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CLIMATE JUSTICE: IS THERE AN INDIVIDUAL RIGHT OF CITIZEN TO CLIMATE NEUTRALITY?

ABSTRACT

This paper analyzes citizens' access to climate justice under European and Spanish law. Despite ambitious legislation rendering climate neutrality targets binding and imposing corporate sustainability due diligence (CSDDD), procedural standing (legitimación activa) remains strictly constrained. Both CJEU and Spanish jurisprudence require proof of direct, individualized harm, preventing citizens from challenging public or corporate inaction on an individual basis. Currently, regulatory mechanisms reduce citizens to submitting administrative complaints or claiming post-damage civil compensation. De lege ferenda, achieving effective climate justice requires recognizing an autonomous, enforceable individual right to climate neutrality, transforming citizens into active guarantors of mandatory sustainability standards.

KEYWORDS: *Climate justice, climate neutrality, legal standing, CSDDD, ESG criteria, environmental litigation.*

EXTENDED ABSTRACT

Purpose: *This paper aims to analyze citizens' access to climate justice. To this end, it evaluates regulatory requirements and relevant court decisions.*

Methods: *The analysis is conducted from a legal perspective, examining laws and regulations on climate action and sustainability standards. It also reviews case law addressing citizens' access to justice – focusing on the main procedural obstacles encountered in judicial processes – and examines the relevant academic literature.*

Results: *The findings show that the legal framework for climate action remains constrained by limitations on litigation, despite European and national declarations of a climate emergency and evolving regulations aimed at securing a firm commitment to combating climate change through sustainability due diligence rules.*

Discussion: *The central debate centers on whether these limitations stem from the absence of an individual right to a healthy environment within the framework of climate neutrality.*

1. INTRODUCTION AND RESEARCH METHODS

Climate change constitutes one of the most existential threats to global security, public health, and human well-being in modern history. The fundamental driving mechanism behind this phenomenon is the anthropogenic accumulation of greenhouse gases (GHGs) in the atmosphere, predominantly carbon dioxide, which has exhibited an uninterrupted upward trajectory since the industrial era. This atmospheric concentration acts as the primary catalyst for rising global mean surface temperatures, ocean acidification, and the unprecedented degradation of polar ecosystems. A stark manifestation of this planetary disruption is the decline in Arctic sea ice, which satellite observations have consistently documented as suffering severe spatial and volumetric reductions in monthly datasets recorded from 1979 to the present.

Beyond localized ecological damage, these cascading impacts directly threaten the structural stability of the modern welfare state. Global climate disruptions destabilize key socioeconomic pillars through an increased frequency of extreme weather events, systemic agricultural losses, supply chain vulnerabilities, and emerging public health crises – including vector-borne disease expansion and heat-related mortality. Furthermore, these physical damages, coupled with the financial frictions and asset stranding inherent to the transition toward a low-carbon economy, generate macro-financial instability and massive economic losses that strain public budgets and social safety nets.

In this context, climate justice has emerged as an essential legal response aimed at establishing accountability for environmentally harmful actions and public policy omissions. However, despite the growing recognition of the severity of the climate crisis, citizens' procedural access to judicial protection remains structurally constrained within both European and domestic legal orders. Traditional administrative and procedural frameworks continue to condition active standing (*legitimación activa*) upon proving direct, individualized, and subjective harm – a criteria tailored to classical environmental damages rather than diffuse, global climate risks. As a result, individual litigants frequently face insurmountable procedural hurdles, most notably under restrictive judicial doctrines (such as the Plaumann doctrine in EU law – *Plaumann & Co. v Commission*, Case 25/62, judgment of 15 July 1963),

that dismiss public interest claims for failing to show an *individual concern* distinct from that of the general population. This paper critically analyzes these primary procedural obstacles to legal standing in environmental litigation, examining the fundamental question of whether citizens possess – or should be granted – an autonomous, enforceable right to directly demand mandatory public and corporate action toward achieving climate neutrality.

The unprecedented magnitude and irreversible nature of these anthropogenic threats necessitate a comprehensive reexamination of the effectiveness of existing judicial remedies. This imperative is further heightened by the recent adoption of ambitious regulatory frameworks designed to mandate greenhouse gas mitigation, most notably the Corporate Sustainability Due Diligence Directive (CSDDD, Directive 2024/1760). By imposing legally binding environmental and human rights due diligence obligations throughout corporate value chains, these new statutory instruments raise vital questions regarding their capacity to reshape judicial review, broaden citizen standing, and transform abstract climate neutrality goals into judicially enforceable rights.

2. LIMITATIONS ON STANDING IN ENVIRONMENTAL LITIGATION

In Spain, active legal standing (*legitimación activa*) to defend the environment is strictly limited. Individuals cannot challenge general public policies or administrative actions on an individual basis unless they qualify as interested parties in a specific administrative proceeding. Spanish legislation restricts public interest litigation (*acción popular*) to non-profit legal entities – such as associations and NGOs – that meet strict statutory requirements, including having been legally constituted for at least two years. For individual citizens, standing in environmental matters remains contingent upon proving a violation of specific rights, such as procedural rights to public participation or classic fundamental rights. This highlights the absence of an autonomous individual right to a healthy environment or climate. A similar trend is observed at the European level. Applying these principles, the Court of Justice of the European Union (CJEU) dismissed a lawsuit brought by families affected

by climate change on the grounds that they failed to demonstrate an *individual concern* distinguishing them from the general public.

This limitation stems from the structural framework of the law itself, as reflected in current regulatory provisions. On the one hand, Article 3.3 of Spanish Act 27/2006 establishes that *everyone* has the right to challenge administrative acts and omissions that violate statutory rights regarding environmental information and public participation, as well as the right to bring a popular action against violations of environmental legislation under the terms established by law. However, despite the apparent breadth of legal standing in administrative environmental litigation, individual citizens face significant hurdles when attempting to take legal action to protect the environment. In contrast, models such as *citizen suits* in the United States legal system allow any person to bring a claim against public or private entities for specific violations of environmental law (Pons Portella, 2018, p. 192).

In accordance with the foregoing, Article 18.1 of Spanish Law 27/2006 restricts legal standing in administrative and judicial proceedings to non-profit legal entities that meet the conditions set forth in Article 23 to exercise the right to popular action (*acción popular*). The statutory requirements laid down in this provision – which mirror those required under Article 11(1) of Regulation (EC) No 1367/2006 of 6 September 2006 (Aarhus Regulation) – are:

- a. That their statutory purpose explicitly includes environmental protection in general or any of its components in particular;
- b. That they were legally established at least two years prior to initiating the legal action and are actively engaged in activities necessary to achieve their statutory goals; and
- c. That, according to their bylaws, their territorial scope of activity encompasses the area affected by the administrative act or omission.

Furthermore, Article 4(2) of Spanish Law 39/2015 provides that associations and organizations representing economic and social interests may qualify as interested parties in administrative proceedings – and thus obtain standing to file administrative appeals and contentious-administrative claims – provided they hold legitimate collective interests. Meanwhile, individual citizens are merely granted the right to access public environmental information;

they lack procedural standing unless they qualify as interested parties in a specific proceeding. As a result of these restrictive criteria, this framework is considered more of a statutory license to litigate than a true public interest action (Peñalver i Cabré, 2007, p. 481).

In any case, legal standing is not granted on an individual basis beyond enforcing the right to public participation, as individual legal action remains restricted to cases where the appellant holds a direct, specific interest in a given proceeding. The rationale behind this distinction in standing likely stems from the doctrine – advocated by numerous authors – that the right to a healthy environment is inherently a collective or transindividual right (Hachem and Klein Gussoli, 2019, p. 7), rather than a strictly individual one. By contrast, an individual nature is attributed to the procedural actions available to everyone in cases involving violations of public participation rights. These constraints on citizens' capacity to initiate environmental litigation exist under both Spanish and European Union law, reflecting the underlying framework of the Aarhus Convention.

The European Commission Communication titled *Improving access to justice in environmental matters in the EU and its Member States* (dated 14 October 2020) highlights these constraints and proposes measures to enhance access to administrative litigation, particularly by broadening standing for NGOs and individuals directly impacted by breaches of environmental law. Nevertheless, these limitations remain apparent even in recent proposals. On this occasion, the Commission emphasized that one of the main barriers to be addressed is the risk of incurring court costs deemed *prohibitive* (European Commission, paras. 5 and 30). In Spain, while such costs are waived for litigants qualifying for legal aid, they remain uncapped in all other cases. Consequently, establishing statutory caps on court costs arising from environmental proceedings represents a crucial area for legislative reform.

More broadly, the European Commission has recently emphasized the need to harmonize domestic laws so that national courts can set aside any statutory or regulatory provision that conflicts with EU law – including undue restrictions on standing – in order to effectively protect environmental rights relating to water, nature, and air quality, which are vital in combating climate change. This imperative is firmly grounded in the jurisprudence of the Court of Justice

of the European Union (CJEU), notably in Case C-240/09 *Lesoochranárske zoskupenie*, paras. 47–48 (European Commission, para. 23).

This approach by the European Union should prompt a reflection on the scope and limitations of environmental litigation. Specifically, it invites an examination of how climate actions – as an evolution of traditional environmental remedies – can be tailored to serve as effective tools in combating climate change, even if the Aarhus Convention itself retains a restrictive position that continues to shape judicial practice. This conservatism is evident in Spanish case law, as illustrated by judgments of the Administrative Chamber of the Spanish Supreme Court (Tribunal Supremo): Judgment of 25 June 2008 (FJ 5), Judgment of 31 March 2009 (FJ 5), and Judgment of 7 July 2017 (FJ 6) (Pons Portella, 2018, pp. 185–186).

3. CLIMATE ACTION FOLLOWING THE DECLARATION OF A CLIMATE EMERGENCY AND THE ENACTMENT OF THE SPANISH CLIMATE CHANGE ACT

Climate action gained significant momentum following the European Parliament's declaration of a climate emergency in November 2019, followed by Spain's national climate emergency declaration on 21 January 2020. The primary objective derived from this declaration is achieving a fully decarbonized energy system grounded in renewable sources by 2050. A pivotal step in Spain's regulatory response was the enactment of Law 7/2021 of 20 May on Climate Change and Energy Transition. This statute aims to ensure compliance with the targets of the Paris Agreement, facilitate the decarbonization and circular transition of the Spanish economy, strengthen climate adaptation, and foster a sustainable development model that generates decent employment and mitigates inequality.

However, the climate emergency declaration did not expand citizens' procedural access to climate litigation beyond the existing framework set out in Spanish Law 27/2006. Indeed, Article 35 of the Climate Change Act – which governs judicial review of administrative acts adopted under its provisions – merely incorporates a cross-reference to Law 27/2006 on rights of access to information, public participation, and access to justice in environmental matters.

Consequently, legal action in climate litigation remains subject to the exact same statutory constraints applicable to traditional environmental remedies.

Thus, while access to public environmental information is not subject to substantial restrictions – as affirmed by the Court of Justice of the European Union in Case C-619/19 Land Baden-Württemberg, Judgment of 20 January 2021, which established that internal communications exceptions are temporally bounded – access to judicial review regarding public actions or omissions on environmental and climate matters remains significantly restricted.

Currently, the greatest limitation facing individual citizens in accessing climate justice remains the requirement to demonstrate a personal infringement of another subjective right as a prerequisite for standing in environmental or climate litigation. The absence of an autonomous individual right to an adequate environment – and, by extension, to demand climate action against activities harming environmental stability and climate neutrality – is clearly demonstrated by the Court of Justice of the European Union (Sixth Chamber) in its Judgment of 25 March 2021, Case C-565/19 P (Armando Carvalho and Others v European Parliament and Council of the European Union).

In this case, ten families from Portugal, Germany, France, Italy, Romania, Kenya, and Fiji sought the annulment of a package of EU legislative measures implementing Paris Agreement targets, claiming direct impacts from climate change and arguing that EU climate action was insufficient (EFE, 2021). The CJEU dismissed the action on procedural grounds without examining the merits, holding that the appellants lacked standing – specifically failing to satisfy the requirement of *individual concern*.

This judgment applied the pre-existing regulatory framework, as the application was filed in 2018 prior to the adoption of the European Green Deal, which introduced substantially higher climate ambition. Consequently, the central question is whether recent legislative developments will strengthen and broaden citizens' access to climate litigation, particularly through the enforcement of mandatory Environmental, Social, and Governance (ESG) criteria (Fanjul, 2022, p. 8; Fernández Larrea, 2026, p. 91). These sustainability standards stem from EU regulations adopted since 2020, most notably those establishing corporate sustainability due diligence obligations.

4. REGULATORY CHANGES: CORPORATE SUSTAINABILITY DUE DILIGENCE AS A LIFELINE AGAINST CLIMATE CHANGE

For years, pollution reduction targets were governed by non-binding instruments, which ultimately proved ineffective in achieving their intended objectives (García Sánchez, 2013, pp. 143–182). The first major milestone was the Kyoto Protocol (1997), which set binding greenhouse gas reduction targets of 5.2% for the 2008–2012 period. However, its effectiveness was severely undermined by the non-participation of key states and enforcement limitations (Lago Candeira, 2016, p. 22). Subsequently, the 2015 Paris Agreement established a global commitment to achieve net-zero emissions by the end of the twenty-first century, aiming to limit global warming to well below 2°C (Linares, 2018, p. 21).

Since the Paris Agreement, the European Union has actively driven regulatory advances in climate policy, leveraging its shared competence under Article 4(2)(e) of the Treaty on the Functioning of the European Union (TFEU) in environmental matters. The Glasgow Climate Pact (November 2021) further reinforced pathways to limit global warming to 1.5°C. Crucially, Regulation (EU) 2021/1119 (European Climate Law) established a legally binding target of achieving EU-wide climate neutrality by 2050 and a intermediate goal of reducing net emissions by at least 55% by 2030 relative to 1990 levels.

Achieving these targets necessitates systemic shifts in corporate production and procurement models. In its Communication on the European Green Deal, the European Commission emphasized that sustainability must be fully embedded into the corporate governance framework. Similarly, the Opinion of the European Committee of the Regions titled *The impact of climate change on regions: an assessment of the European Green Deal* (2021/C 37/07, 2 February 2021) affirmed that the European Green Deal constitutes an integral component of the EU strategy to implement the United Nations 2030 Agenda and the Sustainable Development Goals (European Committee of the Regions, 2021).

All of this demonstrates the European Union's firm commitment to combating climate change and underscores the importance of adopting renewed targets.

Indeed, this trend toward the regulatory consolidation of climate commitments is shared across all EU institutions and policy areas. In financial regulation, for instance, Regulation (EU) 2020/852 of 18 June 2020 (Taxonomy Regulation) established a framework to facilitate sustainable investment, embedding sustainable finance within the broader scope of the EU's commitments under the 2030 Agenda and the European Green Deal. In recent years, legislative initiatives have actively driven the transition toward climate neutrality. In this regard, Decision (EU) 2022/591 of the European Parliament and of the Council (8th Environmental Action Programme) aims to accelerate the green transition toward a climate-neutral, sustainable, non-toxic, resource-efficient, renewables-based, resilient, and competitive circular economy in a fair, equitable, and inclusive manner, while protecting, restoring, and enhancing the environment and reversing biodiversity loss.

Several recent regulatory instruments mark significant progress toward rendering EU climate targets legally binding, as demonstrated by Regulation (EU) 2024/1991 on nature restoration. Further progress is anticipated through the transposition of Directive (EU) 2024/1760 on corporate sustainability due diligence (CSDDD), which requires corporate entities to overhaul their sustainability standards (Recalde Castells, 2023, pp. 168–172) and realign their business models (Garrigues, 2026). The transposition of Directive (EU) 2024/1760, alongside its subsequent revision under Directive (EU) 2026/470, will reshape the regulatory framework governing corporate human rights and environmental obligations. This legislation establishes a core framework by mandating integrated measures to identify, prevent, mitigate, and remediate adverse environmental and human rights impacts throughout global value chains.

Rather than altering the core objectives of the model, Directive (EU) 2026/470 reconfigures its scope and intensity to enhance practical implementation. It introduces key proportionality criteria, clarifies the subjective scope of application, and recalibrates the civil liability regime (Rojas Rivero, 2026). Consequently, these reforms result in higher thresholds for direct application, an extension of the transposition deadline to July 2028, greater flexibility regarding climate transition plans, and a maximum harmonization clause that prevents Member States and regional authorities from enacting conflicting due diligence requirements.

Compliance with the socio-environmental requirements imposed by EU regulations is expected to accelerate the transformation of the European productive sector, driving the relocation of business activities toward sustainably managed areas and prompting the restructuring of logistics and urban land across its primary metropolitan hubs.

The approval of corporate sustainability due diligence standards does not constitute an isolated regulatory initiative; rather, it forms part of a broader regulatory framework that encompasses taxonomy regulations (Romo González, 2021; Gutiérrez del Arroyo, 2022; Calderón Patier, 2026), sustainable finance disclosures (Nipper, Ostermaier, and Theis, 2024, pp. 2171–2190; EFRAG, 2025), corporate sustainability reporting (Palá Laguna, 2025; Arco Castro, Fresneda Fuentes, López Pérez, and Miras Rodríguez, 2024, pp. 10–18), and banking and financial regulations on sustainability risk management, among others.

Consequently, these standards will reshape the legal treatment of non-compliance with sustainability metrics defined under ESG criteria. As observance becomes mandatory, enforcement against breaches will be significantly facilitated – requiring public authorities to take mandatory action even in the absence of specific damage, provided non-compliance is established. Nevertheless, there remains a pressing need to regulate citizens' legal standing to bring claims against public administrations in cases of administrative inaction regarding third-party non-compliance with these statutory obligations – a gap that could be addressed by granting individual citizens specific rights of action.

This analysis allows us to conclude that, despite declarations of a climate emergency and significant regulatory advances rendering climate targets mandatory, an individual right of citizens to enforce climate action through judicial means remains unrecognized. For now, pursuant to Article 26 in conjunction with Article 14 of the Corporate Sustainability Due Diligence Directive (CSDDD), administrative mechanisms are triggered primarily through complaints submitted by citizens who either possess well-founded concerns based on objective grounds regarding corporate non-compliance, or are directly affected by such non-compliance. Upon receiving such complaints, public authorities are mandated to exercise regulatory oversight and enforce compliance measures. Furthermore, Article 29(2) of the CSDDD establishes

the right of individuals to claim full compensation when non-compliance directly damages legal interests protected under national law. While these provisions represent significant regulatory progress, they do not confer upon citizens a subjective, enforceable right to climate neutrality.

Regarding Spanish procedural law, the recent Judgment of the Spanish Supreme Court (Judgment 915/2026 of 15 July 2026, Appeal 5797/2023) resolved a dispute between public authorities concerning legal standing to enforce compliance with statutory obligations, clarifying the interplay between Articles 29.1 and 44 of the Spanish Act on Contentious-Administrative Jurisdiction (Ley Reguladora de la Jurisdicción Contencioso-Administrativa). The Supreme Court confirmed the compatibility of both provisions, establishing that the prior administrative demand (*requerimiento previo*) under Article 44 constitutes the required procedural route when public entities act in the exercise of their public powers (*iure imperii*). Crucially, the Court held that the unfulfilled obligation must relate to specific individuals, as invoking the general public interest is legally insufficient to establish standing.

Consequently, significant procedural barriers persist even when one public administration attempts to compel another to satisfy climate due diligence obligations, particularly in cases involving public enterprises. This stems from the fundamental reality that current regulatory approaches to corporate due diligence remain grounded in civil liability principles (McCorquodale et al., 2017, p. 198), rather than in a recognized citizen right to climate neutrality.

5. CONCLUSIONS

Citizens' access to environmental justice has historically been restricted by classical procedural requirements that condition legal standing (*legitimación activa*) upon proving direct, specific, and individualized harm. Under both European Union and Spanish administrative frameworks, this traditional construction creates a structural barrier in climate litigation. Because climate change operates on a global scale with cumulative and diffuse effects, citizens who attempt to challenge administrative inaction or insufficient public policies are routinely denied standing for failing to demonstrate an *individual concern* (*afectación individual*) that sets them apart from the general population –

a doctrine reaffirmed by the CJEU in *Armando Carvalho* (Case C-565/19 P). Consequently, climate neutrality remains categorized as an abstract collective interest rather than an enforceable subjective right.

Recent regulatory developments – most notably the European Climate Law (Regulation 2021/1119) and the Corporate Sustainability Due Diligence Directive (CSDDD, Directive 2024/1760) – represent an undeniable paradigm shift in making environmental and ESG commitments mandatory for public and private entities alike. However, a clear paradox emerges: while the substantive obligations imposed on corporate supply chains and administrative authorities have been significantly tightened, procedural access for individual citizens remains stagnant. Under Articles 14 and 26 of the CSDDD, citizens are granted only the right to submit *substantiated concerns* (*denuncias o observaciones fundadas*) to trigger administrative oversight, or to claim civil compensation under Article 29(2) *ex post* once direct damage has already occurred. Thus, the current framework relies heavily on public administrative enforcement while keeping individual citizens outside the core judicial arena.

This procedural bottleneck is equally evident at the national level. In Spain, Article 35 of Law 7/2021 on Climate Change and Energy Transition explicitly refers back to Law 27/2006, thereby subjecting climate claims to the strict historical limitations of environmental public action (*acción popular*), which is practically reserved for qualifying non-profit organizations. Furthermore, recent jurisprudence from the Administrative Chamber of the Spanish Supreme Court (such as Judgment 915/2026 of 15 July 2026) confirms that even inter-administrative demands between public authorities require the existence of obligations linked to specific individuals, ruling out broader claims grounded solely on the general public interest or climate neutrality goals.

De lege ferenda, addressing the climate crisis effectively requires moving beyond the traditional paradigm of civil liability and administrative complaints. Legislative reform should aim at explicitly recognizing a subjective, individual right of citizens to demand compliance with climate neutrality standards and mandatory ESG criteria. Granting citizens direct procedural standing to challenge public and corporate non-compliance – without requiring prior personal injury – would transform individuals from passive observers into active guarantors of due diligence. This shift would provide the necessary

judicial mechanism to operationalize the right to a healthy environment in the era of climate emergency.

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