Rise of Rights-Based Climate Litigation and Germany's Susceptibility to Suit*, "Fordham Environmental Law Review" 2018, vol. 29, no. 3.
- Zhao Ch. et al., *Temperature Increase Reduces Global Yields of Major Crops in Four Independent Estimates*, "Proceedings of the National Academy of Sciences" 2017, vol. 114, no. 35, <https://doi.org/10.1073/pnas.1701762114>.

For many years legal thought and practice focused on the general concept of environmental rights as a legal tool meant to enforce the human right to a healthy and sustainable environment. Whilst there is an undeniable link between human rights and climate change, as illustrated notably by the global phenomenon of the climate change litigation, this monograph focuses on the growing role of potential, sectoral fundamental rights and tailored remedies available in the EU legal order in absence of a substantive fundamental right to a healthy environment in EU law. Against the background of the European Green Deal and its ambitious climate-neutrality goal by 2050, the book echoes the sustainability-based approach and its limits.

Contributors analyse two interrelated perspectives. On the one hand, authors explore the procedural dimension by discussing the climate litigation and the limits of the concept of human environmental rights, state liability for loss and damage caused to individuals as a result of breaches of EU law, national remedies available in case of bad condition of the environment as well as the limits of the public interest litigation and challenges related to climate claims against private actors in national law. On the other hand, contributors discuss substantive aspects from a global perspective of food insecurity, soil monitoring and resilience as well as digitalisation, green skills and climate-induced migration. With insights from leading experts, this work highlights the evolving tensions and expectations within the EU legal framework.

Essential for legal practitioners, policymakers, academics, and students of law and administration, this book offers a comprehensive exploration of the intersection between sustainability, climate action, and the protection of fundamental rights in EU law.



KSIĘGARNIA
AKADEMICKA
PUBLISHING

<https://akademicka.pl>

