

*Plan 1.5*

Korean Climate Litigation  
: a judicial response to a political failure

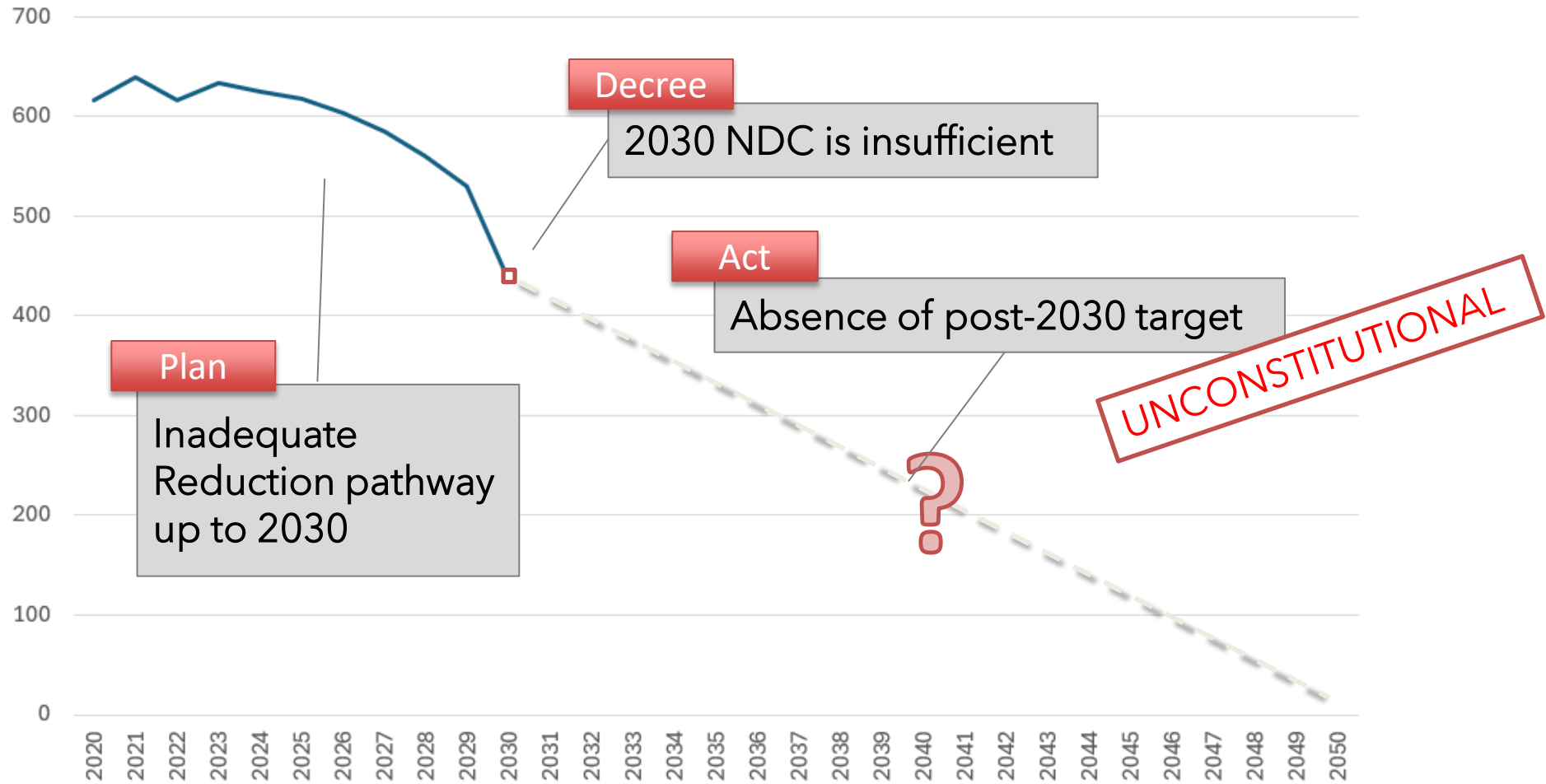
Mar 8, 2025

Plan 1.5

Sejong Youn



- 2020. 3. 13. Youth Climate Litigation Filed
- 2021. 10. 21. Citizen Climate Litigation Filed
- 2022. 6. 13. Infant Climate Litigation Filed
- 2023. 7. 6. Carbon Neutrality Plan Litigation Filed
- 2023. 8. 22. National Human Rights Committee Opinion
- 2024. 4-5 Public Hearings
- **2024. 8. 29. Decision : Unconstitutional**



Environmental Right includes right to be safe from climate change.

Constitution of the Republic of Korea (1987)

Article 35

(1) All citizens shall have the right to a healthy and pleasant environment.

The State and all citizens shall endeavor to protect the environment.

(2) The substance of the environmental right shall be determined by Act.

(3) The State shall endeavor to ensure comfortable housing for all citizens through housing development policies and the like.

Environmental Right includes right to be safe from climate change.

*The risks of the climate crisis that the State seeks to address by setting GHG reduction targets through laws and administrative plans encompass the harm resulting from phenomena caused by climate change including extreme weather events, water scarcity, food shortages, ocean acidification, sea level rise, and ecosystem collapse (see Article 2, subparagraph 2 of the Carbon Neutrality Framework Act). These risks threaten not only the life, physical safety, and health of citizens but also the natural and living environments, either in whole or in part. Therefore, the fundamental right most closely related to these provisions and plans, and the right citizens must be protected from such risks, is the right to healthy environment.*

cf. "Right to Safe Climate"

## Fair Share based on Scientific Facts and International Standards

*“[i]t should be assessed,*

*based on scientific facts and international standards*

*whether the specific reduction targets align with Korea's share of contribution it ought to bear in light of the global reduction efforts;*

*whether the framework for setting these reduction targets is designed to prevent excessive burdens from being shifted to the future in terms of the effects of climate change and the restrictions on GHG emissions; and*

*whether the system is institutionalized in a way that can effectively guarantee GHG reductions.”*

## Absence of 2030 targets shifts excessive burden to the future

However, Article 8, Section 1 of the *Carbon Neutrality Framework Act* does not provide a quantitative level of any form regarding the reduction targets for the years from 2031 to 2049, failing to effectively guarantee gradual and continuous reductions up to 2050, the target year for carbon neutrality. Thus, GHG reduction targets are governed in a way that shifts an excessive burden to the future.

- “5-year update cycle” is not enough.
- “Principle of Progression” is not enough.
- No control over cumulative emissions over the entire period.
- Short-termism will prevail without the full pathway.



## Rights of the Future Generation and Statutory Reservation

*“In particular, legislation that sets GHG reduction targets inherently restricts the fundamental rights of the current population to safeguard the future population’s fundamental rights. Since future generations have even more limited participation in the democratic political process, judicial review of the fulfillment of the legislative duty in this area must be much stricter.*”

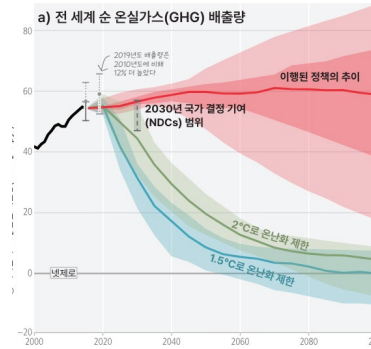
*This point is symbolically highlighted by a statement made by Ms. Han (12 years old), a Complainant in this case, during a hearing: ‘Grown-ups can elect members of the National Assembly or the President through voting, but children do not have that opportunity. Participating in this lawsuit was the only action I could take, and had to take, for the future.’”*

## 40% reduction from 2018

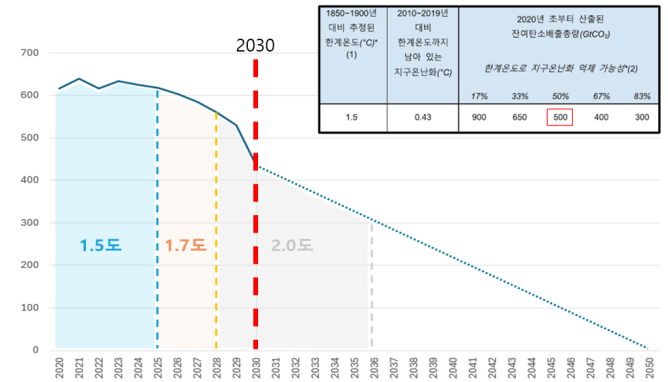
### OECD Comparison

국가	NDC 목표	2010년 기준 감축률
대한민국	2018년 대비 40%	27%
미국	2005년 대비 50~52%	47%
유럽연합 (27개국)	1990년 대비 55%	45%
독일	1990년 대비 65%	52%
영국	1990년 대비 68%	58%
일본	2013년 대비 46%	38%
호주	2005년 대비 43%	43%
캐나다	2005년 대비 40~45%	41%
아이슬란드	1990년 대비 55%	59%
뉴질랜드	2005년 대비 50%	47%
노르웨이	1990년 대비 50~55%	54%
스위스	1990년 대비 50%	50%

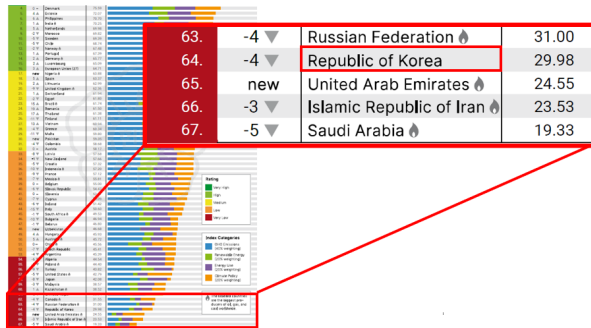
### IPCC Reduction Pathway



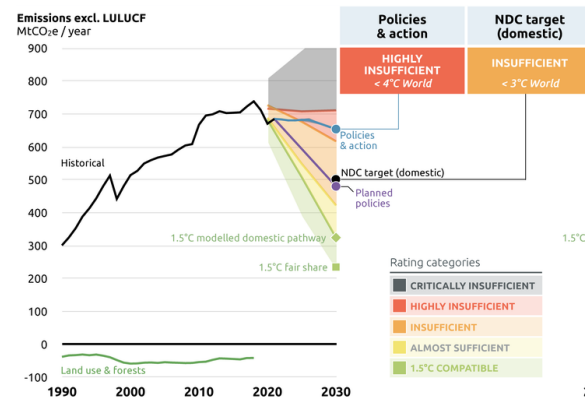
### Per-Capita Carbon Budget



### Performance Index (CCPI)

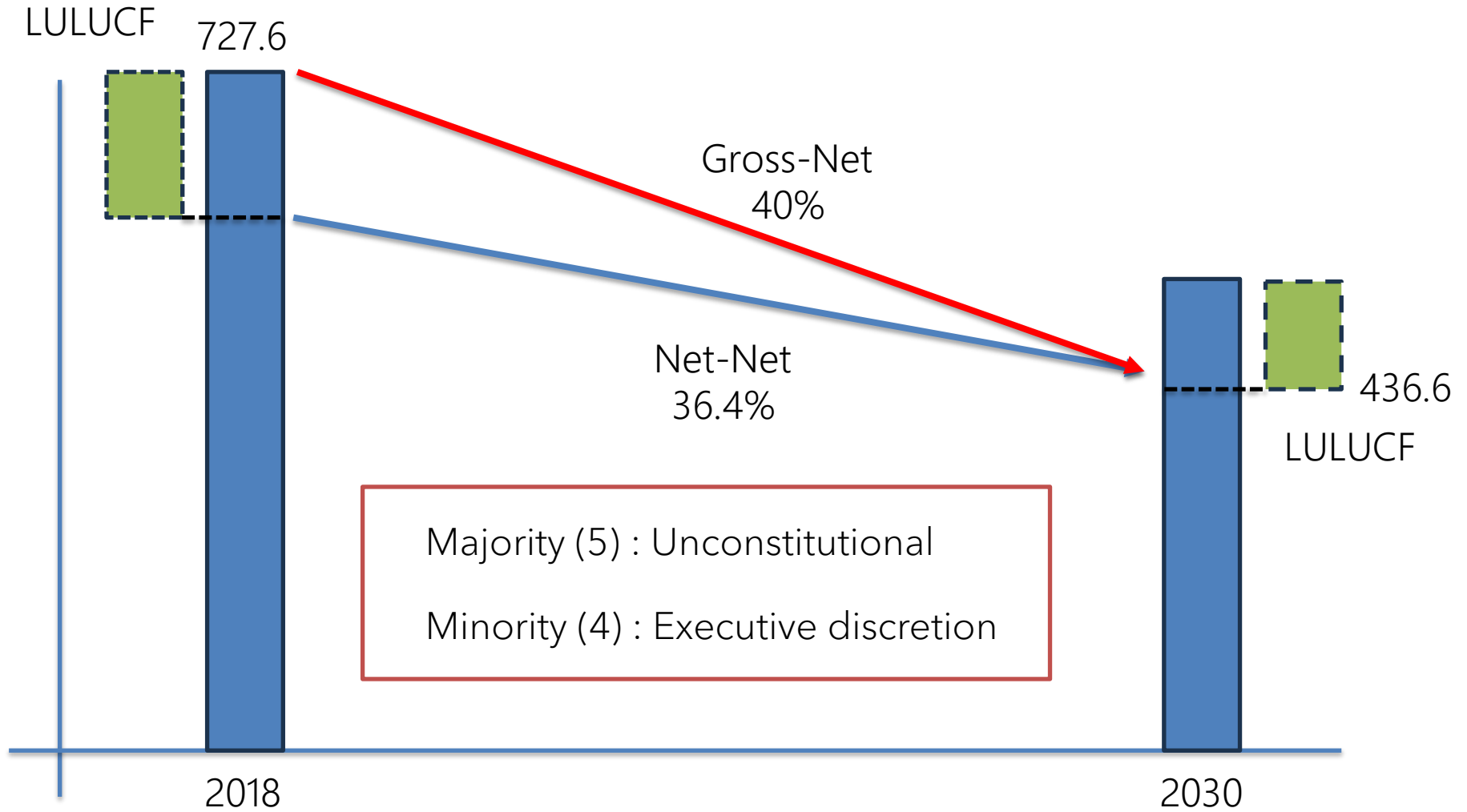


### Climate Action Tracker



## The Court cannot examine the adequacy of specific targets of a specific year

*“While the numerical value of the GHG reduction target percentage is derived from various statistical evaluation methods, formulas, and estimative methodologies that inherently include significant uncertainty in each stage of assessment, there is no indisputable international consensus on the derivation method, nor is there a published calculation procedure conducted by a domestic institution that is widely accepted enough to be cited by judicial authorities. Moreover, determining the specific numerical value of a GHG reduction target percentage inevitably involves socioeconomic, or even diplomatic, policy considerations.”*

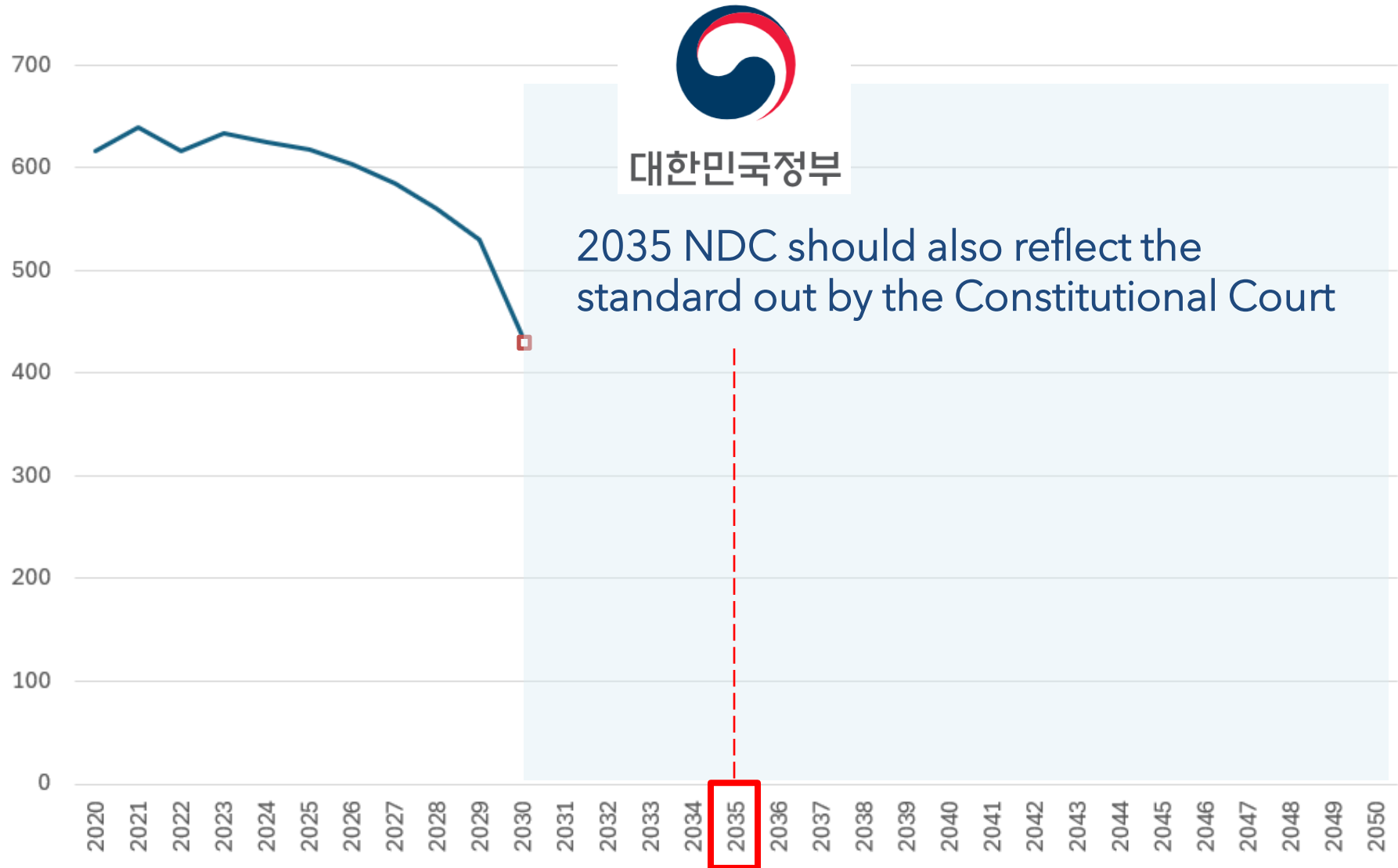


The National Assembly must set interim targets up to 2050.

This must reflect Korea's fair share based on science and international standards, should not shift excessive burden to the future, and should guarantee effective reduction of GHG.



Deadline : 28 Feb 2026



“We’re on a highway to climate hell  
with our foot still on the accelerator”

- UN Secretary General Antonio Guterres



**2019**

*Urgenda*, Dutch Supreme Court

**2021**

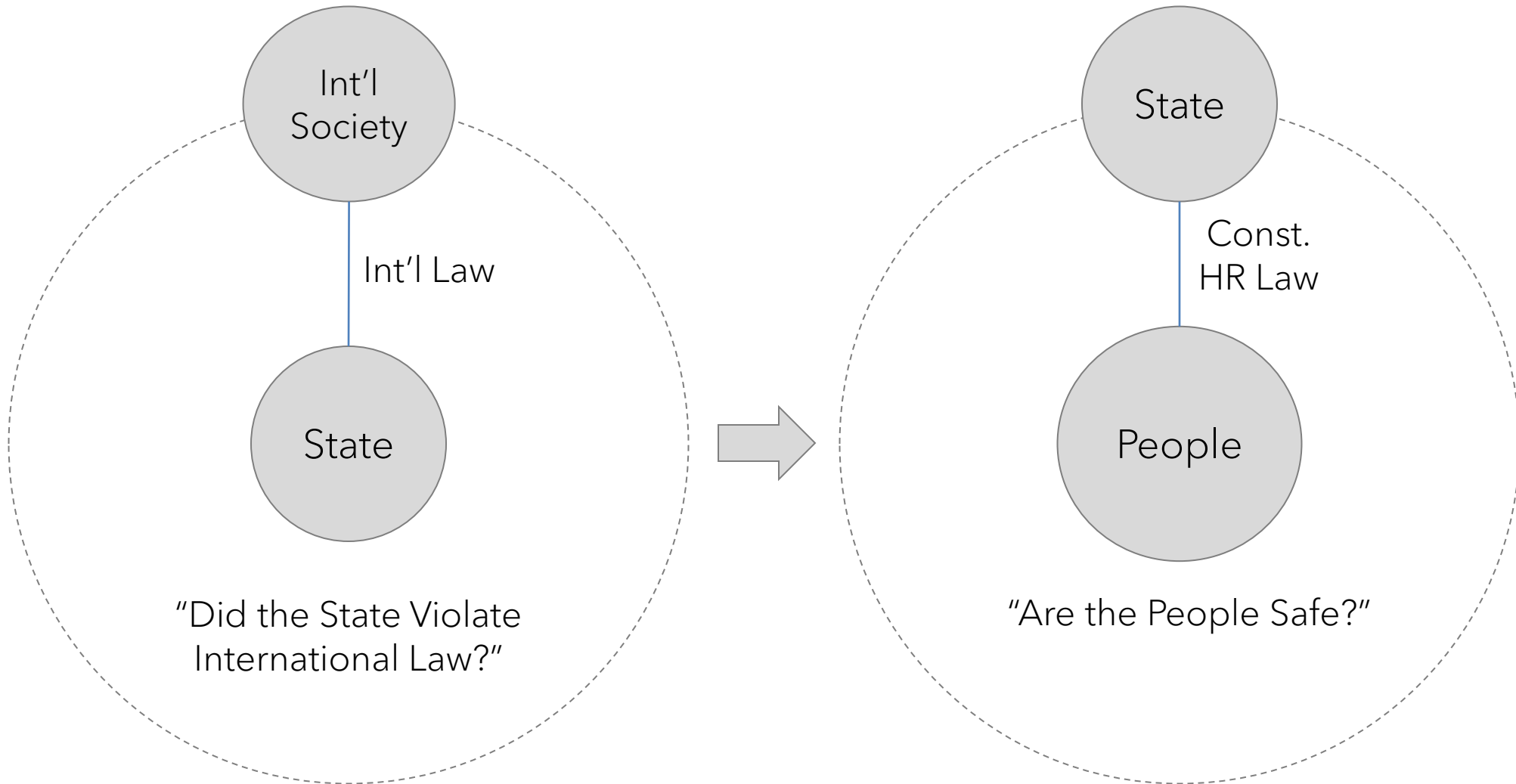
*Neubauer*, German Constitutional Court

**2024**

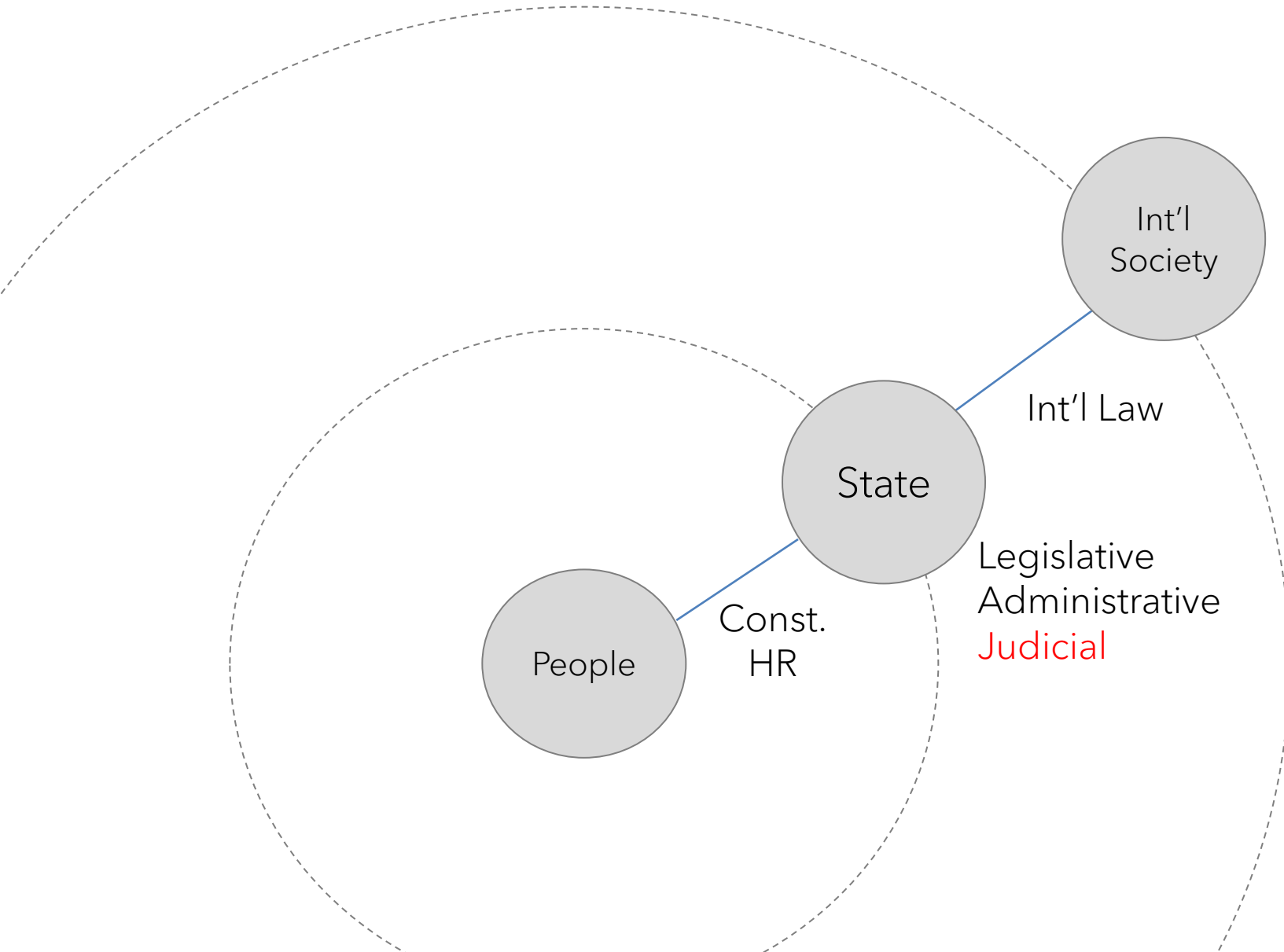
*Klimaseniorinnen*, European Court of Human Rights

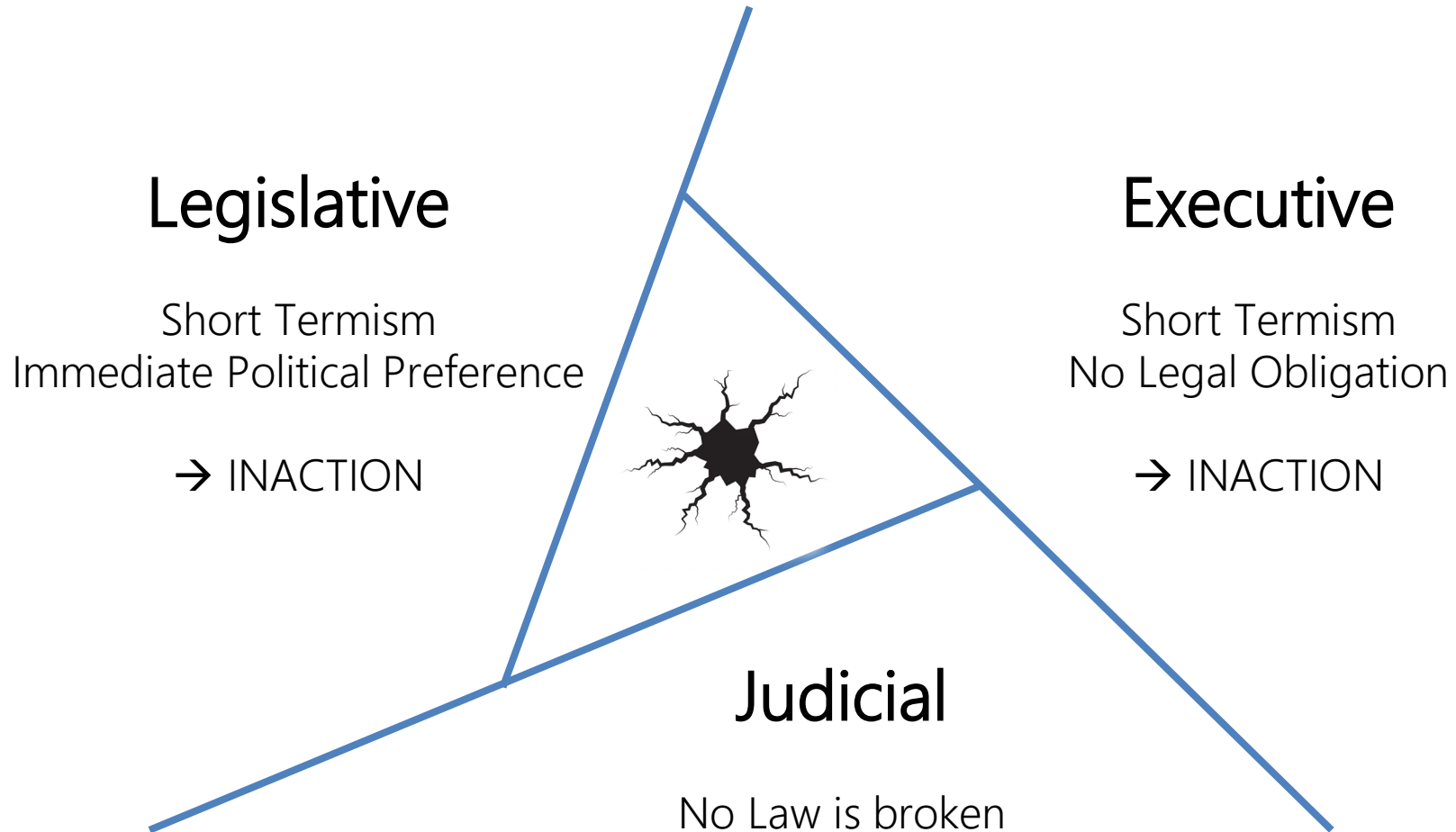
**2024**

*Advisory Opinion*, ITLOS









## CONSTITUTION (+ HUMAN RIGHTS LAWS)

Legislative

Executive

Judiciary

What if the Majority is wrong?  
(or, are they ever wrong?)

Can the Majority do whatever they want?

“fundamental right” as the limit of Majority rule

DEMOCRACY (MAJORITY RULE)

RULE OF LAW

## Can the Court rule on the adequacy of specific targets?

*Urgenda*  
(Netherlands)

"Yes, based on IPCC pathway"

*Klimaseniorinnen*  
(ECtHR)

"Yes, based on key elements"

*Neubauer*  
(Germany)

"Yes, based on carbon budget"

*Youth4Climate*  
(Korea)

"No, the court cannot find a standard"

*Juliana*  
(USA)

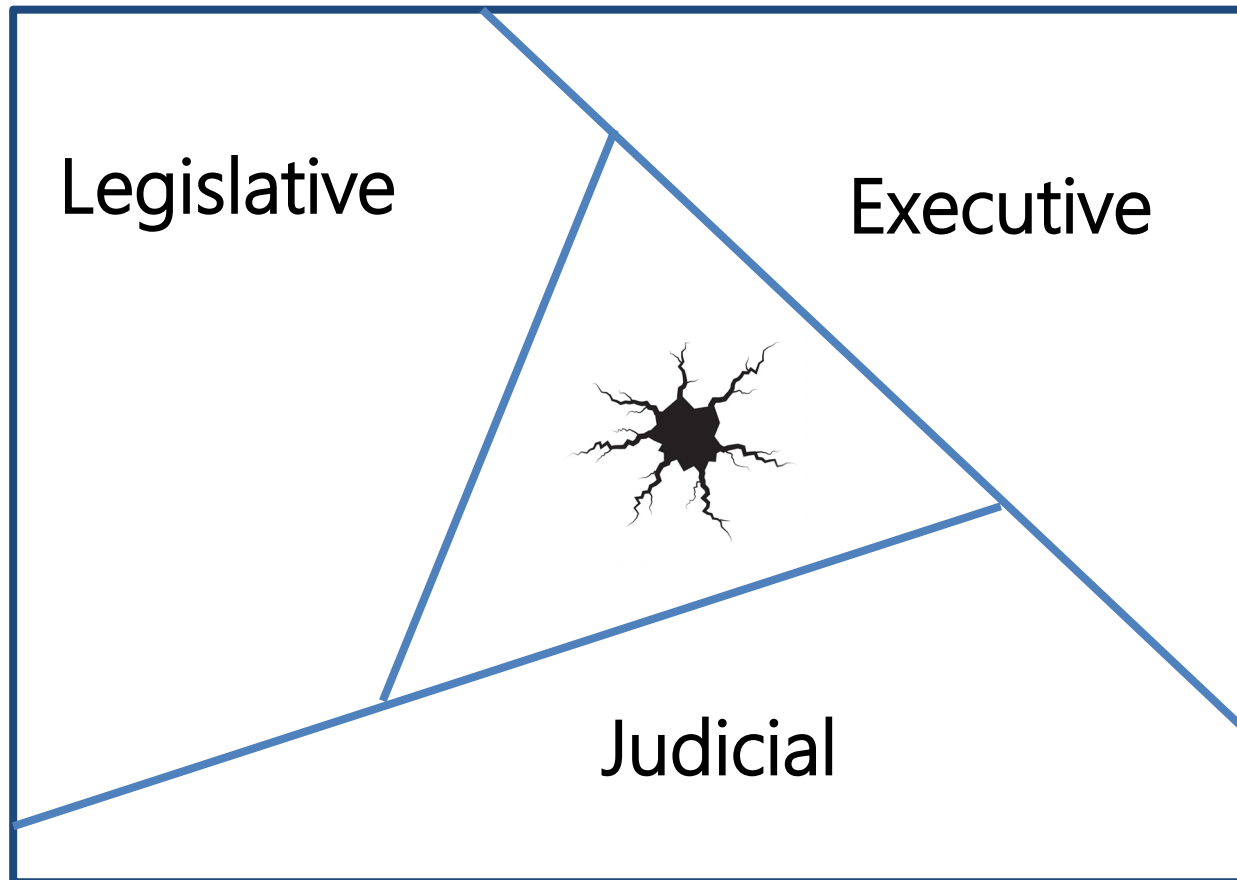
"None of this is for the  
Court to decide"



RULE  
OF  
LAW

MAJORITY  
RULE

Democratic State = Three branches as a whole  
Does more deference protect democracy?





## Jan 2024. Taiwan Youth Climate Litigation

“Environmental Rights Foundation”

Constitutional Court claim on the national target



## Aug 2024. Japan Youth Climate Litigation

Civil claim against fire-power plant operators

# Plan 1.5

End

Mar 8, 2025

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