

p-ISSN 1733-1218; e-ISSN 2719-826X

<https://doi.org/10.21697/seb.5886>

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## Constitutionality, Legality and Ethics in Climate Change Policies. Romanian Case

### Konstytucyjność, legalność i etyka polityki klimatycznej na przykładzie Rumunii

**Cristian Onet\***

**Emanuel Tăvală**

Lucian Blaga University of Sibiu, Romania

ORCID CO <https://orcid.org/0000-0002-6785-5025>; ET <https://orcid.org/0000-0002-0212-5013> •

[cristina.onet@ulbsibiu.ro](mailto:cristina.onet@ulbsibiu.ro)

Received: 2025-11-12; Revised: 2026-03-10; Accepted: 2026-03-13; Pre-published: 2026-03-19

#### Abstract

One of the most complex dilemmas that European legal systems (and beyond) must address is whether states can be justified in infringing upon constitutionally or legally protected citizen rights and how ethical such an approach is in the effort to combat climate change. Can the goal of stopping and combating climate change serve as a strong enough argument to justify any state action? Obviously, the answer cannot simply be "yes" or "no." Climate change mitigation policies not only lead to an increase in quality of life but also involve coercive measures that may even affect fundamental rights. Constitutionally protected rights such as the right to a healthy environment, which is both a right and an obligation, can therefore be brought into discussion. It is crucial to determine where the right ends and when the obligation begins. Another aspect of this discussion concerns the protection of property rights and the extent to which they can be restricted in order to serve the general interest of environmental restoration, protection, and improved quality of life. As environmental issues continue to escalate, state intervention will also increase accordingly. But how far? And for how long? Perhaps until, in the pursuit of collective well-being, humanity succeeds in halting this decline.

#### Keywords

Christian ethics, climate justice, ethics of state action and inaction, intergenerational equity, SDG 13 – Climate Action

## Streszczenie

Jednym z najtrudniejszych dylematów, z którymi muszą zmierzyć się europejskie systemy prawne (i nie tylko), jest pytanie o to, czy można usprawiedliwić naruszenie przez państwo konstytucyjnie lub ustawowo chronionych praw obywatelskich oraz na ile etycznie akceptowalne jest takie podejście w walce ze zmianami klimatu. Czy cel powstrzymania i zwalczania zmian klimatu może stanowić wystarczająco silny argument uzasadniający jakiegokolwiek działania państwa? Oczywiście odpowiedź nie może brzmieć po prostu „tak” lub „nie”. Polityka łagodzenia skutków zmian klimatu nie tylko prowadzi do poprawy jakości życia, lecz także obejmuje środki przymusu, które mogą wpływać nawet na prawa podstawowe. Prawa chronione konstytucyjnie, takie jak prawo do zdrowego środowiska – będące zarówno prawem, jak i obowiązkiem – mogą zatem stać się przedmiotem dyskusji. Kluczowe jest określenie, gdzie kończy się prawo, a gdzie zaczyna się obowiązek. Innym aspektem tej dyskusji jest ochrona praw własności oraz zakres, w jakim można je ograniczać, aby służyć ogólnemu interesowi odnowy środowiska, jego ochronie i poprawie jakości życia. Wraz z narastaniem problemów środowiskowych będzie prawdopodobnie wzrastał również poziom interwencji ze strony państwa. Powstaje jednak pytanie, jak daleko posunie się ten proces i jak długo będzie on trwał. Być może potrwa on do czasu, aż ludzkość – dążąc do wspólnego dobrobytu – zdoła powstrzymać degradację środowiska.

## Słowa kluczowe

Etyka chrześcijańska, sprawiedliwość klimatyczna, etyka działania i bezczynności państwa, równość międzypokoleniowa, SDG 13 – działania na rzecz klimatu

## Introduction

*Is virtue ethics still relevant today, more than 2,400 years after its origins, in the context of policies aimed at mitigating the effects of climate change?* The answer is affirmative, provided that such an approach remains anchored in a Christian-philosophical worldview rooted in the biblical account of creation. Over the past decades, the world has witnessed alarming environmental degradation (the threat of anthropogenic climate change, loss of biodiversity, and the pollution of natural resources) alongside the failure of environmental policies. We are reminded of this crisis when we observe or learn about the disappearance of flora and fauna, the irresponsible degradation of soil and deforestation, as well as when we endure pollution of sound, water, or air. Nevertheless, for Christian philosophers, environmental concern is not a superficial or sentimental form of love, but a way to honour and revere the reality of our creation — simultaneously expressing respect for the mourning of the Earth (Hosea 4:4) and acknowledging the groaning of creation (Romans 8:22).

Modern thought has departed from the medieval understanding of the created world. From Galileo and Bacon, who claimed that nature must be violently interrogated, to Descartes's view of the natural environment

as inhabited solely by seemingly animistic machines; from the Enlightenment's general conception of nature as a giant mechanism to Hegel's view of the natural world as Spirit in a degraded and paralyzed condition — modern thinking has offered us a vision of nature as something, in Max Weber's interpretation, entirely disenchanted, drained of its power to evoke wonder and a sense of transcendence. Despite the quiet, largely ignored voice of Gerard Manley Hopkins, who reminds us that “there lives the dearest freshness deep down things” (Chryssavgis and Foltz 2017), a much more prominent voice has emerged — one that criticizes Christianity itself, which initially allowed humans to contemplate and marvel, to give thanks and praise, and to no longer regard nature as a refuge for supernatural powers to be feared, but instead as the divine gift of creation bestowed upon humanity.

Indeed, beginning with Feuerbach and continuing with Nietzsche, it has been asserted that Christianity, in its entirety, has silenced nature — subordinating the earth's rich beauty to ethereal delights of Eden and reducing the earthly realm to a mere object for human exploitation and control. Perhaps the most influential proponent of this argument was Lynn White Jr., a Presbyterian layman, who claimed that Christianity is uniquely responsible for the current environmental crisis. According to him, Christianity has regarded nature as *an immense reservoir of energy, to be extracted and used according to human intentions* - a view that fostered a violent and domineering relationship with creation, shifting humanity's self-perception from being *a part of nature* to becoming *its exploiter*, allegedly justified in exercising *cruelty toward the environment*.

The intersection of moral and political agendas in the framing of scientific conclusions regarding ecological concerns is exemplified by what has come to be known as “Climategate”, which shaped disputes concerning the potential influence of certain scientists' and research groups' agendas on the reporting of environmental findings (Theokritoff 2016). When science becomes bound to certain political goals, there is a tendency to accept conclusions as evidence that supports pre-existing views on the nature of environmental change and, consequently, what is deemed prudent environmental public policy. Practical disagreements are often framed within differing visions of appropriate environmental policy (Blockstein and Wiegman 2010).

Against this background of controversy and dispute, the present study seeks to highlight what Christianity may contribute to the articulation of an ecological ethic within the Romanian context. To achieve this, a general theological-philosophical background is first outlined, followed by a discussion of several moral and empirical ambiguities, and finally a set of theological constraints and norms for ecological ethics is proposed (Tavala 2015). The emphasis, considering the Romanian context, is placed on the central point of

Orthodox theology - the right love, worship, and faith in God, and through this properly directed love, the love of one's neighbour. Within these boundaries, Orthodox Christianity leaves considerable room for prudent human choice.

## 1. Considerations on Grounding Climate Change Policies in Orthodox Christian Ethics and Morality

When we are confronted with doubts concerning claims that can be verified through experience, we must bear in mind that the fundamental teachings of Christian Orthodox theology generally do not address material realities that can be demonstrated through experiments or observations. Orthodox theology is substantially different from the theology that emerged in the West during the first part of the second millennium, as Roman Catholicism began to take shape as a recognizable denomination distinct from and opposed to Orthodox Christianity. Orthodox theology is not formulated within a framework governed by philosophical hypotheses; rather, it constitutes the pathway to rightly attaining the knowledge and experience of God. Orthodox theology is not grounded in a synergy between faith and reason, which serves as the foundation for a philosophically structured moral theology. In particular, theologians are, *sensu stricto*, those who know God, not merely those who possess knowledge about God. (Engelhardt Jr. 2006).

The truth Orthodox theology conveys concerns God and His relationship with us as well as with reality as a whole. Orthodox theology concerns itself with God, and with His relationship to creation, and with creation's rightful relationship to God (Engelhardt Jr., 2000). Furthermore, orthodox theology teaches, in essence, what it means to love God with all our heart, soul, and mind, and how, accordingly, we must justly love our neighbour as ourselves. It accomplishes this by informing us about what behaviours we should generally avoid and those in which we should engage - particularly how to live in repentance.

Consequently, Orthodox Christianity provides fewer direct, specific guidelines regarding a broad range of ecological issues. Orthodox environmental ethics is grounded primarily in the post-Fall condition of Adam, wherein nature is no longer in harmony with mankind. We must keep in mind that Orthodox Christianity focuses first on properly orienting ourselves toward God and loving our neighbour, and only secondarily - at best - on preserving the environment as we encounter it.

First, environmental policy options typically fall into areas lacking concrete theological guidance. There is no set of inherently correct or incorrect conditions integrated into Orthodox theology that explicitly proscribe particular uses of nature - aside from prohibitions such as those against bestiality (Lev. 18:23; 20:15–

16), excessive waste of resources, causing unnecessary suffering to animals, and the commandments on caring for animals (Deut. 25:4; Proverbs 12:10).

Second, for centuries, people have cut down trees to cultivate fields, built canals to divert rivers, and used wood and coal to heat their homes (thus polluting urban air), all without condemnation from the Church. God Himself is recorded as having cleared the land of Israel of wild beasts (Lev. 26:6). Humans have likely always recognized that such actions involve compromises between the costs and benefits of environmental alterations. There exists no clear standard in Orthodox Christianity - nor in secular moral philosophy - to determine precisely how we should weigh potential costs and benefits arising from various environmental changes. For example, more productive crops have always implied fewer pristine forests and untouched grasslands. The Orthodox Christian concern for human welfare has consistently prevailed over concerns for preserving nature as it existed prior to human presence. There appears to be no exact formula for determining how to balance concern for human well-being against efforts to protect untouched wilderness.

Beyond the question of how to balance environmental modification for human benefit with the preservation of wilderness areas - protected somewhat like large natural parks - lies the deeper question of how to balance obligations toward people with our interest in conserving certain species (Sadowski 2017).

With a few exceptions, Orthodox theology does not provide a clear basis for definitively determining how the advantages and disadvantages for human beings should be compared when evaluating different policies related to environmental change. How should we weigh harms and benefits - and on whose behalf?

The implication of these reflections is that attempts perceived as hasty or inadequate to address environmental challenges may often cause more harm than good. The difficulty lies in comparing the various consequences of choosing to intervene through a "pro-ecological" policy versus choosing not to intervene. Uncertainties regarding outcomes, together with ambiguities about how to balance risks and benefits for different groups affected by competing policy options, make determining the appropriate course of action in such domains of empirical uncertainty not only difficult, but also highly contentious. Orthodox theology offers no clear direction on how to further weigh the benefits and harms involved - let alone how to frame a specific environmental policy.

These challenges are further exacerbated by the difficulty of having to weigh benefits and harms to current generations against those affecting future generations. As we attempt to assess the damage that future populations may endure if global warming is not slowed, we must determine how to reduce such potential

harms, given the opacity of the future. In making such evaluations, we must ask whether future generations will benefit more if we invest in technologies to counteract warming attributable to pollution than if we directly limit pollution. That is, we must critically consider and compare different approaches to the challenges posed by a changing environment as a result of global warming. One approach is to reduce interventions that lower the quantity of pollutants believed to be causing global warming - either through changing technologies to produce fewer harmful pollutants or through developing technologies that remove those pollutants from the air (Chryssavgis and Foltz 2017).

The reflections in the first part of this study have aimed to situate environmental concerns within the Orthodox Christian recognition of the priority of God and the human person over nature - in order to identify potential particularities of the Romanian legislative context in this regard. Many who devote their efforts to conserving the environment and its ecological systems, as we encounter them today, do so without acknowledging the presence and sovereign power of God, and the dominion over nature that He has granted humanity. They view the cosmos and the environment as if emerging from nowhere and ultimately heading nowhere - without any discernible final purpose.

Orthodox theology relativizes all worldly commitments, including commitments toward nature and the surrounding environment, insofar as it places the world in the light of the source and ultimate purpose of all things: the Holy Trinity. This perspective does not entail a diminution of the Christian obligation to use nature wisely, nor does it negate the duty to recognize nature as an icon through which we may contemplate and perceive God. Nor does it imply the reckless waste of resources or negligent behaviour toward the environment. The presence of the Divine in all things and in everything obliges humanity to adopt an appropriate attitude of love and reverence toward Divine Creation.

Therefore, concerns for nature and for the entire environment that surrounds us must be integrated into a comprehensive commitment to the Christian Orthodox way of life. In the face of empirical uncertainty, Christians are called to act with prudence and faith in a loving God who is Lord of nature (and of the environment). Like all human commitments, concerns for the protection of this world's ecological realm must be understood through the lens of a properly oriented quest for the Kingdom of Heaven.

Alongside the Christian Orthodox sphere, the entire European space is profoundly imbued with a Christian consciousness of respect and love for Divine Creation. Thus, regardless of denomination, environmental protection has gradually evolved into a dominant "ideology" at the level of the European Union.

This shared positive attitude toward nature and the environment is grafted onto a solid religious foundation. Beginning with respect for nature viewed as a Temple of God, environmental protection has become one of the pillars of contemporary public policies in all Member States of the European Union. Together with concern for human well-being and integrity, expressed through a strong respect for human rights, it constitutes the most important set of political values shaping the contemporary identity of the EU as a whole.

Building upon the foundation previously outlined, all European conceptions regarding environmental protection are in a constant state of evolution, essentially influenced by developments in the surrounding reality. Climate change compels humanity to adopt adaptive approaches, and the European space—eminently Christian—has become an arena for the protection of nature within a well-structured and well-articulated institutional framework. In order to enhance the effectiveness of these actions, states have undertaken the obligation to act in a similar and coordinated manner through legal and political instruments, as will emerge from the legal and jurisprudential analysis conducted in the second part of this study.

## **2. Fundamental Aspects of Ethics and Equity in Climate Change Mitigation Policies**

The evolution of concepts related to combating climate change has fundamentally relied on the ethical underpinnings of global public policies. In concise terms, the focus lies on how individuals - and particularly states and public institutions - ought to act so that their intervention is both just and equitable in the effort to mitigate climate change. But what does it mean to undertake “just and equitable action in the field of climate change mitigation”?

First, the discussion centres on *equity between states*, since it is universally recognized that industrialized nations have contributed most to atmospheric emissions and, consequently, bear heightened responsibility for reducing greenhouse gas emissions. Furthermore, they possess the financial capacity to support the costs of climate action, as it is axiomatic that environmental protection and climate mitigation entail significant economic impact. Additionally, the effects of climate change disproportionately affect less developed or developing countries, compared to those with consolidated economies.

Second, climate impact is not uniform. Poor communities, minority groups, and small states - such as island nations - are markedly more vulnerable. Therefore, ethics demands that climate mitigation policies be as inclusive as possible, meaning they must protect those most exposed or most vulnerable (Bistline et al. 2024).

From here derives another key component of climate change mitigation policy ethics: *climate justice* (Sunstein 2025; Garcia 2021; Chancel 2020; Duțu 2021). It is understood as the ethical and legal framework that addresses climate change as a matter of social and human justice, though its meanings and interpretations vary geographically. The Global North tends to conceptualize the issue in terms of moral responsibility and public policy, while the Global South emphasizes human and species survival, along with financial compensation (Tavares de Arruda Filho et al. 2024).

Third, climate change does not impact only the present but also the future - therefore, *intergenerational equity* demands action from current generations that will guarantee future generations the opportunity to enjoy a habitable planet. Current decisions regarding industry, energy, buildings, and all forms of infrastructure will determine living conditions and quality of life on Earth for decades - and even centuries - to come (Brown, Weiss 2008).

Fourth, climate change ethics is grounded in *precaution and prevention* (Mattocks et al. 2025). The precautionary ethic supports taking action even in the presence of scientific uncertainty, when the risks are potentially catastrophic (Gardiner 2011).

There is also a critical debate concerning “responsibility for inaction”. This refers to the culpability of those who are aware of existing risks yet choose not to act. This lack of reaction by states and their public authorities has been conceptualized as *the ethics of action and inaction*. This dimension of climate policy ethics holds actors morally accountable not only for the consequences of their actions but also for the consequences of their failures to act. From a utilitarian perspective, immediate action yields net benefits - such as reducing future disasters, ensuring food security, and protecting public health.

Lastly, several principles grounded in ethical foundations have been articulated and subsequently incorporated into both European and Romanian environmental legislation, either through explicit formulation or implicit reference within other regulating principles of environmental law (de Sadeleer 2016).

### **3. Recent Legal Developments at the European Level**

The universal ethical foundations of the principles outlined in the first part of this study have led to their increasingly frequent invocation in the jurisprudence of supranational courts such as the European Court of Human Rights (ECtHR). In recent years, a clearer line of jurisprudence has begun to take shape concerning

the necessity of more active involvement by European states in the broad and complex process of combating climate change.

Thus, the principle of *state responsibility for inaction* may be illustrated through several recent ECtHR judgments considered landmark decisions. One significant example is the judgment delivered on 30 January 2025 in *Cannavacciuolo and Others v. Italy* (Applications nos. 39742/14, 51567/14, 74208/14 et al.). The Court found that the Italian State violated the right to life of residents in *Terra dei Fuochi*, Campania Region, as enshrined in Article 2 of the European Convention on Human Rights. Italy was found “responsible” due to its prolonged inaction regarding the severe issue of illegal waste disposal. The case concerned the burning, burying, and illegal storage of hazardous waste in a region inhabited by approximately 2.9 million people. Although these illegal activities were carried out by organized criminal groups, the Italian State had an obligation to intervene and adopt measures to protect the population. This “historic” judgment underscores the necessity of swift and effective responses by national, regional, and local authorities in all European states to safeguard human life, public health, and the environment.

In addition to this ruling, it is useful to note the ECtHR judgment in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* (Application no. 53600/20), likewise regarded as a historic decision, delivered on 9 April 2024. For the first time, the Court established that a state’s failure to take adequate measures to address climate change may breach the fundamental rights of its citizens, particularly those of vulnerable individuals. Four elderly women and their association, Verein KlimaSeniorinnen Schweiz, brought the case before the Court, arguing that the Swiss authorities had not implemented sufficient measures to combat climate change, thereby endangering their lives and health.

The ruling was welcomed by international organizations and human rights advocates as a major precedent in recognizing climate change as a human rights concern.

#### **4. Are There Limits to States’ Rights to Act in Combating Climate Change?**

The sustainable development of human society, as well as strategies for adapting to new climatic developments, obliges states to undertake highly varied and sometimes unexpected responses. Accordingly, we observe a reshaping of conceptions regarding the exercise of rights previously considered absolute and guaranteed by states.

In this regard, attention must be paid to recent legal developments concerning property rights. In European legal systems, property is considered a private right of individuals and legal entities of all kinds, recognized and protected both through international treaties and the constitutions of European states. However, its character is no longer absolute, being adapted to contemporary exigencies such as public interest, social balance, and environmental protection (Alexandru 2024).

In efforts to combat climate change, new regulations are adopted to implement public policies. This implies that traditional legal institutions are, to a certain extent, redefined, and the autonomy of legal subjects is subject to certain restrictions in the public interest (Nikolić 2014). Such developments require a repositioning of how certain subjective property rights will be exercised.

All legal systems within European states must determine which substantive legal rights remain with private property holders. It is evident that they lose some consistency in exercising private rights in favour of the state, which develops policies addressing climate change. In light of this new legal reality, it becomes crucial to establish how private property rights should be balanced with fundamental environmental rights to ensure a just transition that respects constitutionality, legality, and ethics.

The primary objective of climate justice is to avoid “manifest and serious injustices” (Sen 2009) toward marginalized and vulnerable communities whose homes, health, livelihoods, and human rights may be undermined by a global average temperature rise exceeding 2 degrees Celsius. The central idea of this concept is that a dignified life must be self-defined rather than imposed. Simultaneously, an increase in collective quality of life requires a collective effort. On one hand, there is the effort of the community, which is often the most effective, and on the other, the individual effort that gives personality and individuality to the life we aspire to. The debate on climate justice assumes the mission of establishing the boundary between these two dimensions. This requires highlighting the inequalities associated with global climate change and developing fair and inclusive procedures to remedy them.

Adaptation to climate change influences the transformation of private law. The nature and scope of property rights are modified under the influence of the right to a healthy environment. The transformation of property rights occurs in multiple directions.

First, property ceases to be an absolute right in the sense of granting the owner unlimited authority over their possessions. Moreover, in a world of limited resources, property rights increasingly function as a privilege. Owners of agricultural land, forests, or urban real estate are subject to stricter rules aimed at reducing

environmental impact, such as bans on deforestation or excessive forest exploitation, restrictions on the use of pesticides or fertilizers, obligations to respect protected areas (e.g., Natura 2000 in the EU), and adherence to increasingly complex urban planning regulations concerning energy efficiency in buildings. Consequently, a new legal context is emerging, based on declared premises and serving practical objectives in relation to climate change.

Second, the conduct of the property owner may be regulated by law, in accordance with imperatives arising from the public interest. In this regard, there is a noticeable amplification of the owner's positive obligations. This often translates into additional costs for property owners.

Thirdly, the very essence of property may be affected through expropriation or public utility easements. Circumstances may arise in which the state expropriates land for green projects (wind or solar parks, public transport infrastructure), as well as situations in which property owners may be required to accept ecological easements (biodiversity corridors, green energy pipelines, power lines for smart grids).

Thus, we witness a continuous process of transforming the concept of property into "responsible property." The idea is developing that property is no longer merely an absolute individual right but also entails obligations toward the community and nature. To ensure the enforceability of such measures, the German Constitution provides that "property entails obligations" (Art. 14 Grundgesetz), while the French Constitutional Council has accepted limitations on the exercise of property rights to ensure environmental protection under the Environmental Charter (2005). Furthermore, the European Court of Human Rights (ECHR) and the Court of Justice of the European Union (CJEU) have developed extensive jurisprudence (ECHR 1991, 1996, 2004, 2007, 2010, 2018, 2021) enabling the shaping of property rights (i.e., private interest) in a manner subordinated to the public interest in combating climate change.

In recent years, the inevitability of change has been recognized, drawing attention to uncertainty and surprise. Consequently, the resilience perspective has become a key component of discourse (Brown 2012) shaping global climate policy.

Both transformation and resilience provide insights into the unequal nature of climate change impacts. Therefore, the vulnerability approach is particularly valuable as it highlights that "the causes and consequences of climate change are deeply intertwined with global patterns of inequality," serving as a starting point for addressing climate injustice (Mearns 2010).

Climate justice also places significant emphasis on the lived experiences of vulnerable communities and their capacity to act as agents of resilience in the face of climate change. Focusing on these communities creates a link with international human rights norms (Cameron 2019). The obligation to respect, protect, and realize human rights is central to climate justice.

Private property rights and the right to a healthy environment are fundamental human rights that, in this new context, undergo substantial transformation, altering the consistency of private property. Tensions between these rights emerge when laws are employed to promote radical transitions toward more sustainable systems, and actors and social groups invoke their established positions or rights as claims to justice.

## 5. The Case of Romania

Environmental protection in general, and climate change mitigation in particular, as essential components of sustainable development, are highly complex activities that cannot be carried out by an individual or a small group alone. State intervention is necessary and essential, as states possess a variety of instruments for action. Without attempting to be exhaustive, these include complex legal instruments available to both the state and local communities (Alexandru 2017), as well as economic-financial instruments, technical-scientific tools, educational measures, and instruments of other types (Oneț 2017).

Given the importance of state intervention, the Constitution of Romania assigns the obligation to ensure that its citizens have normal environmental conditions that allow them to live and carry out activities in a natural and healthy manner. To achieve this general interest objective, the Romanian state, as well as local authorities, have legal competences and act on multiple levels, using various levers and instruments of intervention in political, legal, social, and economic spheres (Alexandru, Oneț 2024).

At the same time, the Constitution of Romania, in Chapter II entitled *Fundamental Rights and Freedoms*, establishes under Article 35 the “*Right to a Healthy Environment*” as a fundamental right, whose guarantee is obligatory (Selejan-Guțan 2015).

The designation of the right “to a healthy environment” in the first paragraph of Article 35 is based on the premise that this right underpins the realization of other fundamental rights (e.g., the right to life, health, physical and moral integrity, property, etc.). Therefore, the right to a “healthy and ecologically balanced environment” implies the maintenance of an environment that not only supports the emergence and development of life but also ensures the optimal quality of life.

The third paragraph of the same article emphasizes the dual nature of citizen participation as legal subjects in the human–environment relationship. State authority regulates this domain because each individual’s right to live in a healthy environment simultaneously obliges them to become an active participant in this legal framework, assuming responsibility alongside the state, a duty inherent in the status of citizen.

It is natural for every individual to claim the right to live in an unpolluted, healthy environment. The effort to prevent pollution and to remediate its consequences is an obligation of all inhabitants, aligning with the universal character of the right to a healthy environment.

In Romanian legal scholarship (Duțu 2014), the characteristics defining the right to a healthy environment have been outlined as follows:

- a) Subjective right: The possession of this right by an individual grants them the legal capacity to require third parties to act in a certain manner.
- b) Preventive character: The right is founded on the necessity of preventive measures against environmental degradation, considering both present and future generations. Environmental protection is achieved through preventive action.
- c) Dual dimension: The right has both individual and collective aspects. The individual dimension protects each person against pollution, including the restoration of damaged environments and compensation for environmental harm suffered. The collective dimension obliges the state to guarantee the exercise of this right and to cooperate in pollution prevention and environmental protection at regional and international levels.
- d) Elevation to fundamental duty: The right to a healthy environment entails a duty for all individuals and legal entities to protect and improve the environment, serving as a special safeguard for the right itself.

Simultaneously, the Romanian Constitution establishes other fundamental rights, including the right to life and physical and psychological integrity, the right to health protection, the right to information, the right of association, and the guarantee of private property.

Regarding property, the Constitution of Romania stipulates that the exercise of property rights must respect environmental protection obligations, and for works of general interest, public authorities may utilize the subsoil of any property, compensating owners for soil-related damages. In Romania, private property is inviolable under organic law (the Constitution of Romania).

The jurisprudence of the Romanian Constitutional Court emphasizes that the right to property and the right to a healthy and ecologically balanced environment are distinct yet interdependent. The Court has

highlighted that property rights under Article 44 of the Constitution are not absolute; the legislator may establish reasonable limits on their exercise to protect other fundamental rights and the public interest, including environmental protection. In this context, the Court has ruled that legislative measures imposing restrictions on property rights to protect the environment are constitutional, provided they are justified by significant public interest and comply with the principle of proportionality (Gutan 2018). Article 44(7) of the Constitution requires property owners to respect environmental protection obligations, ensuring that property rights are exercised in compatibility with environmental preservation - a balance reflecting the necessary equilibrium between citizens' fundamental rights and the public interest in environmental protection.

Thus, the jurisprudence of the Romanian Constitutional Court demonstrates that property rights lose their absolute character, and their exercise is subject to reasonable limitations established by the state through legislative authority, exclusively for the purpose of environmental protection and other major public interests. Such limitations must respect the principle of proportionality and be justified by significant public interest (Romanian Constitutional Court 2004, 2022, 2024).

## **Conclusions**

The sustainable development of human society, as it is defined in modern thought as the right of current generations to pursue development without compromising the right of future generations to enjoy their own development, is an idea deeply resonant with Christian ethics. Its formulation is grounded in concern and care for the surrounding world, both in the present and with a projection into the future, no matter how distant.

Firstly, the reflections of this study have focused on situating environmental concerns within the framework of recognizing humanity's primacy over nature. At the same time, it has been shown that many of those directing their efforts toward environmental conservation do so without acknowledging the presence of the divine and the dominion over nature that God has granted to humanity. Ignoring these realities carries the risk that the environment could become, for many, a surrogate deity, and ecology and environmental ethics could devolve into a substitute religion, complete with its own secular rituals. This is not an argument to diminish the obligation to use nature wisely or to recognize it as an icon of the divine, nor is it a call for reckless exploitation of resources or negligent treatment of the environment. Rather, the point emphasized here is that environmental concerns must be incorporated into a comprehensive commitment to the effective way of life of the individual.

Secondly, the essential question this study seeks to address concerns the extent to which states may permissibly or flexibly limit the exercise of fundamental rights in the name of environmental protection and the implementation of climate change policies. The guiding principle in any response to this question is balance, and we have sought to show that this balance is grounded in ethics and Christian morality. Consequently, we argue that the entirety of this study serves as a plea for ethics and equity in the actions of states striving to provide their citizens with a healthy and ecologically balanced environment.

Finally, given the role of the judiciary in enforcing the law, we maintain that both national and European courts must preserve their balancing function in the face of any excesses, even when such excesses are justified by the promotion of fundamental rights or collective interests.

## Declarations

**Author Contributions:** Conceptualization, C.O.; Methodology, C.O. and E.T.; Validation: C.O.; Formal Analysis, C.O. and E.T.; Investigation, C.O. and E.T.; Writing—Original Draft Preparation, C.O. and E.T.; Writing—Review and Editing, C.O. and E.T.; Visualization, C.O.; Supervision, C.O.; All authors have read and agreed to the published version of the manuscript.

**Funding:** Not applicable.

**Institutional Review Board Statement:** Not applicable.

**Data Availability Statement:** Not applicable.

**Acknowledgments:** The authors would like to thank the organizers of the 19th International Conference in the Series “Humanistic Ecology” – “Environmental Philosophy and Ethics in the Face of the Ecological Crisis” for inviting them to participate in this event.

**AI Tools Declaration:** The authors declare that no artificial intelligence tools were used in the preparation of this manuscript.

**Conflicts of Interest:** The authors declare no conflict of interest.

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