

Judge Yonko Grozev
President, Fourth Section
European Court of Human Rights
Council of Europe
F-67075
FRANCE

Oslo, 4 February 2021

Dear Judge Grozev,

Intervention in *Duarte Agostinho and others v 33 Contracting States* (Application no. 39371/20).

The Norwegian Grandparents' Climate Campaign, Ketil Lund and Mads Andenas QC request leave to intervene jointly in this proceeding, pursuant to Article 36 of the Convention and Rule 44(3) of the Rules of the Court.

About the interveners

The Norwegian Grandparents' Climate Campaign (GCC), established in 2012, is an independent grassroots organisation with some 5600 members, including grandchildren and other younger members, <https://www.besteforeldreksjonen.no/about-the-grandparents-climate-campaign/>. It has regional groups across Norway. GCC has proved a significant voice in the public debate on the state of Norway's climate policy at home and abroad. GCC has CO₂ emissions and Norwegian oil exploration, extraction and export, including in the Arctic Ocean, among its priorities. It has adopted Article 112 of the Norwegian Constitution as the guiding principle for climate action and climate justice. Article 112 provides: *'Every person has the right to an environment that is conducive to health and to a natural environment whose productivity and diversity are maintained. Natural resources shall be managed*

on the basis of comprehensive long-term considerations which will safeguard this right for future generations as well. Article 112 is one of the provisions of ‘Chapter E. Human Rights’ in the Norwegian Constitution.

From 2016 GCC intervened in the climate litigation before the Norwegian courts, in all three instances, including the Supreme Court, which delivered its judgment on 22 December 2020. Norway is the largest oil and gas producer in Western Europe, and the only Western European country that licenses, and financially assists, in oil exploration. The export is mainly to Europe where the oil and gas are burned. The court action was for judicial review of the first licences for new oil exploration in the Arctic. Principles and rules of human rights law, including the European Convention on Human Rights, were at the core of the court action. The Prime Minister emphasised in a statement at the time of opening up for oil exploration in the Arctic, the ‘opportunities’ for Norway: ‘Melting polar ice facilitates increased shipping along the Northeast Passage between Europe and Asia. The assumed vast oil and gas reserves in the Barents Sea may contribute to satisfy the world’s increasing need for energy’. (Preface by Prime Minister Erna Solberg, *Nordkloden. Norges statusrapport om arktis*, 2014.)

GCC will together with both young and older individuals complain to the European Court of Human Rights over Norway’s infringements of the Convention. The complaint will complement *Duarte Agostinho* and other climate complaints including that by the *Union of Swiss Senior Women* before the Court.

Steinar Winther Christensen, a retired advocate, chairs the national board, and will represent the GCC in this intervention.

Ketil Lund is the second joint intervener. He was a Justice of the Norwegian Supreme Court (1990–2009). As a member of GCC, he delivered a statement on its behalf in the City Court, the Court of Appeal and Supreme Court.

Justice Lund and Mr. Winther Christensen have been involved in environmental matters for many years and played an active role in the Alta Conflict concerning the construction of a hydroelectric power plant in the Alta River in Finnmark in northern Norway and violations of Sami rights in the late 1970s and early 1980s. Ketil Lund was standing counsel to Norges Naturvernforbund (Friends of the Earth Norway) in the courts. That judicial review action was lost in the courts but civil society action and the legal process spurred the constitutional protection for and representative political institutions for the Sami, and also a new direction for the damming of rivers for hydroelectric power.

Mads Andenas QC is the third joint intervener. He is a professor at the University of Oslo where he for many years has been responsible for human rights law, company law, and financial markets law. He is a former UN Special Rapporteur for arbitrary detention (2009–2015). He was for many years a professor in the UK and Director of the Centre of European Law, King's College, University of London and Director of the British Institute of International and Comparative Law, has brought cases before Norwegian courts and the European Court of Human Rights, and intervened in the Court of Appeal and the Supreme Court of the UK. He was appointed Honorary Queen's Counsel in 2019.

The proposed intervention

We would like to address the questions the Court posed in its communication of the case.

Question 1 raises particular jurisdictional issues relating to the Norwegian off shore oil exploration, extraction and export. The Norwegian government attempts to exclude oil and gas production and export, and its financial aid to this, from the EU and UN regimes.

Question 3 raises questions about the Norwegian off shore oil exploration, extraction and export and the margin of appreciation, fair balance and proportionality. Duties to undertake planning and environmental impact assessments under EU and UN law limits the margin of appreciation, and we will argue that EU regulation and UN treaties establish a national consensus.

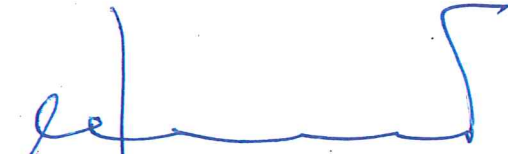
We would like to present to the European Court an overview of authoritative, independent and up-to-date assessments of the climate change mitigation measures adopted by Norway and the extent to which they are being implemented, and the authoritative studies on the adoption of these measures. We will also address the flawed mitigation of the emissions and climate effects of the Norwegian off shore oil exploration. The political process and scientific research undermines the Government's claims about complying with EU and UN targets, and so do the conclusions of the Auditor General's 2020 investigation into the Norwegian plans to reduce emissions and 2019 investigation into the environmental impact of off shore oil extraction in the north.

We would also like to provide observations on Norway's response to the application.

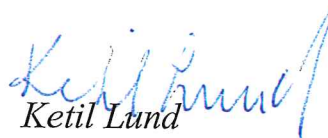
A large number of respondent States are party to these proceedings. The nature of climate change mitigation policy is inherently evolving. The case is brought

by six children and young adults of modest means. The interests of the proper administration of justice would be served by permitting interventions from those with expertise on the climate change mitigation measures of the respective respondent States.

Yours sincerely,



Steinar Winther Christensen
As Chair of the Norwegian
Grandparents' Climate Campaign



Ketil Lund

Former Justice of the
Norwegian Supreme Court



Mads Andenas QC

Professor