To the European Court of
Human Rights

Oslo, 15 August 2025

SUPPLEMENTARY WRITTEN OBSERVATIONS

BY GREENPEACE NORDIC, NATURE AND YOUTH AND SIX INDIVIDUAL APPLICANTS

represented by Cathrine Hambro, attorney at Bull, Emanuel Feinberg, attorney at Glittertind, and Jenny Sandvig, attorney at Simonsen Vogt Wiig, in

app. no. 34068/21, Greenpeace Nordic and others v. Norway

TABLE OF CONTENTS

1 INTRODUCTION

1. With reference to Rule 38 § 1 of the Rules of the Court, the applicants ask the President of the Chamber to exceptionally admit the present pleadings to the case file of *Greenpeace Nordic and others v. Norway*. The pleadings concern the merits of the case in light of new developments in international law, namely the advisory opinions of the International Court of Justice (ICJ) of 23 July 2025, the Inter-American Court of Human Rights (IACtHR) of 29 May 2025, and the Court of the European Free Trade Association (EFTA) of 21 May 2025.

2. These decisions are relevant to the case at hand. The Court noted in *KlimaSeniorinnen* para. 455 that the interpretation and application of the rights provided for under the Convention "can and must be influenced […] by relevant legal instruments designed to address such issues by the international community", since the Convention "should be interpreted, as far as possible, in harmony with other rules of international law". For the benefit of the Court, the applicants will briefly emphasize certain aspects of these decisions.

2 THE ICJ'S ADVISORY OPINION

3. At the request of the UN General Assembly, the ICJ confirmed in paras. 372 – 386, that the adverse effects of climate change may impair the enjoyment of the right to life (ICCPR Article 6), the right to health (ICESCR Article 12 and CRC Article 24), and the right to privacy, family and home (ICCPR Article 17), highlighting that groups in vulnerable situations such as children and indigenous people are at risk of being affected in the enjoyment of their human rights by the adverse effects of climate change. The ICJ relied among other authorities on *KlimaSeniorinnen,* see para. 385. Its reasoning implies that Articles 2, 8 and 14 of the ECHR apply to the case at hand and have been violated, see para. 403.

4. Moreover, the ICJ held that conventional and customary international law obliges States to protect the climate system by limiting warming to below 1.5ºC, see para. 224 and 313. The impugned licenses breached these obligations in several ways.

5. First, the licenses breached the Respondent's duty under the UNFCCC Article 4(2)a to preserve GHG reservoirs on its territory. As noted by the ICJ, States have a continuing duty under Article 4(2)a to preserve reservoirs of GHGs, see paras. 200 and 446. This is an interconnected obligation of conduct and result which is legally binding on the Respondent as an Annex I State, see para. 205 cf. 204. The oil and gas deposits in the BSS and BSSE are reservoirs for the purposes of Article 4(2)a of the UNFCCC. They are part of the geosphere which is part of the

"climate system", cf. the UNFCCC Article 1(3), and are thus "components of the climate system where a greenhouse gas or a precursor of a greenhouse gas is stored", cf. UNFCCC Article 1(7), cf. ICJ para. 200.[1] This obligation pertains to all reservoirs on the Respondent's territory regardless of where the oil and gas ultimately would burn.

6. The opening of reservoirs in the Barents Sea South (BSS) and Barents Sea South-East (BSSE), containing 6.336 and 1.627 gigatons of CO2 (GtCO2), and the issuance of production licenses, breached the Respondent's obligation to use all means at its disposal to fulfil the objective envisaged under the UNFCCC, concretized in the Paris Agreement as limiting warming to below 1.5ºC, see paras. 208 and 224. Indeed, the embedded emissions of 6.336 and 1.627 GtCO2 would lay waste to a *quarter* of the world's carbon budget to limit warming to 1.5ºC (83% likelihood), which per 1.1.2025 stood at just 30GtCO2.[2] The licensing plainly violates the obligation to limit warming to below 1.5ºC.

7. Second, the opening of the BSS and BSSE and the impugned licenses breached the Respondent's customary no harm obligation to exercise stringent due diligence to protect the global climate system, see paras. 278, 282, 289, and 427. Fossil fuel extraction is the main driver of climate change, see paras. 53, 72 and 81, which imperils all forms of life on earth, see para. 456. Consequently, the ICJ singled out fossil fuel production, the granting of fossil fuel exploration licenses or the provision of fossil fuel subsidies as examples of internationally wrongful acts which can be attributed to the extracting State, see paras. 427 and 94. As a developed State, the Respondent must satisfy a more demanding standard of conduct, see para. 292. Yet even assuming an equal per capita allocation of the remaining carbon budget, the emissions would exhaust the Respondent's share more than 27 times over.[3] The licensing activity and the failure to put in place appropriate rules and measures violated the Respondent's duty to prevent significant harm to the environment.

8. Third, the failure to carry out a publicly available prior assessment of the impacts on life, health and the environment of adding 6.336 and 1.627 GtCO2 to the atmosphere, breached the customary procedural no harm obligation to carry out environmental impact assessments on

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[1] See also the IPCC Glossary available here: https://apps.ipcc.ch/glossary/
[2] Forster et al., Indicators of Global Climate Change 2024: annual update of key indicators of the state of the climate system and human influence, Earth System Science Data, Vol 17, issue 6, 19 June 2025, available here: https://essd.copernicus.org/articles/17/2641/2025/
[3] Expert opinion by Dr. Yann Robiou du Pont, Exhibit 3, Additional observations of 16 August 2024

climate impacts of particularly significant proposed activities, see paras. 289, 296, 298, 276, and 444. The violation is particularly grave, since the emissions from the BSS and BSSE would significantly affect collective efforts to address harm to the climate system, see para. 299. It follows from the ICJ's opinion that any assessment must be based on the best available science, see paras. 283 and 284, and encompass climate impacts of all embedded emissions, as opposed to speculations about knock-on effects in other States (so-called net effects). Indeed, the ICJ notes that the internationally wrongful act at issue is not the emission of GHG per se, but actions or omissions causing significant harm to the climate system in breach of a State's international obligations, see paras. 429 and 427. In the case at hand, the action is the licensing activity. The omission is the failure to assess and make known the climate harm as early as possible, so it can be avoided.

9. The above violations constitute internationally wrongful acts to which the Respondent must put an end, see para. 447. Indeed, the ICJ noted that a State may be required to revoke all administrative, legislative and other measures that constitute the internationally wrongful act in question, see para. 447.

3 THE IACTHR'S ADVISORY OPINION

10. At the request of Chile and Colombia, the IACtHR in AO-32/25 confirmed that the obligation to not cause irreversible damage to the climate and the environment must be recognized as a peremptory international *jus cogens* obligation, see paras. 290-294. The IACtHR also held that to comply with their duty to mitigate GHG emissions, States must at a minimum regulate, monitor, enforce, require and approve environmental impact assessments on the climate impact of planned activities, see para. 321. The IACtHR noted that States must include an assessment of the potential effects on the climate system, particularly when projects or activities involve the risk of generating significant GHG emissions, see paras. 230, 359, and 361. The IACtHR also recognized a right to access science as part of the right to access information, noting that it is an essential requirement for the protection of, *inter alia*, the rights to life, integrity, health, the environment, and a healthy climate, see paras. 473 and 484. To make these rights effective, States must guarantee meaningful participation of citizens and prior consultation of indigenous people in decision-making processes that may affect the climate system, see paras. 522, 608 and 610.

11. By approving the impugned production licenses in substantive breach of the 1.5ºC temperature target, without any publicly available prior assessments of the climate impacts of adding 6.336

and 1.627 gigatons GtCO2 from the reservoirs in the BSS and BSSE to the atmosphere and the catastrophic impacts of these emissions on the rights to life, integrity and health, especially for youth and the indigenous Sámi population, the Respondent breached the peremptory norms identified by the IACtHR.

4 THE EFTA COURT'S ADVISORY OPINION

12. At the request of Borgarting Appeals Court in case E-18/24, the EFTA Court confirmed that Directive 2011/92/EU on the assessment of the effects of certain public and private projects (EIA Directive) Article 3(1) requires prior and publicly available assessments of the climate impacts of combustion emissions from oil and gas extraction projects. The EFTA Court held that combustion emissions from embedded GHG in extracted oil and gas constitute inevitable and at any rate likely environmental effects of such projects.

13. Since Article 3(1) of the EIA Directive is identically structured and worded as Article 3(1) of the SEA Directive and is supposed to cover the same range of effects albeit at an earlier stage, it follows that combustion emissions (which are environmental effects under the EIA Directive) are also environmental effects under the SEA Directive. The minority of the Norwegian Supreme Court thus rightly held that the Respondent breached the SEA Directive when it failed to carry out strategic environmental assessments of these likely significant environmental effects on the climate before deciding to open the BSSE for petroleum production.

14. The EFTA Court emphasized that environmental assessments are a prerequisite for the exercise of informed democratic participatory rights in matters concerning climate change. And while the EFTA Court's opinion merely concerned the interpretation of the term "environmental effects" in Article 3(1), it follows from the wording and structure of the provision that the obligation to assess these effects goes beyond a mere quantification of the GHG content embedded in the reservoir. Rather, Article 3(1) of the SEA and EIA Directive requires the identification, description and assessment of the impacts *on all listed factors*, including life, health, biodiversity, water, air, climate, and indigenous groups. Indeed, the ICJ noted in paras. 429 and 437 that it is scientifically possible to determine specific contributions to global emissions and attribute the impact of these emissions to a range of physical changes, such as increases in heatwaves, flooding and drought. As the expert opinions submitted on 16 August 2024 exemplify, it is possible based on best available science to quantify and estimate the effects of the BSS and BSSE emissions on heat-related mortality, exposure rates spread across birth cohorts to extreme weather events, loss of sea ice, glacier mass, snow cover, sea level rise

and other impacts. If the assessments were confined to simply quantifying the GHG content embedded in the reservoir, as the Respondent has argued elsewhere, the public would be deprived of scientific knowledge of quantifiable dangerous impacts.

15. Finally, the EFTA Court held that speculations of so-called net effects on global emissions are irrelevant to Article 3(1). In para. 96, the EFTA Court explained that "speculative analysis of knock-on effects on other projects elsewhere" are textually irrelevant to the obligation to assess the impacts of all embedded emissions in the reservoirs. In para. 97, the EFTA Court explained that the Respondent's approach would allow for omitting the level of GHG emissions licensed through the project and undermine the Directive's purpose of enabling effective public participation.

5 CONCLUDING OBSERVATIONS

16. These recent decisions by international courts support that the Respondent breached the applicants' rights under the Convention, interpreted in harmony with international law of which it forms part.

Oslo, 15 August 2025

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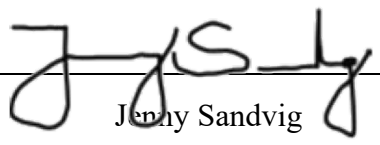

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