A 1/7 Pavel Roșca
400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
E office@revnic.ro

To
CLUJ COURT OF APPEAL
SECTION III ADMINISTRATIVE AND TAX LITIGATION
File Case No. 114/33/2023

Your Honor,

1. The undersigned, **DECLIC ASSOCIATION**, with headquarters in Cluj-Napoca, str. Traian, nr. 69-71, Cluj County, Tax Reference Number 25862117, Certificate of Registration in the Register of Associations and Foundations no. 109/2009 of October 3, 2012, bank account RO54 RZBR 0000 0600 1502 6273, opened with Raiffeisen Bank, phone/fax: 0364-104.706, duly represented by the President Pencea-Brădățan Elena-Roxana, and

The undersigned:

2. **...**
3. **...**
4. **...**
5. **...**
6. **...**

with address for service at S.C.A. Revnic, Cristian & Asociații in Cluj-Napoca, str. Pavel Roșca, nr. 1, ap. 7, Cluj County, Andrea Rado is the person authorized to receive any procedural documents,

by **Attorney-at-Law Roxana Mândruțiu** and **Attorney-at-Law Isabela Porcius**, with enclosed Power of Attorney,

with a request for an electronic writ of summons to be sent to the email address roxana.mandrutiu@revnic.ro pursuant to Article 156 paragraph (4) of the Code of Civil Procedure (hereinafter CCP) and of the Decision of the High Court of Cassation and Justice No. 75/2022

Pursuant to Article 20 of Law 554/2004 of the administrative litigation (hereinafter L554) in conjunction with Article 488 paragraph (1) section 5, 6, 8 of the Code of Civil Procedure, hereby submit this:

A 1/7 Pavel Roșca
400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
E office@revnic.ro

APPEAL

Against Civil Judgement No. 312/2023 delivered by Cluj Court of Appeal in file case no. 114/33/2023.

Asking Your Honor to submit the file to the competent High Court of Cassation and Justice, where we ask the Honorable Court to order the appeal to be admitted, the Civil Judgement No. 312/2023 to be partially quashed, with the consequence of:

1. **Admission of the sue petition lodged;**
2. **Order the Defendants to pay the trial costs of the proceedings in this case, in accordance with Article 453 of the Code of Civil Procedure,** having regard to the following

REASONS

1. Summary of the allegations of unlawfulness of Civil Judgement No. 312/2023

(1) From the very outset, we would like to point out that, on a plain reading of the Civil Judgment under appeal, we find that it oversimplifies the role of the National Court in the analysis of the minimum standard of protection and the discretionary power of the Respondents in the field of climate change, by essentially demonstrating that such an analysis is not possible. The legal truth proposed by first instance judge proposes is a simple one. To paraphrase Oscar Wilde, legal truth is rarely pure and never simple.
In fact, the first instance judge refused to hear the present case, and committed of a veiled denial of justice, which is prohibited by the provisions of Article 5 paragraph (2) of the Code of Civil Procedure. The veiled refusal to rule on the application also results from the findings recorded in the initial adjournment report of the proceedings dated May 22, 2023:

The Plaintiffs' representative argues that it is true that there is independence and collective effort, but at the same time there is individual responsibility, because otherwise each State would say that it is not fulfilling its obligations because neighboring States are not fulfilling their obligations.

In the light of that assertion, the Court asks the Plaintiffs' representative whether that question concerns a measure to be ordered by a national court or by an EU court.

(2) By proceeding in this way, we have been deprived of an effective remedy before the court of first instance, and the right to a fair trial governed by Article 6 of the Code of Civil Procedure, Article 13 ECHR and Article 47 of the EU Charter of Fundamental

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F +40 264 599 743
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Rights (hereinafter the EU Charter). That it is so is clear from page 23 of the Court Order, which states that:

- *Upholding the case, in the circumstances in which the operative part of the judgment would not identify, because it does not have the means to do so, which measures are necessary and which are the concrete and coherent plans for achieving the climate objectives, would imply the delivery of an unenforceable court decision (*paragraph 1)
- *[*the result is that*] at the enforcement stage, the courts substitute themselves for the legislature by prescribing the necessary measures (*paragraph3 final sentence)

In other words, leaving a margin of discretion to the Respondents denies them the possibility to enforce the judgment thus rendered, and ordering them to take concrete action would be contrary to the principle of the separation of powers in the State. The Court's view is clear: the National Court cannot rule on the issue of climate change.

There is no doubt that there is a plea of illegality referred to in Article 488 paragraph (1) section 5 of the Code of Civil Procedure, infringing the fundamental principles governing the civil proceedings.

(3) The reasoning of the above-mentioned civil judgment is also contradictory, since the ground for quashing provided for in Article 488 paragraph (1) section 6 of the Code of Civil Procedure applies.

(4) In addition, our grounds of illegality required that the following questions to be answered, by reference to Article 2 section (n) of L554:

- Are the Defendants in breach of their duty of care by applying in 2023 GHG reduction targets for 2030 that are well below the EU-wide level of 55% below 1990 levels?
- In view of that there is still no climate law, although the United Nations Framework Convention on Climate Change was adopted in 1992 and the Paris Agreement entered into force in 2016, **are the measures taken by the Defendants to reduce GHG emissions sufficient prevent climate change dangerous to humanity and the environment, having regard to the discretionary power of the Defendant under section 1?**
- Whether, according to objective standards, climate change mitigation and adaptation measures (e.g. measures to increase energy efficiency and integrate renewable energy sources into the national energy grid) are sufficient and appropriate to mitigate the effects of climate change on Romania's citizens and the environment?
- **Are the measures proposed by the Defendants compatible with the rights and freedoms guaranteed by the Romanian Constitution and the ECHR**, namely: the right to life and privacy, the right to property, the right to health and to a healthy and ecologically balanced environment, the right to a future consistent with human dignity?

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400118 Cluj-Napoca, RO
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(5) However, whether the Defendants exercised their discretion excessively was not considered at all by the first instance judge. Since such a statement of reasons is nowhere to be found in the judgment, the judgment is delivered in breach of the requirements of a statement of reasons, governed by Article 425 of the Code of Civil Procedure.

(6) Last but not least, the judgment is given with the misinterpretation/misapplication of the rules of substantive law, the plea of illegality referred to in Article 488 paragraph (1) section 8 of the Code of Civil Procedure applies.

2. Brief account of the pleas of illegality put forward by the Appellants before the Court of First Instance and of the findings contained in the Civil Judgement No. 312/2023.

2.1. Brief account of the pleas of illegality put forward before the Court of First Instance

(1) By the application initiating the proceedings filed against the Defendants Respondents, the Government of Romania, the Prime Minister, the Ministry of Environment, the Minister of Environment, the Ministry of Energy and the Minister of Energy, we filed the following pleas in law:

1. Order the Defendants to take all necessary measures to reduce greenhouse gases (hereinafter GHG) by 55% by 2030, and to achieve climate neutrality by 2050;
2. Order the Defendants to take all necessary measures to increase the share of renewable energy sources in final energy consumption to 45% and to increase energy efficiency by 13% by 2030;
3. Order the Defendants to adopt, within a maximum of 30 days of the date when the judgment becomes final and definitive, concrete and coherent climate change mitigation and adaptation plans, including annual carbon budgeting, with a view to achieving the targets set out in counts 1 and 2, as well as annual reporting and monitoring mechanisms on the progress towards achieving these targets;
4. Order the Defendants under sections 2, 4 and 6 to pay a fine of 20% of the gross minimum wage per day of delay, to be paid to the State budget, from the expiry of the period referred to in count 3 until the effective adoption of the measures required to achieve the targets laid down in counts 1 and 2.

(2) In substantiating our requests, we have provided evidence of the need to achieve these shares as a manifestation of Romania's individual responsibility in the fight against the effects of climate change, in accordance with the commitments undertaken at the Union and international level and in line with the requirements to respect and protect the fundamental rights of its citizens.

A 1/7 Pavel Roșca
400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
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(3) More specifically, we have put forward the following pleas of illegality, which are detailed in the application initiating the proceedings (volume I pages-1-82) and briefly taken over in the Summary of the Pleas for Illegality (volume V, pages 84 et seq.):

- **The Defendants' breach of the obligation to reduce greenhouse gas emissions by at least 55% in relation to the 1990 levels**

The merits of the reduction share requested in count 1 need to be considered from a threefold perspective:

📖 The incompatibility of Romania's Commitment with the legal obligation under Article 2 of the Paris Agreement (primary legislation), which aims to limit global warming to 1.5 degrees Celsius and 2 degrees Celsius, respectively, according to the latest scientific assessments and findings;

📖 The lack of legitimacy of the measures adopted by the Defendants in the light of the positive obligation (affirmative duty) of the State to protect the constitutionally enshrined rights (the right to a healthy environment, the right to life, the right to health, the right to privacy and family life, as well as the right to a dignified future for present and future generations); the application of the filter of the precautionary principle and the intergenerational equity principle;

📖 The aggravation of the risk of harm to human rights by the measures taken by the Defendants. The applicability of the ECtHR standard, according to which the State's positive obligation (affirmative duty) has two aspects: the obligation to provide a regulatory framework and the obligation to take preventive operational measures.

- **Failure by the Defendants to comply with the obligations relating to a reasonable increase in the targets for the share of renewable energy sources in the final energy consumption and energy efficiency.**

The well-founded nature of the shares requested in count 2 is based on the following grounds:

📖 The high share of the energy sector in the generation of greenhouse gas emissions and, implicitly, in the intensification of the phenomenon of climate change.

📖 Europe's accelerated warming relative to the global average.

📖 Failure to meet the highest possible climate ambition standard, given that the Integrated National Energy and Climate Plan (INECP) foresees an increase to 30.7% by 2030 (and to 29% through the National Resilience and Recovery Plan (NRRP)), which is well below the 45% target set by the EU's PowerEU

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400118 Cluj-Napoca, RO
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T +40 264 592 212
F +40 264 599 743
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package. In terms of energy efficiency, Romania's current ambitions do not provide for real increases in energy efficiency, which is at odds with the proposed 13% increase by 2030 set by REPowerEU. Only by adopting these ambitious and fair REPowerEU targets can we stay on the long-term temperature limiting trajectory set out in the Paris Agreement.

- 🕮 The continuation of national projects and investments aimed at the fossil fuel sector, which, contrary to the idea of a renewable resource, is a major polluter.
- 🕮 The allocation of funds to outdated hydropower and woody biomass projects, even though is an alternative to the introduction of clean energy (solar and wind), given Romania's geographical conditions.
- 🕮 The inefficiency of investment programs in the production of solar energy, namely the widespread use of photovoltaic panels and incentives for prosumers, likely to have an impact on the right to a decent life.
- 🕮 The lack of interest in the use of the offshore wind capacity of the Black Sea basin.
- 🕮 The lack of an adequate strategy to address the problem of fuel poverty, which affects an increasing percentage of Romania's population.

The arguments in support of count 2 are not mere grounds of expediency, an aspect which is also reiterated in the minutes of the hearing filed for the hearing dated May 22, 2023, in which we stated that:

- 🕮 We do not deny the collective nature of the 45% target, at the same time, however, it cannot be ignored that the collective targets set at Union level represent a minimum and not a maximum limit, with each State being responsible for meeting its individual climate target under the Paris Agreement; In other words, targets not consistent with the Paris Agreement are unlawful;
- 🕮 According to the Ember Report of May 15, 2023, the largest electricity consumers in Eastern Europe (including Romania) do not have ambitious renewable energy targets, relying on expensive coal and gas, which is why they have the highest electricity prices in Europe. This has a significant impact on livelihoods and, by implication, on the constitutional right to a decent living;

A 1/7 Pavel Roșca
400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
E office@revnic.ro

📖 The anemic actions taken by the Defendants have the effect of endangering energy security, the right to property, the right to a decent living and the right to a dignified future.

2.2. Brief account of the findings contained in the Civil Judgement No. 312/2023

(1) The Court of First Instance correctly dismissed the plea of lack of the capacity to be sued raised by the Ministry of Environment, Water and Forests with regard to count 2 of the claim.

(2) Instead, in manifest violation of the rules of substantive law and the principles governing the civil proceedings, it dismissed the Plaintiffs' case as unfounded, as well as the ancillary petitions for motion to intervene, stating that:

- As long as the counts of the case do not specify the necessary measures and concrete plans to reduce greenhouse gas emissions by at least 55% by 2030 and to achieve climate neutrality by 2050, the judgment would be unenforceable if the case were upheld;
- In light of the above considerations, there is no need to carry out a review in relation to the standard of ECtHR case-law in relation to Article 8;
- Even if one were to conclude that there is a violation of the right to a healthy environment and the protection of the health of the population, the wording of the counts is not likely to lead to the removal of the violation;
- There can be no question of a manifest lack of interest on the part of the Defendants in relation to the statutory acts adopted in that regard, and in relation to the draft long-term strategy which was the subject of public debate;
- Climate change is a challenge that transcends national boundaries and requires coordinated action by all countries;
- The Plaintiffs seek to substitute their own reasons of expediency for those of the State authority;
- The targets set out in the Fit for 55 and Repower EU documents are irrelevant at this point, since they have not been incorporated into the EU legislation to meet the Union's contribution to the Paris Agreement.

3. Details of the pleas of illegality

3.1. The applicability of the plea of illegality referred to in Article 488 paragraph (1) section 5 of the Code of Civil Procedure. Violation of the fundamental principles governing the civil proceedings.

A 1/7 Pavel Roșca
400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
E office@revnic.ro

(1) **Miscarriage of justice.** As argued in Section 1, the Court of First Instance refused to rule on the case, considering that as long as the issue of climate change involves a collective effort, then the Court that must resolve such a legal issue is higher to the National Court.

(2) It also concluded that the wording of the counts (ordering the Defendants to take the necessary measures and to adopt concrete plans to achieve the climate objectives) cannot allow the judgment to be enforced, as they are of a too general nature. At the same time, it is also not possible to order the Respondents to take concrete measures, as the judge would be substituting themselves for the legislative or executive power.

(3) On the other hand, the Court of First Instance erroneously considers that in the enforcement proceedings, the undersigned would request for something other than the Defendants should commit themselves, by means of a plan, to the targets referred to in counts 1 and 2 and monitoring and reporting mechanisms.

(4) Furthermore, in analyzing the *efforts* of the Respondents in the field of climate change, the Court (further) stated:

> Romania is currently working on the Long-Term Strategy for the Reduction of Greenhouse Gas Emissions (http/www.mmediu.ro/articol/strategia-pe-termen-lung-a-romaniei-pentru-reducerea-emisiilorde-gaze-cu-efect-de-sera/6135)
> There can therefore be no question of a manifest disinterest on the part of the Defendants in achieving the environmental objectives.

(5) Overlooking the fact that the Appellants referred to the draft Long-Term Strategy in order to demonstrate the acknowledgement by the Respondents of the insufficiency of the **current** measures, the Court seized of our action manifestly unlawfully decided that the draft Strategy would constitute evidence in favor of the Respondents.

(6) There is no doubt that the first instance judge should have judged the trial on the basis of the legislation in force and the most recent scientific data and could not dismiss the Party's application on the ground that a different strategy should be developed in the future to govern the legal relationship brought before the court. Therefore, the judge, applying **only** the legal rules in force within the existing legal framework, had to settle the dispute between the Parties. However, in a biased manner, the judge essentially violated the principle of legality, which amounts to a miscarriage of justice.

A 1/7 Pavel Roșca
400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
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(7) The foregoing arguments are confirmed by the case law of the High Court of Cassation and Justice, ruling no. 8129/2005[1] being conclusive in this regard.

(8) It should be noted that on 6 December 2022, the European Court of Human Rights (hereinafter referred to as ECtHR) delivered its judgment in Spasov v. Romania, in which it held that the Romanian State had violated Article 6 paragraph 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention"), on the fundamental right to a fair trial.

An important remark is the association that the ECtHR makes between the misapplication of European Union law (manifest error of law) and the right to a fair trial, through the concept of the *miscarriage of justice.* Similarly, the misapplication of the Paris Agreement constitutes an error of law that falls within the notion of a miscarriage of justice.

(9) **The breach by the Court of First Instance of the right to an effective remedy.** The Plaintiffs were denied effective access to justice. The first instance judge made an arbitrary assessment of the case, lacking any analysis of the merits of the claims, namely whether: is there a legislative and administrative framework necessary to effectively protect fundamental rights and freedoms, i.e. are the current measures enough to prevent dangerous climate change?

(10) We, the Plaintiffs Appellants, have argued that the Respondents have a positive obligation (affirmative duty) to establish a legislative and administrative framework to ensure effective protection against threats to the right to life, health, a healthy and ecologically balanced environment, a future in accordance with human dignity. The Defendants' margin of discretion is limited to determining the measures to be taken to comply with the positive obligation (affirmative duty) referred to above. We have also argued that the Respondents are required to fulfil their fair share in order to remain within the 1.5 degree Celsius limit, which was agreed in the Paris Agreement.

(11) Did the Court note that we have raised the Defendants' breach of the positive obligation (affirmative duty), an obligation enshrined in Article 135 of the Constitution, as well as in the case law of the ECtHR? No. Did the Court note that we have raised the inconsistency of the current measures with the climate objectives set out in the Paris Agreement? No.

(12) What did the Court note? That we have asked that the Defendants be ordered to take all the necessary measures to remedy a gloomy reality, not that they be ordered to set

[1] The High Court of Cassation and Justice, *Unlawfully seized buildings. Equivalent remedies. The need for detailed rules for implementing the law. Prematurity. Miscarriage of justice.* Pandectele Romane 2 of 2006.

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W www.revnic.ro
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clear targets. We do not deny the importance of a sense of humor[2] (according to philosopher John Stuart Mill "Every great movement must experience three stages: ridicule, discussion, adoption"), but we would have appreciated more consistent analysis on the legal issues raised by us. In this context, we mention the *Climate Change and Global Warming Report[3], prepared by IRES on April 22, 2023, according to which only 8% of Romanians place climate change at the top of the list of problems faced by the world and 13% consider the phenomenon to be a major problem in the next 20 years.* This gloomy reality (sic!) is a confirmation that the issue of climate change has not become a real debate in the public space, the fault for the belittling of the issue lies solely with the Defendants. Obviously, Romania has not moved beyond the stage of ridicule.

(13) On the other hand, the Court, in breach of the **principle of availability**, also noted that the Integrated National Energy and Climate Plan (INECP) (the only national document containing the commitment to reduce GHG emissions) is legal, in accordance with the legislation in force at the time of adoption.

(14) Have we vested the Court with the legality control of Integrated National Energy and Climate Plan (INECP)? No. We have argued and proved with scientific reports that the current measures are not adequate and reasonable to prevent dangerous climate change, claiming the excess of power of the Defendants Respondents.

(15) It is clear from the whole legal syllogism that we have been deprived of an effective remedy, Article 5-6, Article 9 of the Code of Civil Procedure, Article 47 EU Charter and Article 6 and 13 ECHR.

3.2. The applicability of the plea of illegality referred to in Article 488 paragraph (1) section 6 of the Code of Civil Procedure. The judgment under appeal fails to comply with the requirements of the statement of reasons

3.2.1. Lack of adequate reasoning. The Court conducted a *prima facie* analysis, rather than a substantive analysis.

(1) From the perspective of the ECtHR case-law, mandatory for the National Courts (Albina v. Romania, G. v. Romania, D. v. Romania), a civil trial concluded by a judgment solving

[2] In 1983, the Michigan Court of Appeal derided the idea of rights of nature. Instead of a proper reasoning, the judges composed a poem. As funny as it may seem to the readers, the person seeking justice certainly did not feel that an act of justice had been carried out.
In the meantime, the rights of nature have been constitutionally enshrined in Ecuador (the 2008 Constitution), and Bolivia, New Zealand, the **United States**, Colombia, Australia have laws governing the rights of nature, etc.
Source: The Rights of Nature: A Legal Revolution That Could Save the World" by David R. Boyd

[3] https://ires.ro/articol/446/climatic-shifts--i-global-heating-(3rd edition, 2023)

the merits, with the guarantees given by Article 6.1. of the ECHR, includes, inter alia, the right of the Parties to be genuinely "heard", which entails the obligation of the Court to carry out an effective, real and consistent examination of the means, arguments and evidence of the Parties, at least to assess their relevance to the determination of the facts

(2) The reasoning of a judgment is understood as a logical syllogism, capable of explaining in an intelligible manner the decision taken, which, even if it does not imply an exhaustive response to all the arguments brought by one of the parties, does not allow them to be ignored either, since it is necessary to have a response to the fundamental arguments, respectively, those that, by their content, are likely to influence the judgment.

(3) We, the Appellants, have shown in the sue petition that we do not dispute that the central authorities have a right of discretion as regards the measures to be taken in the field of climate change but that they may be censured by the Court if they violate the fundamental rights and freedoms. In other words, we have raised the issue of the excess of power of the authorities, proving with scientific reports that the measures taken by the Defendants, even if they meet the formal conditions of legality, are not legitimate, since they substantially affect the subjective rights.

(4) The Court explicitly acknowledged on page 23 of the judgment that it would no longer undertake such a review, since even if we were right and there were a violation of the right to the health of the population and to an ecologically balanced environment, the judgment could not be enforced.

In this context, building on the principle of availability that governs the civil trial, there is no need to carry out any review in relation to the standard of ECHR case-law related to Article 8. Even if the Defendants were to be found to have infringed the protection of public health and the environment, the manner in which the counts of the action were brought is not such as to eliminate the infringement...

(5) There is no doubt that the judgment is completely unfounded on this plea of illegality which was essential for a fair outcome of the case.

(6) Furthermore, while on page 23 it is stated that there is no need to examine the compliance with the standard of the ECHR case-law, on page 26 of the recitals, the first instance judge considers that the Appellants are asking that the authorities' reasons of expediency be replaced by their own reasons of expediency, in other words, indirectly, they consider that there is no excess of power and that the authorities' measures would be legitimate.

(7) The problem with the indirect dismissal of our argument, aimed at the excessive power of the authorities, is that there is no reasoned answer to the question: where does the discretionary power end and the abuse of rights begin, where does the lawful

A 1/7 Pavel Roșca
400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
E office@revnic.ro

conduct of the administration end, embodied in its right of appreciation, and where does the violation of the subjective rights and legitimate interests claimed in the application initiating the proceedings begin?

The Court observes that the Plaintiffs, in their criticism of the commitments undertaken by Romania, seeking to create the impression that the measures taken are inadequate in relation to the technological solutions proposed by them (pages 31-41) aim, in fact, to replace the grounds of opportunity of the public authority in achieving the environmental objectives with their own grounds of expediency, and then, on that basis, asks the Court to carry out a legality analysis of the observance of the environmental objectives

The way forward to achieve the necessary transition to a climate-neutral society by 2050 at the latest, the way to achieve energy efficiency, are left to the discretion of the EU Member States, and the fact that Romania believes that it can achieve the objectives through hydropower projects or other projects that do not necessarily point entirely in the direction of those advocated by the Plaintiffs (see section 6.1.1 sub-section 10 page 38 of the proceedings) cannot be given the connotations desired by them, in the context in which, if there were any problem in this respect, the Council would have had recourse to the provisions of Article 192 paragraph 2 section (c) of the TFEU.

(8) Because, in the summary of the pleas of illegality, that is precisely what the Appellants have argued: the violation of the climate target set forth in the Paris Agreement and, by implication, of the fundamental rights, by allocating funds to outdated hydropower projects:

→ The Defendants **have not taken all the necessary steps to respect human rights**, by introducing alternative clean energy and creating simple procedures to access it, through activities that lead to the prevention of deforestation and ensure afforestation;

A 1/7 Pavel Roșca 400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
E office@revnic.ro

→ **There has been no progressive increase in ambition and no backsliding.** According to the official data provided by the European Environment Agency (detailed in section 6.2.2 of the proceedings), Romania is tied with Slovenia at the bottom of the European league table for the integration of renewable energy sources into the national grid. In addition, the frequent interventions in the legislative and regulatory framework, the lack of transparency and strategic vision and the reduced capacity of the administrative apparatus to adapt to the trends in the sector have led to a loss of the investment momentum and to a state of general uncertainty for the renewable industry. As a result, **no new renewable energy capacity was installed from 2016 to 2021, and producers faced large capital losses [4].**

(9) The measure to finance hydropower projects is not legitimate since:

- Water is a scarce and finite resource, for which there is no alternative and on which there is total dependence for survival. Water scarcity is demonstrated by the fact that only about 2.5% of the planet's water is fresh, and less than a third of this amount is actually available for human use. With population growth at the top of the list, the challenges facing this limited water supply are enormous. The world's population has grown from 1.6 billion to 6.1 billion in the last century and will exceed 7.8 billion by 2020. The figure is expected to reach nine billion people by 2050, all in competition on the same limited amount of water. Other challenges to water resources include hydrological variability, environmental degradation and climate change.
- Hydropower production in Romania has fallen by 85% due to drought, and climate change is expected to bring even more severe periods of drought. It is clear that hydropower is not the energy of the future for countries with continental climates such as Romania.
- According to an ESC Opinion of February 2, 2022[4] on a new legal framework for the approval of hydropower projects, the installed energy production capacity will increase less than 1% and production by a similar percentage.

(10) There is no doubt that the shift towards such projects, instead of clean energy (wind and solar), will significantly affect the legitimate rights and interests of the Appellants, in particular the right to food security (with emphasis on the right to water), the right to a healthy and ecologically balanced environment and a decent standard of living.

[4] https://instrumente.declic.ro/uploads/Avize-Plen-CES-22-02-2022-34-37.pdf

(11) There are studies that back up our arguments:

- 🕮 In 2000, the World Bank estimated that between 40 and 80 million people were directly displaced as a result of dams and reservoirs[5].
- 🕮 A further study in 2010 [6]estimated that 472 million people living downstream of large dams suffer from reduced food security, regular flooding, or the impact on their livelihoods.

(12) The Court did not carry out such an analysis, there is no deductive reasoning to convince us that:

- The decision of the Respondents is proportionate to the facts or to the legitimate purpose pursued;
- The measure ordered does not restrict the fundamental rights and freedoms, or if it does there is a rational justification, that is, an adequate relationship between these measures, the facts and the legitimate purpose pursued:
- The Defendants would have proven that it is not possible to introduce an alternative solution on a large scale: clean energy (solar and wind), in relation to the geographical conditions of our country.

(13) The Court further argues that:
While the Union's and Member States' climate action aims at protecting people and the planet, welfare, prosperity, the economy, health, food systems, the integrity of ecosystems and biodiversity from the threat of climate change, it should not be forgotten that the transition towards climate neutrality requires changes in all policies and a collective effort from all sectors of the economy (massive public and private investment) and of society, and it is necessary to act with caution and balance, without irreversibly jeopardizing certain sectors of the national economy.

(14) We fully agree with the first instance judge that it is necessary to act with caution and balance, which is why we have also requested the Defendants be ordered to reduce their GHG emissions by at least 55% compared to 1990 levels by 2030, considering that this is a fair share for Romania, as our country has no historical emissions.

(15) On the other hand, we disagree that such a statement would meet the requirements of the statement of reasons, since it is not explained why the percentage requested by us does not represent a fair share that would not disturb the national economy, all the more so as the draft Long-Term Strategy proposes a target of reducing GHG emissions of 79% by 2030.

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[5] https://archive.internationalrivers.org/sites/default/files/attached-files/world_commission_on_dams_final_report.pdf

[6] https://www.water-alternatives.org/index.php/volume3/v3issue2/80-a3-2-3/file

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400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
E office@revnic.ro

(16) That we are only in the presence of a *prima facie* analysis of the legal issues also results from the fact that no reference was made to the scientific reports indicated by us both in the application initiating the proceedings and in the summary of the pleas of illegality, reports which are particularly relevant in analyzing the reasonableness and adequacy of the measures taken by the Respondents:

Moreover, in assessing the legality of efforts to combat climate change, the Court will also have to take into account developments in the scientific evidence since the signing of the Paris Agreement to date that the current NDCs are inadequate:

→ **IPCC Reports from 2022** (Volume IV, pages 16-57, 58-59);

→ **Summary Report prepared by IPCC in march 2023** (volume IV, pages 154-189),

→ **Country Sheet for Romania** prepared by **Climate Analytics** [1] (Volume V, pages 13-19). The Report also notes that the range of emissions compatible with 1.5 degrees Celsius created by the two emission reduction scenarios is **79-83%** of 1990 levels, excluding LULUCF.

(17) The court neither dismissed nor appropriated these evidences, but treating the evidence as is it did not exist does not satisfy the requirements of Article 425 of the Code of Civil Procedure.

(18) The huge amount of scientific evidence was disregarded, even although this huge amount was in sworn translation in the case file. By way of example, we point out that the last IPCC Summary Report of March 2023 expressly stated that:

- **Current Nationally Determined Contributions (NDAs) are most likely to increase GMSTs above 1.5 degrees Celsius** in the 21st century. A rapid, deep and sustained reduction in greenhouse gas emissions is needed, together with adaptation measures, to address climate change.
- There is now a window of opportunity for resilient development. **But it is a very short-lived one.**

(19) The Court should have considered whether the response of the authorities is decisive, timely and likely to prevent dangerous climate change, in relation to the recommendations contained in the UN scientific reports, reports that have been taken on board by policy makers.

How else can one analyze whether the Defendants have fulfilled their positive obligation (affirmative duty) laid down in Article 135 of the Constitution?

Overlooking the fact that the first instance judge refuses to conduct such an examination (issues detailed in section 3.1. of this appeal), claiming the vague wording of the counts, the judge also states that we must (and indeed can) wait for the legislation to

be adopted at EU level **in order to fulfil the Union's contribution to the Paris Agreement** (page 26 of the judgment):

The references made by the complainants to the action plan pursued by the Commission, "Fit for 55" and "REPowerEU" (aspects relating to the share of renewable energy in final energy consumption), are irrelevant at this stage as long as these measures have not been adopted in the EU legislative framework (as acknowledged by the Plaintiffs in section 5.4 sub-section 5.6 page 30 of the proceedings), given that in order to achieve the Union's contribution to the Paris Agreement

(20) However, we, the Appellants, have relied on grounds of illegality relating to the **individual liability of Romania as a party to the Paris Agreement.** It is clear that the Court's reasoning on the actual argument put forward by the Plaintiffs is lacking:

The incompatibility of Romania's commitment with its legal obligation under Article 2 of the Paris Agreement

(2) The Defendants' commitment is unlawful because:

■ It not correlated with the climate objective assumed by Article 2.1 section a) of the Paris Agreement to limit global warming to 1.5 degrees Celsius and 2 degrees Celsius, respectively; the Paris Agreement constitutes primary legislation and the purpose of initiating any action on climate change

(21) In conclusion, the right to a fair trial can only be considered to have been respected if the Court examines the main defenses of the Parties but in this case the first instance judge has not carried out an effective examination of the claims, defenses or evidence adduced in the case.

(22) Civil Judgement No. 312/2023 is not such as to allow the Court of Appeal to exercise the pre-trial supervision, which is why it is necessary to admit the plea of illegality referred to in Article 488 paragraph (1) section 6 of the Code of Civil Procedure.

3.2.2. The existence of conflicting pleas in law

a. The Court states, in a first part of its reasoning, that the counts do not specify the specific measures and plans required, and, in the second part, states that the

A 1/7 Pavel Roșca
400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
E office@revnic.ro

specific measures and plans violate the principle of the separation of powers in the State.

(23) To begin with, the Court has essentially ruled that:

(section 3.3 page 9 section 4.5, section 4 page 12, section 2), **considers that upholding the case, *in the circumstances in which the operative part of the judgment would not identify*, because it does not have the means to do so, which measures are necessary and which are the concrete and coherent plans for achieving the climate objectives, *would imply the delivery of an unenforceable court decision***, liable to constitute a violation of Article 6 of the European Convention on Human Rights, with reference to the case-law of the European Court of Human Rights, in which it was noted that the right to bring an action before a court would be illusory if the domestic legal order of a Contracting State allowed a final and binding judgment to be ineffective to the detriment of a party (Imobiliara Saffi v. Italy - 1999, paragraph 63; Dorneanu v. Romania - 2007, paragraph 32).

(24) The Court also concluded that it would be contrary to the principle of the separation of powers in the State to order the Defendants in the enforcement proceedings to take specific measures:

gives rises to the possibility of triggering the enforcement procedure in accordance with Article 24 et seq. of Law 554/2004, ultimately leading to the Plaintiffs and the courts to replace the legislative power at the enforcement stage by regulating the measures necessary to achieve the parameters sought by the Plaintiffs in the present dispute.

(25) It should be noted that the Court of First Instance considers that the counts would be too general, and this would be incompatible with the upholding of the case but, equally, the same Court acknowledges that it would be substituting itself for the legislature if it were to indicate the precise measures to be taken to achieve the shares we have stated in the counts.

A 1/7 Pavel Roșca
400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
E office@revnic.ro

(26) For information purposes, we would like to point out that similar claims for an obligation to reduce GHG emissions have not prevented the Courts of other countries from ruling for the upholding of the case:

- 🕮 The case of ***Urgenda v. the Netherlands***, in which the Supreme Court of the Netherlands ruled that "the Netherlands is obliged to do its part in order to prevent dangerous climate phenomena, even if it is a global problem" (paragraph no. 5.7.1. of the Decision of the Supreme Court of the Netherlands - existing on pages 155-189 of Volume I of this file). The Court relies on the no harm rule existing in international law, according to which States should not harm each other and that each State is responsible for its part (paragraph no.5.7.5.). It is also stressed that, in view of the serious consequences of climate change, **the defense that a State should not take responsibility because other States do not comply with their share of responsibility cannot be accepted** (paragraph no. 5.7.7.). Similarly, the defense that reducing emission on the territory of a State would not be of global significance cannot be accepted either (paragraph no. 5.7.7.). If these defenses were to be accepted, then the State in question could evade its share of responsibility by pointing to the situation in other countries or by pointing to its own small share (paragraph no. 5.7.7). On the other hand, by rejecting these defenses, each State may be called upon to respond effectively, thereby increasing the chances that all States will contribute effectively (paragraph no. 5.7.7.).

- 🕮 ***Neubauer et al. v. Germany***[7]***(Volume I, pages 155-189 of the merits file)***, in which the Federal Constitutional Court ruled that Article 2 of the Paris Agreement "obliges the State to provide protection by taking measures that contribute to limiting anthropogenic global warming and the associated climate change" (paragraph no. 149). And the fact that the State "is unable to halt climate change on its own and is dependent on international involvement due to the global impact of climate change and the global nature of its causes does not, in principle, exclude the possibility of an obligation to protect arising from fundamental rights"(paragraph no. 149). In the same case, it was also ruled that "in the event that climate change cannot be prevented or has already occurred" (paragraph no. 150) there is an obligation on the State "to address the risks by implementing positive measures aimed at mitigating the consequences of climate change" (paragraph no. 150), as these

[7]https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2021/03/rs20210324_1bvr265618en.html;jsessionid=7E0AE141488AABECE985C62E75057E84.internet011

measures are also necessary "to keep the risks from the actual effects of climate change at a level that is constitutionally tolerable" (paragraph no. 150).

- 🕮 ***Notre Affaire à Tous et al. v. France[8] (volume V, page 12, file on the merits)*** in which the Administrative Court of Paris ordered the central authorities ***to take all the necessary sectoral measures*** *to offset the damage up to the uncompensated share of greenhouse gas emissions under the first carbon budget, namely 15 Mt CO2eq, and subject to adjustment according to the estimated data of CITEPA known on January 31, 2022, which would make it possible to provide a mechanism for monitoring GHG emissions.*

- 🕮 ***The Shrestha case***[9], in which the Supreme Court of Nepal ruled that the State's failure to enact a comprehensive law on climate change and to adequately address the existing impacts of climate change violated the right to life and the right to live with dignity, as well as the right to a healthy environment (p. 5).

- 🕮 ***The Future Generations case***[10]**,** in which the Supreme Court of Colombia highlighted the fact that a healthy environment is a prerequisite for ensuring respect for the right to life, health and the right to the minimum necessary for subsistence, rights belonging to both present and future generations. However, by failing to take all the necessary measures and by failing to adopt the plans to achieve minimum shares, such as those called for in the counts of the case, the Defendants, as central public authorities, fail to recognize the importance of the fundamental rights of the citizens whom they represent and in whose interests they are supposed to act.

- 🕮 ***PSB and others v. Brazil***[11]**,** in which the Supreme Court of Brazil stated that "there are no human rights on a dead or sick planet", and that a State's action or inaction is incompatible with the duty to "protect and

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[8] http://climatecasechart.com/non-us-case/notre-affaire-a-tous-and-others-v-france/

[9] http://climatecasechart.com/wp-content/uploads/sites/16/non-us-case-documents/2018/20181225_074-WO-0283_judgment-2.pdf

[10] https://www.dejusticia.org/en/climate-change-and-future-generations-lawsuit-in-colombia-key-excerpts-from-the-supreme-courts-decision/

[11] http://climatecasechart.com/wp-content/uploads/sites/16/non-us-case-documents/2022/20220701_ADPF-708_decision-1.pdf

restore the environment", as well as with the duty to protect fundamental human rights (paragraphs no. 17, 20, 30, 36).

- 🕮 ***Klimatická žaloba ČR v. Czech Republic*** **(Czech Republic, 2022),** in which the Prague Municipal Court found that the "*local adverse manifestations" of climate change, such as water scarcity or health impacts, can be seen as a direct interference with the Plaintiffs' rights. Moreover, the Court further held that, although these effects concern a large group of persons, this does not exclude the possibility that the rights of an individual Plaintiff may be directly affected (...) the interference with the right to a favorable environment under Article 35(1) of the Charter relied on by all the Plaintiffs is also conceivable. Although, according to Article 41(1) of the Charter, this right can only be raised within the limits of the law, and the Climate Law has not yet been adopted, the Constitutional Court (judgment of 26 January 2021, Pl. ÚS 22/17, paragraph 89) has defined the essence of the right to a favorable environment, which is independent of the implementation of the law, as an obligation of the State to protect against impairment of the environment if it reaches a level that makes it impossible to satisfy the basic needs of human life. The purpose of the right to a favorable environment is to provide an environment of such quality that a person can live in it with dignity. Failure to implement mitigation and adaptation measures may undermine this purpose, as these measures are necessary to protect human life and health from the adverse effects of climate change.*

b. The Court acknowledges the issue of climate change, but the manner in which the case was decided contradicts this position.

(27) It should be borne in mind that, in the Judgment No. 312/2023, the Court begins its analysis of the merits by stating that "the threats posed by climate change and the impact of pollution on the right to a healthy living environment are undeniable" (page 22 of the Judgment) and that it will not "minimize the importance of respecting and guaranteeing the right to a healthy living environment" (page 22 of the Judgment).

(28) However, contrary to these initial statements, in the course of its reasoning, the Court of First Instance unduly emphasized the way in which the counts were worded, without analyzing the complex issue of the causes favoring climate change, presented in the case, nor the strategic shortcomings of the Respondents Defendants in the fight against climate change, which were also demonstrated by scientific references in the case.

(29) The Court of First Instance also acknowledges that "the transition towards climate neutrality requires changes in all policies and a collective effort by all sectors of the

economy [...] and society" (p. 25 of the Judgment). However, by *prima facie* analysis of the arguments that we have presented in the case and by the decision to dismiss the case, without any reason, the Court has blocked our possibility, as citizens of Romania, to force the central authorities, namely the Defendants Respondents, to implement these necessary and urgent changes in practice. Precisely because the issue of radical changes in all State policies is at stake, we would not have been able to determine, in the counts of the case, the precise measures to be taken, which are the prerogative of the authorities, by virtue of the principle of the separation of powers in the State.

c. The Court of First Instance acknowledges that there is a need for permanent change in the capacity to respond to the causes and effects of climate change, but subsequently states that Romania should be assessed at a previous rather than a current level (page 24 of the Judgment):

Therefore, at a time when the fight against climate change threats and the increase of adaptation capacity, the strengthening of resilience and the reduction of vulnerability to climate change are under constant change, the assessment of the measures adopted by Romania must be made in relation to the EU legislation under which these measures have been designed and not by cutting out provisions in favor the Plaintiffs' claims stemming from the Commission's positions adopted by the Commission as a result of subsequent assessments under the provisions of the environmental regulations, which are then taken as a basis to review the relevant climate and energy legislation.

(30) There is a contradiction in the reasoning set out by the Court of First Instance, as it is accepted that all the measures that make up the effective management of climate change need to be adapted on an ongoing basis, but, at the same time, it is stated that the assessment of the measures taken by Romania must relate to a point in time in the past, when the measures were first introduced at EU level, and not to the present, when the targets have been set by the EU, as well as to the conclusions of the IPCC reports which explicitly states that the current NDCs are inconsistent with the goals of the Paris Agreement, and that a rapid and strong response is needed in order to avoid exceeding the critical threshold of 1.5 degrees Celsius.

3.3. The applicability of the plea of illegality referred to in Article 488 paragraph (1) section 8 of the Code of Civil Procedure, which concerns the violation or misapplication of the rules of substantive law.

(1) This grounds for quash includes situations where rules of substantive law are violated, legal texts are applied which are foreign to the facts of the case, rules of substantive

A 1/7 Pavel Roșca
400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
E office@revnic.ro

law are applied in an overboard or restrictive manner, as well as situations where rules of substantive law are misinterpreted. This is also the conclusion of a large body of literature on the subject.[12]

(2) We point out that the provisions of the European Convention on Human Rights (ECHR) and the rulings of the European Court of Human Rights (ECtHR) are part of national law, since, according to Article 11 of the Constitution, the ratified treaties are part of national law, the Convention having been ratified by Law 30/1994. Moreover, in the particular field of human rights, Article 20 of the Constitution stipulates that the constitutional provisions on human rights shall be construed in accordance with the international instruments to which Romania is a party, and that international regulations even take precedence over domestic laws, except only for more favorable provisions.

a. In the Judgment No. 312/2023, it is stated that the manner in which the counts for the application were filed, which do not indicate the measures and plans to be adopted in order to achieve the climate objectives, would imply the ruling of an unenforceable court decision, liable to constitute a violation of Article 6 of the European Convention on Human Rights, the Court also referring to the case of Saffi v. Italy (page 23 of the Judgment).

(3) However, count 1 and count 2 of the case sought an order that the Defendants take all necessary measures to: reduce greenhouse gases by 55% by 2030; achieve climate neutrality by 2050; increase the share of renewables in final energy consumption to 45%; increase energy efficiency by 13% by 2030.

(4) In connection with this, in order to achieve these objectives, we have requested in count 3 that the Defendants Respondents be ordered to adopt concrete and coherent plans for mitigating and adapting to climate change.

(5) It can be seen that, in the wording of the counts, we have clearly indicated the targets that the Defendants Respondents must pursue, as central authorities, these being the minimum shares that would allow Romania to stay close to the trajectory of limiting global warming to 1.5 degrees Celsius, individually undertaken by the Paris Agreement.

(6) We have chosen this wording in order to comply with the constitutional principle of the separation of powers in the State, Article 1 paragraph (4) of the Constitution, which was omitted by the Court of First Instance in its reasoning. In particular, we wanted to avoid judicial encroachment in the powers of the executive, with the Defendants Respondents retaining full freedom to decide how to achieve the climate targets sought, as well as sufficient headroom to decide how to comply with the Court's judgment.

[12] Gabriel Boroi and Mirela Stancu, *Drept procesual civil,* Hamangiu Publishing House, Bucharest, 2015, p. 645.

A 1/7 Pavel Roșca
400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
E office@revnic.ro

(7) *Per a contrario,* if we had imposed, by means of counts, certain measures and plans, as the Court of First Instance suggests, then the balance between the two State powers would have been lost, a **matter acknowledged by the first instance judge on page 23 of the judgment**. The reasoning of the Court of First Instance therefore breaches the constitutional rules relating to the principle of the separation of powers in the State.

(8) The provisions of Government Emergency Ordinance No. 57/2019 on the Administrative Code which sets forth in Article 13 that the Government is the one that ensures the implementation of the country's domestic and foreign policy are violated, the fight against climate change being both aspects of domestic policy and foreign policy, of complying with the commitments made by Romania. Article 15 sets out the Government's strategy, implementation and regulatory functions, and Article 52 states that Ministries are specialized bodies that are implements of the government policy. In such circumstances, the Court of First Instance could not dictate to the Defendants how they should conceive and implement their climate change strategy but could only impose on them the targets set out in the count, which aim to return us to the long-term temperature limiting trajectory of 1.5 degrees Celsius.

(9) In addition to these violations of the legal provisions, the Court of First Instance gives its own, manifestly erroneous, interpretation of the practice of the ECtHR in Saffi v. Italy and in Dorneanu v. Romania, thereby compromising its application, which is inconsistent with both Article 20 of the Constitution, which establishes that international human rights treaties have priority, as well as Article 32 of the ECHR, which expressly states that the jurisdiction of the ECtHR extends to all matters relating to the interpretation and application of the Convention.

(10) More specifically, the Court of First Instance, claiming the alleged violation of Article 6 of the ECHR in the event of the admissibility of our case, refers to the following rulings in the Saffi case:

> 🕮 "the right to bring a case before a court would be illusory if the internal legal order of a Contracting State allowed a final and binding judgment to be set aside to the detriment of a party" (paragraph 63).

(11) However, the phrase "judgment to be set aside to the detriment of a party", in relation to the situation brought before the Court in the present case, refers to the prohibition of placing public authorities, namely the Defendants Respondents, in a privileged position, as set forth in Article 24 of Law 554/2004 on the obligation to enforce. However, the Court refuses to settle the case on the grounds that, the Appellants, who are private individuals, would be in a privileged position if the case was upheld.

(12) The interpretation given by the Court in the Saffi case cannot be accepted, since, on the contrary, the Respondents can and must be compelled to achieve the targets of the counts, so as to guarantee the rights of the Plaintiffs.

A 1/7 Pavel Roșca
400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
E office@revnic.ro

(13) Moreover, in the same case Saffi v. Italy, the ECtHR stated that "the State enjoys a wide margin of appreciation both in terms of choosing the means of implementation and in determining whether the consequences of implementation are justified in the general interest for the purpose of achieving the scope of the law in question" (paragraph no. 49). Paragraph 49 is essential, as the wide margin of discretion of the State regarding the manner of implementation of the judgment does not amount to the impossibility of its enforcement, which clearly contradicts the reasoning of the Court of First Instance and justifies our manner of wording the counts of the case.

b. In the Judgment No. 312/2023, it is stated that, in the event that our case was admitted, "without specifying the criteria according to which the claim contained in the enforceable title becomes certain", "it is left open to the debtors to refuse or to determine the scope and application of the enforceable title themselves" (page 23 of the Judgment).

(14) As demonstrated above, the Court of First Instance disregarded the matters relating to the separation of powers in the State, as well as the provisions of the Administrative Code expressly laying down the powers of the Government and the Ministries.

(15) The irony is that if we had included the criteria required by the Court of First Instance in the wording of the counts, the result would have been to dismiss the case as inadmissible precisely because it violated the principle of the separation of powers in the State. We have engaged in this discussion in the very context of the case, where, in paragraph 3.3., we have argued why this principle is not violated, in relation to the rulings of the Courts of continental law systems in similar cases.

(16) It is hard to imagine a clearer decision than the one ordering the Defendants to reduce their greenhouse gas emissions by at least 55% by 2030 and to achieve climate neutrality by 2050: there are both clear targets and a deadline within which they should be achieved. "*Taking all necessary measures*" is both the means of achieving this target required by the case and the margin of discretion that must be left to the public authorities.

c. The Court finds that we would have referred strictly to certain statements of the European Commission, and not to actual rules.

(17) The Court of First Instance also noted that we had "cut out provisions favorable to the claims set forth" from the positions of the European Commission. However, we have not relied on mere positions of the Commission but on concrete strategies adopted, following the analysis of the current and actual situation, at the level of the European Union, of which Romania is a member.

(18) Rather than stagnating, the European Union has adopted a proactive stance and increased its ambitions to address the threats posed by climate change.

A 1/7 Pavel Roșca
400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
E office@revnic.ro

(19) Thus, the European Climate Law set the objective of reducing domestic greenhouse gas emissions by 55% by 2030, i.e. the share specified in count 1, thesis I of the case. The European Green Deal is a package of initiatives with the ultimate goal of achieving climate neutrality by 2050, namely the specification in count 1 of the second thesis. The REPowerEU Action Plan has established that renewables constitute 45% of final energy consumption, namely the share specified in count 2, thesis I. The same REPowerEU has also established the target of increasing energy efficiency by 13% by 2030, namely the share indicated in count 2, thesis II.

(20) The purpose of issuing Union documents on climate change is to fulfil the Union's commitments under the Paris Agreement.

(21) Since Romania is a signatory to the Paris Agreement, which constitutes primary legislation, the measures taken by the Defendants must be construed primarily in the light of this international treaty ratified by Romania and incorporated into its domestic legal landscape.

(22) Contrary to the opinion expressed by the first instance judge, **it is irrelevant that the Union's strategies are merely soft law instruments, as long as the percentages indicated in them are the only ones capable of guaranteeing that our country will fulfil the commitments undertaken by a binding legal instrument: the Paris Agreement**.

(23) From this point of view, the Court of First Instance has misinterpreted the applicable rules of substantive law.

(24) As regards the EU strategies and the need to align Romania's policies with them, the Court of First Instance states that (page 25 of the Judgment):

The joint efforts of the Union *and the Member States* to achieve the environmental objectives are therefore noted, while the Member States remain entitled to take the necessary measures at national level to enable the collective achievement of the objectives, taking into account the importance of cost-effectiveness in achieving this objective.

(25) However, in addition to the actual existence of a joint effort by the Member States, the **individual effort of the States should not be ignored**. The Member State must be in full compliance with both EU policy and with ratified international treaties and seek to contribute actively and effectively to the fight against climate change through the actions of its authorities. In other words, to fulfil its fair share, in accordance with Article 2 and 4 of the Paris Agreement.

(26) However, it is precisely this combined interpretation of Union law and of the Paris Agreement that is lacking. The individual responsibility of the State has been denied and the emphasis has been placed solely on the collective effort, which is why the plea

A 1/7 Pavel Roșca
400118 Cluj-Napoca, RO
W www.revnic.ro
T +40 264 592 212
F +40 264 599 743
E office@revnic.ro

of illegality referred to in Article 488 paragraph (1) section 8 of the Code of Civil Procedure applies.

For all the above reasons, we ask you to uphold the appeal as lodged.

In law: The legal texts of the appeal

In proof:

- Deeds;
- We request the High Court of Cassation and Justice to submit to the ECtHR a request for an advisory opinion, pursuant to Article 1 of Protocol No. 16 to the ECHR, which entered into force on January 1, 2023. Please note that we will submit a **separate Memorandum** on this request.

We request the case be heard even if we are not present at the hearing pursuant to Article 411 paragraph (1) section (2) of the Code of Civil Procedure.

We hereby enclose:

- Powers of attorney;
- Stamp duty of RON 200.

Yours faithfully,

DECIC ASSOCIATION

by **Attorney-at-Law Roxana Mândruțiu**

Attorney-at-Law Isabela Porcius