



Environmental Protection in the European Union: The Potential to Grant Rights to Nature

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Abstract

The present climate crisis has prompted many states to amend their legislation to provide more comprehensive environmental protection. In the 1970s, Professor Christopher D. Stone put forward an idea to grant legal rights to nature, which has inspired countries today to create new legislation surrounding that concept. This article aims to display the foundation of the Rights of the Nature Movement that came forward from Stone's proposal, and its further potential. It examines the present state of environmental protection through climate litigation in Europe, with a specific focus on the effects of the Aarhus Convention and the use of human rights to protect the environment. The article then turns to one of the most comprehensive proposals for the adoption of nature's rights at an EU level, "Towards an EU Charter of the Fundamental Rights of Nature", assessing its transformative potential. While acknowledging significant political, economic, and cultural challenges, the article contends that recognising nature as a legal subject could offer a more effective legislative mechanism for environmental protection in the EU. Ultimately, the recognition of nature's rights is presented not only as a legal reform but as a broader ethical and societal shift toward an ecocentric understanding of the law.

Key words: Rights of Nature, Ecocentrism, Legal Standing, European Union Law, European Court of Human Rights, Climate Litigation.

1. Introduction

Traditionally, the law recognised only human beings as subjects capable of holding rights. It was only later that human-created entities, such as corporations, were granted this status¹. However, the growing ecological crises and the inadequacy of present legal frameworks to protect the environment have prompted scholars, activists, and even governments to question this limitation. Can rivers,

¹ Michelle Worthington and Peta Spender, 'Constructing Legal Personhood: Corporate Law's Legacy' (2021) 30 Griffith Law Review 348. Jerome Warren, 'The History of Legal Personhood with Special Emphasis on the Corporation'.



forests, and ecosystems be recognised as legal persons? The notion of recognising nature as a legal subject of rights represents a significant paradigm shift, challenging anthropocentric assumptions at the base of Western legal tradition. This idea first gained global attention in 1972 with the publication of Christopher D. Stone's article "*Should Trees Have Standing?*". Stone was a professor at the USC Law School and is considered to be the founder of modern environmental advocacy. In his essay, he argued that natural objects should be able to bring lawsuits through human representatives when their integrity is threatened. The idea of granting nature standing in court gained popularity and multiple states decided to implement it as a legislative tool.

2. Nature's rights in the world

Following Stone's idea, several countries worldwide have decided to grant rights to nature in their legal frameworks. Among them, Ecuador's 2008 Constitution was the first to grant nature (*Pacha Mama*, or Mother Earth), the rights to exist, flourish, and regenerate.² Since then, courts in Ecuador have adjudicated several cases where natural entities were represented by human guardians, and where harm to ecosystems was framed as a violation of nature's constitutional rights. While enforcement and consistency remain challenging, Ecuador's legal experiment demonstrates that nature's rights can be more than symbolic.³

After Ecuador, Bolivia passed a constitution which did not implement directly nature's rights, but instead, recognised the right of people to take up action for the protection and defence of the environment.⁴ Additionally, nature's rights have been recognised by courts in Colombia, Mexico, Chile and Bangladesh. Since 2012, New Zealand has passed two agreements on the rights of nature, granting legal personhood to the Whanganui River and the Te Urewera National Park.⁵ More recently, in 2017, India granted rights to the rivers Ganga and Yamuna, together with other ecosystems. Lastly, this movement has also gained relevance in the United States, where many local level bylaws have been passed to grant rights to nature.⁶

3. The European context: where are we now?

² Constitution of the Republic of Ecuador (2008), art. 71.

³ Mary Whittenmore, 'The Problem of Enforcing Nature's Rights under Ecuador's Constitution: Why the 2008 Environmental Amendments Have No Bite' (2011) 20 Washington International Law Journal 659, 681–691.

⁴ Political Constitution of the Plurinational State of Bolivia (2009), art 34.

⁵ 'Te Urewera Act 2014 No 51 (as at 05 April 2025), Public Act – New Zealand Legislation'

<<https://www.legislation.govt.nz/act/public/2014/0051/latest/whole.html>> accessed 9 January 2026.

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⁶ Jan Darpö, 'Can Nature Get It Right? A Study on Rights of Nature in the European Context' (2021) 22 *Journal of Environmental Law* 13.



Although nature's rights are not yet streamlined in the EU debate, there have been several attempts to protect nature in court proceedings, both through EU law before the European Court of Justice (CJEU) and through human rights litigation before the European Court of Human Rights (ECtHR).

3.1 EU Law

On a global scale, the EU has created one of the most advanced systems of environmental protection. Through EU's environmental legislation, the Union has adopted numerous measures aimed at protecting nature and involving the public in environmental decision-making. Although it has an extensive legal framework, the institutionalised system has struggled to provide effective environmental protection, particularly with access to justice.⁷

A central development in this field was the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, which is based on three fundamental procedural rights: access to environmental information, public participation in environmental decision-making, and access to justice in environmental matters.⁸ These rights are grounded in the idea that effective environmental protection is only possible when citizens are adequately informed, actively involved in decision-making, and equipped with legal tools to hold public authorities accountable. Now, EU citizens are entitled to obtain environmental information from public authorities and to participate in decision-making processes affecting the environment.

Importantly, restrictive standing requirements hindering access to justice remain the main weakness of the system. While EU law formally recognises the importance of allowing individuals and NGOs to challenge environmentally harmful decisions, in practice, the EU's standing doctrine remains restrictive. However, environmental harm often affects the public at large, making it difficult for individuals or organisations to meet the strict requirements needed to bring cases before courts.⁹ Therefore, the CJEU has attempted to mitigate these limits by interpreting national procedural rules in light of environmental objectives. Nonetheless, the Court has consistently confirmed that the Aarhus Convention has no direct effect, leaving significant discretion to Member States.¹⁰

⁷ Benedikt Pirker, 'Access to Justice in Environmental Matters and the Aarhus Convention's Effects in the EU Legal Order: No Room for Nuanced Self-executing Effect?' (2016) 25 *Review of European, Comparative & International Environmental Law* 81.

⁸ Convention on access to information, public participation in decision-making and access to justice in environmental matters - Declarations 1998 (OJ L); Pirker (n 6) 86.

⁹ 'Towards an EU Charter of the Fundamental Rights of Nature | EESC' (22 October 2020) 26 <<https://www.eesc.europa.eu/en/our-work/publications-other-work/publications/towards-eu-charter-fundamental-rights-nature>> accessed 9 January 2026.

¹⁰ Jonas F. Brakeland, 'Access to Justice in Environmental Matters – Developments at EU Level' (2014) 5 *Gyoseiho-kenkyu* 16.

As a result, despite meaningful progress in environmental regulation, the EU legal system still struggles to ensure effective access justice. This structural limitation makes one wonder whether granting rights to nature in the EU would constitute a more efficient way to protect the environment.

3.2 Human rights to protect the environment: the ECtHR case law

Environmental protection has increasingly been pursued before the European Court of Human Rights (ECtHR). It has indirectly recognised a right to a healthy environment through Article 2 on the right to life of the European Convention on Human Rights, and Article 8, guaranteeing respect for private and family life. Despite the more ecologically conscious direction taken by the Court over the years, this approach remains insufficient to address standing problems in climate litigation.

These limits emerged clearly in a trilogy of decisions issued in April 2024.¹¹ In *Carême v. France*, the mayor of Grande-Synthe challenged the French Government's refusal to adopt additional climate measures by relying on Articles 2 and 8 of the Convention.¹² However, the application was found inadmissible by the ECtHR because the applicant had moved away. Next, in *Duarte Agostinho and Others v. Portugal and 32 Others*, six Portuguese youths claimed that severe wildfires caused by climate change violated their Convention rights.¹³ The Court dismissed the claims against all states except Portugal on jurisdictional grounds. Ultimately, for failure to exhaust domestic remedies, the application against Portugal was rejected.

By contrast, in *KlimaSeniorinnen v. Switzerland*, the Court admitted the application brought by an association of elderly women and found a violation of Article 8.¹⁴ It held that states have a positive obligation not only to protect individuals from environmental harm but also to adopt and effectively implement measures aimed at mitigating climate change. Notably, the Court accepted the standing of an NGO in these proceedings.

Taken together, these cases reveal both the potential and the limits of human rights litigation in addressing environmental harm. While the Court's approach is innovative, it remains insufficient on its own. Therefore, reinforcing the need for complementary legal tools and broader standing, such as those offered by the recognition of nature's rights.

¹¹ 'Climate Change Litigation before the European Court of Human Rights: A New Dawn – GNHRE' (12 April 2024) <<https://gnhre.org/?p=17984>> accessed 9 January 2026.

¹² *Carême v France* (App No 7189/21) (ECtHR, 9 April 2024).

¹³ *Duarte Agostinho and Others v Portugal and 32 Others* (App No 39371/20) (ECtHR, 9 April 2024).

¹⁴ *Verein KlimaSeniorinnen Schweiz and Others v Switzerland* (App No 53600/20) (ECtHR, 9 April 2024).



4. Towards an EU Charter of Fundamental Rights of Nature

In 2019, following the success of the Rights of Nature Movement, the European Economic and Social Committee (EESC) published “Towards an EU Charter of Fundamental Rights of Nature”. It aims to analyse the possibility of adopting a Charter recognising legal personality of nature as a solution for the structural failures of EU environmental law. At the core of the proposed Charter, is a shift from an anthropocentric to an ecocentric worldview, which acknowledges the intrinsic value of nature.¹⁵ It refers to international instruments such as the UN World Charter for Nature and the Universal Declaration of the Rights of Mother Earth, which support the recognition of nature’s intrinsic value.¹⁶

Despite having one of the most advanced environmental frameworks, the EU has failed to prevent environmental degradation due to poor implementation, fragmented governance, short-term policymaking, continuous oscillations between regulation and deregulation, and inadequate access to justice.¹⁷ Therefore, the EESC proposes the development of four pillars to be implemented in a Charter of Fundamental Rights of Nature. The first is the principle of non-regression, which entails the prevention of environmental protection’s weakening. As for the second pillar, they call for resilience that promotes restoration and regeneration. The third pillar, the *dubio pro natura et clima*, ensures participatory and inclusive governance through environmental protection in cases of uncertainty and sustainable democratic methods. Lastly, reversal of the burden of proof principle, which shifts the evidentiary obligations from the plaintiff, in this case nature, to relevant private actors and authorities.¹⁸

These pillars aim to transform EU environmental law from a reactive and fragmented system into a more proactive and integrated legal framework.

5. Challenges

The implementation of nature’s rights in the EU presents challenges, especially, because the entire economic system is based on private property. The Charter could be perceived as an obstacle to development and as a halt for economic agendas. Therefore, creating unwillingness in policymaking, which is essential in furthering the adoption of nature’s rights. In the short term the Charter would

¹⁵ Satish C Shastri, ‘Environmental Ethics Anthropocentric to Eco-Centric Approach: A Paradigm Shift’ (2013) 55 Journal of the Indian Law Institute 522, 525.

¹⁶ ‘Towards an EU Charter of the Fundamental Rights of Nature | EESC’ (n 9) 18.

¹⁷ *ibid* 19–27.

¹⁸ *ibid* 72–87.

likely cause economic losses, with benefits materialising only in the long term. Public acceptance of these short-term costs is therefore crucial.¹⁹ While it is suggested that the Charter itself would foster education, implementation is unlikely until the concept of nature's rights is widely known and accepted by the public.²⁰

For the EU to invest in this project, it should prioritise investing first in education, and later in implementation. Once nature's rights become part of the collective imaginary, resistance from political institutions and constitutional courts would be easier to overcome.

6. Conclusion

The European Union possesses one of the most advanced environmental protection frameworks in the world with extensive laws, policies, and procedural rights aimed at safeguarding nature. Despite these achievements, gaps remain, particularly concerning access to justice due to the restrictive standing doctrine, highlighting the limitations of a system still largely anthropocentric in its approach. Against this backdrop, the Rights of Nature Movement is gaining traction in the EU. What emerges is not merely a legal innovation, but a deeper cultural and ethical transformation. Granting rights to nature compels us to rethink the very foundations of law, justice and society. It challenges the idea that only human interests deserve legal recognition and affirms a more interconnected vision of life on Earth. While the path forward remains uncertain and contested, the cases and developments show that a different legal future is not only imaginable but already underway. The question is no longer whether nature can hold rights, but whether our legal systems are ready to uphold them.

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¹⁹ *ibid* 97.

²⁰ Michael Faure, 'The Export of Ecological Civilization: Reflections from Law and Economics and Law and Development' (2020) 12 Sustainability 10409.



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