

Supplemental Brief for the Constitutional Complaint (1)

Accompanying Reference Materials: The Irish Supreme Court opinion on climate change and referential materials on the recent phenomena of climate change

Case 2020Heonma389(2020헌마389) Declaration of Unconstitutionality of Article 42 Section 1 Subparagraph 1 of the Framework Act on Low Carbon, Green Growth
Petitioners Do-Hyun Kim and 18 others
Respondents 1. National Assembly of the Republic of Korea
2. President of the Republic of Korea

The legal counsel for the Petitioners submits this Supplemental Brief for the Constitutional Complaint with respect to the above-captioned case.

1. The Irish Supreme Court's Decision to Quash the National Mitigation Plan Rendered on July 31, 2020

Countries around the world, including Korea, are experiencing rapid and serious climate change every day. Actual harms and disasters of various types stemming from the climate change are occurring relentlessly. As a result, various efforts are being made on social and national levels around the world to reduce greenhouse gas emissions, which are the key factors of climate change. In particular, highest courts in different jurisdictions have imposed strict judicial restrictions on their governments' passive regulations on greenhouse gas emissions. One of such cases, which had been discussed previously, is the decision of the Supreme Court of the Netherlands on the *Urgenda* Case, decided on December 20, 2019. (Refer to the Constitutional Complaint, pages 55 to 57; Reference 1 and 2: The Netherland Supreme Court Opinion (*Urgenda*)) and the Korean translation thereof, attached to said Complaint.]

Meanwhile, the Supreme Court of Ireland also recently has rendered a final ruling on July 31, 2020, deciding to quash the National Mitigation Plan ("the Plan"), which was adopted by the Irish government as a plan for reducing greenhouse gas emission under the 2015 Climate Action and Low Carbon Development Act, the Irish legislation that stipulates regulations of greenhouse gas emissions. (Reference 3-1 3-2: The Irish Supreme Court decision rendered on July 31, 2020 and the Korean translation thereof, attached to this Supplemental Brief) The Irish Supreme Court quashed the Plan, recognizing the seriousness of climate change and the need for reduction of greenhouse gas emissions acknowledged by both the international society and the science community dealing with climate change, and finding that the Plan lacked specific details required for achieving the goal of reducing greenhouse gas emission. To support our argument, the Petitioners submit the above Irish Supreme Court's decision and its Korean translation as references.

2. Recent Severe Climate Crisis and the Need for Substantial Reduction of Greenhouse Gas

Korean, including the Petitioners, have become keenly aware of the threat and seriousness of

climate change, recently having experienced the longest rainy season in history and the consecutive typhoons. The recent rainy season in the central region of Korea lasted for a record of 54 days (June 24 to August 16). This was the longest rainy season since 1973, the year when relevant data began to be collected. It was an extreme climate event caused by global warming, according to the official announcement of the Korea Meteorological Administration (“KMA”). (Refer to Reference 4: The Announcement of the KMA dated September 8, 2020, pages 4 to 6, attached to this Supplemental Brief.)

Globally, large-scale forest fires caused by global warming are continuously occurring in Australia, the western area of the United States, Siberia, and the Amazon. Cases of abnormal climate phenomena and climate disasters such as heatwaves, wildfires, storms, heavy rains, and floods worldwide this summer are countless, according to the compilation by the KMA. The scale and the impact of those cases are also serious. (Refer to Reference 4: The Announcement of the KMA, entitled “Global Abnormal Climate Events and Climate Disaster in the Summer,” dated September 8, 2020, pages 10 to 12, attached to this Supplemental Brief)

Hence, there has been a flurry of media reports in Korea, commenting on the seriousness of climate change and about ‘the need for implementation of measures for substantial reduction of greenhouse gas emission to stop the imminent climate catastrophe.’ (Reference 5-1: Yonhap news article, entitled “Climate Change Has an Effect on Heatwaves in Addition to Floods: Calls for a Fundamental Solution,” dated August 16, 2020; Reference 5-2: KBS article, entitled “National Carbon Dioxide Soars to Record-breaking Level... ‘Climate Crisis is as Serious as COVID-19’ in Europe,” dated September 17, 2020) As such, ‘the seriousness of climate crisis caused by the accumulation of greenhouse gas’ is no longer considered just ‘an established scientific theory’ but now ‘a general common sense.’

Korean climate scientists, including Doctor Chun-Ho Cho, who is a leading climate scientist and served as the Director-General of the National Institute of Meteorological Sciences, point out Korea’s serious climate crisis and the need for extensive reduction of greenhouse gas emission. They also denounced the lack of countermeasures on a national scale. (Reference 6-1: Mediatoday article, entitled “Climate Crisis: Non-computable, Risk of Collapse of Civilization,” dated September 5, 2020 (‘Participating Society (*Chamyeosahoi*) Interview’ of Dr. Chun-Ho Cho); Reference 6-2: Hankyoreh article, entitled “Korea is ‘Climate Villain’ . . . Economy Will Also Collapse if Energy Transition is Delayed,” dated September 23, 2020 (Article based on the interview of Dr. Chun-Ho Cho))

However, Korea’s carbon dioxide concentration level is rising at a rapid rate, and Korea’s carbon dioxide concentration level of 417.9ppm in the year of 2019 was even higher by a figure of 8.1ppm than the global average of 409.8ppm, according to a report entitled ‘Report of Global Atmosphere Watch 2019,’ recently published by the National Institute of Meteorological Science. (Reference 6-2: Hankyoreh article discussing said Report, dated September 23, 2020) Also, it is a publicly known fact that Korea was ranked 8th in annual carbon dioxide emissions. (Reference 6-2: Hankyoreh article, dated September 23, 2020) Simply put, these facts demonstrate that Korea is facing both ‘the liability’ for climate crisis caused by greenhouse gas emissions as well as the resulting ‘harm’ at the same time.

3. The Need for a Prompt Hearing on this Case

The severe climate change, which is being accelerated due to the above-mentioned greenhouse gas emission, and the resulting violation of basic human rights such as the right to life and right to environment enjoyed by Korean citizens, including the Petitioners, are being exacerbated each day in terms of their scale and intensity. Therefore, there is a great need for implementing constitutional measures by promptly declaring said provisions at issue that are infringing basic human rights unconstitutional.

However, the Respondents the National Assembly and the President of the Republic of Korea, have not provided any response for over the past six months since March 13, 2020, the date when the Constitutional Complaint was filed. It is causing delay to this proceeding. The Petitioner teenagers are seriously concerned that the delay in response by the Korean government may reflect just another facet of the delay in the Korean government's response to the exacerbating climate change problems.

The Petitioners respectfully request that the Constitutional Court of Korea, considering the circumstances discussed above, adequately exercise the Court's discretion to prevent any further delay in response by the Respondent President of the Republic of Korea and the Respondent National Assembly of the Republic of Korea, for this case to proceed speedily and in good faith.

Attachment

- Reference 3-1 The Irish Supreme Court decision decided on July 31, 2020 (English)
- Reference 3-2 Korean translation of Reference 3-1
- Reference 4 Announcement of the Meteorological Administration, dated September 8, 2020
- Reference 5-1 Yonhap news article, entitled "Climate Change Has an Effect on Heatwaves in Addition to Floods: Calls for an Approach to Solve Fundamental Problems," dated August 16, 2020
- Reference 5-2 KBS article, entitled "National Carbon Dioxide Soars to Record-breaking Level... 'Climate Crisis is as Serious as COVID-19' in Europe," dated September 17, 2020
- Reference 6-1 Mediatoday article, entitled "Climate Crisis: Non-computable, Risk of Collapse of Civilization" ('Participating Society Interview' of Dr. Chun-Ho Cho), dated September 5, 2020
- Reference 6-2 Hankyoreh Article, entitled "Korea is 'Climate Change Villain'...Economy Will Also Collapse Eventually if Energy Transition is Delayed" (Article based on the interview of Dr. Chun-Ho Cho), dated September 23, 2020

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