



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

DECISION

Application no. 34757/24
MAR MENOR Y SU CUENCA
against Spain

The European Court of Human Rights (Fifth Section), sitting on 17 September 2026 as a Committee composed of:

Diana Sârcu, *President*,

María Elósegui,

Sébastien Biancheri, *judges*,

and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the application (no. 34757/24) against the Kingdom of Spain lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 14 November 2024 by the legal ecological person Mar Menor Y Su Cuenca, which was recognised legal personhood in 2022 (“the applicant entity”) and was represented by Mr Marco Perez, a lawyer practising in Murcia;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the right of access to a criminal court of a natural entity, the Mar Menor lagoon and its basin, located northeast of Cartagena. The applicant entity defines itself as a “legal ecological person” (*persona jurídica ecológica*). It was represented by Alianza Mar Menor (AMARME), an environmental non-profit association seated in Los Alcázares and constituted on 9 July 2022.

2. The applicant entity was attributed legal personhood by Act no. 19/2022 of 30 September 2022 recognising legal personhood of the Mar Menor lagoon and its basin. The law provided that the tutorship of the natural entity should be attributed to three organs and, *inter alia*, a committee of representatives, which would have the function to propose the measures for the protection of the lagoon.

3. In 2021, after episodes of agricultural pollution, the prosecutor's office requested the opening of investigations for environmental crime in order to determine whether the farming companies operating in the area of Mar Menor had any liability in the ecological damage caused to the lagoon. Criminal investigating judge no. 4 of Cartagena opened proceedings no. 231/2022 against company X.

4. On 4 September 2023 the investigating judge acknowledged the entry into force of Act no. 19/2022 and, relying on section 782(2) of the Criminal Procedure Act (see paragraph 15 below), she offered the applicant entity the possibility to act as a private accusing party (*acusación particular*) in view of the fact that the prosecution had previously abandoned the case.

5. Citing section 6 of Act no. 19/2022 (see paragraph 17 below), the judge further offered the possibility to stand in the proceedings to various public authorities from the lagoon shoreside and to some environmental non-governmental organisations and civil associations.

6. On 27 October 2023 AMARME asked, on behalf of Mar Menor, to represent the applicant entity as a private accusing party in the criminal investigating proceedings in application of section 6 of Act no. 19/2022. On 8 November 2023 the judge accepted the motion.

Company X appealed to the Murcia *Audiencia Provincial*. It complained that the judge should have terminated the criminal proceedings for lack of any valid accusing party. It argued that AMARME and the other organisations acting on behalf of the applicant entity could only pursue an *actio popularis* equivalent to that generally recognised in Article 125 of the Spanish Constitution (see paragraph 13 below) or section 101 of the Criminal Procedure Act (see paragraph 14 below), but could have no procedural standing other than that. It further argued that section 782(2) of the Criminal Procedure Act was only intended to offer the position of private accusing party to the victim of a crime, and that AMARME could not claim that status; therefore, the decision of 4 September 2023 (see paragraph 4 above), insofar as it had offered the possibility to stand in the proceedings to different associations and public authorities which did not have victim status, should be declared null and void. It concluded that the judge had breached the procedural law by stretching the meaning of section 782(2) of the Criminal Procedure Act.

7. On 6 February 2024 the *Audiencia Provincial* granted the appeal. It noted that the committee of representatives of the applicant entity had not yet been constituted by the Government. Had the applicant entity had a proper legal representative, it could have been accepted as a private accusing party. However, that was not the case; and it was not possible to accept Mar Menor's appearance in the proceedings because there was no record (*no consta*) of the constitution of the committee of representatives. As regards AMARME, the court held that it was not a victim and therefore could not act as a private accusing party. It held that section 6 of Act no. 19/2022 could only be

interpreted as a reminder of the general rule established in section 101 of the Criminal Procedure Act that allows to bring an *actio popularis* in criminal proceedings.

8. Consequently, the decision of 4 September 2023 was declared null as well as the subsequent petitions and submissions made by AMARME and the other associations representing the applicant entity. Lacking any prosecution charges, the criminal proceedings were eventually discontinued. AMARME submitted an appeal on points of law.

9. On 26 February 2024 the *Audiencia Provincial* reiterated in a final decision that AMARME was not a party to the proceedings and declared that it did not have legitimation to bring an appeal on points of law, either.

10. AMARME brought an action for annulment before the *Audiencia Provincial*, which was declared inadmissible on 12 March 2024.

11. The subsequent *amparo* appeal before the Constitutional Court was declared inadmissible for lack of constitutional significance on 15 July 2024.

12. The applicant entity, represented before the Court by AMARME, complains under Article 6 § 1 of the Convention that it did not have access to a court for the determination of its civil rights.

RELEVANT LEGAL FRAMEWORK

A. Spanish Constitution

13. Article 125 states that citizens may engage in popular action and participate in the administration of justice through the institution of the jury, in the manner and with respect to those criminal trials as may be determined by law, as well as in customary and traditional courts.

B. Criminal Procedure Act

14. Section 101 provides that the criminal action is public and that all Spanish citizens may exercise popular action in accordance with the provisions of the law.

15. Section 782(2) provides that the investigating judge may offer to the victim of a crime the possibility to stand in criminal proceedings as a private accusing party (*acusación particular*) if there is no other accusing party, for instance when the prosecutor has asked the discontinuation of the proceedings.

C. Act no. 19/2022 of 30 September 2022 recognising legal personhood of the Mar Menor lagoon and its basin

16. Section 3(2) provides that a committee of representatives is constituted by thirteen members, three from the central government, three

from the regional government and seven representatives of the citizens and that its main functions are the proposal of actions for the protection, conservation, maintenance and restoration of the lagoon, as well as the supervision and control of the compliance with the rights of the lagoon and its basin.

17. Section 6 establishes that any physical or legal person may assume responsibility for the defence of the ecosystem Mar Menor and may claim the enforcement of the prohibitions established in the law and developing regulations, and this through an action lodged with the corresponding courts or public administrations. Such an action would be lodged on behalf of the ecosystem Mar Menor and its basin.

D. Royal Decree no. 90/2025 of 11 February 2025 approving the General Regulations for the constitution, composition and functioning of the representative and government organs of the Mar Menor lagoon and its basin

18. The royal decree entered into force on 4 March 2025 and established in section 5 the composition and functioning rules of the committee of representatives of the Mar Menor lagoon and its basin.

THE COURT’S ASSESSMENT

19. The applicant entity complained that the *Audiencia Provincial’s* refusal to accept the legal standing of AMARME on its behalf as a private accusing party prevented a tribunal established by law hearing its civil claim for the reparation of ecological damage. It argued that section 6 of Act no. 19/2022 allowed for any natural or legal person, and therefore for AMARME, to bring a legal action on behalf of the applicant entity before any competent court or administrative body. It further argued that the appearance of the applicant entity in the criminal proceedings as a private accusing party was necessary to claim the right to obtain reparation for the ecological damage sustained. This civil action was directly attached to the environmental offence under investigation because the outcome of the civil claim was dependent on the finding of guilt in the criminal case.

20. The Court must at the outset ascertain whether the applicant entity or its representative can claim to have “victim” status, within the meaning of Article 34, in the context of the alleged violation of the right of access to a court under Article 6 of the Convention.

21. The Court recalls that in order to claim to be a “victim” in the context of an alleged violation of Article 6 of the Convention, and to complain of alleged procedural shortcomings under that provision, it is normally sufficient that the applicant was affected as a party to the proceedings brought by him or her before the domestic courts (see *Verein KlimaSeniorinnen Schweiz and*

Others v. Switzerland [GC], no. 53600/20, § 590, 9 April 2024, and *Cangi and Others v. Türkiye* (no. 2), no. 65087/19, § 27, 8 July 2025).

22. The Court notes that neither the applicant entity nor AMARME brought any proceedings of their own motion before the criminal court. Rather, they were offered the possibility to appear by a decision of the investigating judge of 4 September 2023 (see paragraph 4 above). The Court observes that even if the applicant entity had been initially considered a “private accusing party” in the criminal proceedings, that decision was subsequently annulled by the *Audiencia Provincial* on 6 February 2024 upon company X’s appeal (see paragraph 7 above). This finding was reiterated by the *Audiencia Provincial*’s decision of 26 February 2024 (see paragraph 9 above), which rejected the possibility to bring an appeal on points of law for lack of legal standing.

23. The Court notes that the sole complaint in the present application concerns the *Audiencia Provincial*’s interpretation of the criminal procedural rules set in sections 101 and 782(2) of the Criminal Procedure Act in connection with section 6 of Act no. 19/2022 (see paragraphs 14, 15 and 17 above). In particular, it revolves around the issue as to whether the *Audiencia Provincial*’s interpretation – namely, that AMARME had brought an *actio popularis* rather than a request to act as the representative of the applicant entity with the status of a private accusing party – was compatible with the right of access to a court of the applicant entity. Therefore, the scope of the Court’s examination will be limited to that procedural issue.

24. As for the representative AMARME, the Court established in *Cannavacciuolo and Others v. Italy* (nos. 51567/14 and 3 others, § 220, 30 January 2025), that the recognition of the standing of associations in *Verein KlimaSeniorinnen Schweiz and Others*, cited above, §§ 498-499, was justified by “specific considerations relating to climate change” and limited to “this specific context”. The Court notes that although the present case concerns environmental issues, it does not relate to climate change. It further observes that no special considerations or exceptional circumstances are present that would lead to grant standing to the representative association AMARME, especially given the fact that AMARME was not granted legal standing in the domestic proceedings at any point in time.

25. As for the applicant entity itself, the Court finds that to characterise it as a “victim” within the meaning of Article 34 of the Convention by virtue of the mere recognition by Act no. 19/2022 of the legal personhood of the natural entity would be strenuous. According to the Court’s established case-law, the concept of “victim” must be interpreted autonomously and irrespective of domestic concepts such as those concerning an interest or capacity to act. The underlying object of the Convention mechanism is to provide an effective and practical safeguard to those personally affected by violations of fundamental human rights (see *The Argeş College of Legal Advisers v. Romania*, no. 2162/05, § 25, 8 March 2011) and the word “victim”

denotes the person or persons directly or indirectly affected by the alleged violation (see *Vallianatos and Others v. Greece* [GC], nos. 29381/09 and 32684/09, § 47, ECHR 2013 (extracts)).

26. The Court observes that the *Audiencia Provincial* established that the applicant entity's appearance in the proceedings was contingent (see paragraph 7 above) on its representation by the committee of representatives referred to in section 3 of Act no. 19/2022 (see paragraph 16 above) – a condition that had not materialised as yet.

27. The Court considers that these findings of the *Audiencia Provincial* were a foreseeable interpretation of the rules established in the Act that recognised legal personhood for the applicant entity. This interpretation of the rules of the Criminal Procedure Act regarding the distinction between an *actio popularis* and a private accusing party in view of the new rules that had been established in the Act no. 19/2022 for the protection of the applicant entity cannot be considered manifestly unreasonable or arbitrary. In fact, the *Audiencia Provincial* held that the applicant entity could have been accepted as a private accusing party had it had a legal representative, according to section 3 of Act no. 19/2022 (see paragraph 7 above).

28. The fact that, at the time of requesting its participation in the proceedings, the committee of representatives had not yet been elected could not be held against the State, which ultimately published royal decree no. 90/2025, of 11 February 2025 (see paragraph 18 above), that regulated the composition of this committee and allowed for its constitution. In the Court's understanding, the applicant entity's right of access to a tribunal for the determination of its civil rights is secured once the committee of representatives is established according to the procedural rules contained in the Act no. 19/2022 following the interpretation made by the *Audiencia Provincial*.

29. Consequently, the Court is satisfied that it was a foreseeable interpretation of the applicable rules that entailed that the applicant entity was not accepted as a party to the criminal proceedings (see, *a contrario*, *Cangi and Others*, cited above, § 27). Since, moreover, it did not bring proceedings of its own motion and it was not duly represented before the criminal court in proceedings no. 231/2022 before the investigating judge no. 4 of Cartagena against company X, the applicant entity cannot claim to be a victim of the alleged violation of Article 6, for the purposes of Article 34 of the Convention.

30. The Court concludes that the application should be rejected as being incompatible *ratione personae* with the provisions of the Convention pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

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Declares the application inadmissible.

Done in English and notified in writing on 8 October 2026.

Martina Keller
Deputy Registrar

Diana Sârcu
President