

CSN Update: European Court of Human Rights Climate Change Decision

Sent to CSN Members, 9 April 2024

Dear Colleagues,

The European Court of Human Rights (ECHR) issued its decision in three climate change cases today, deciding in favor of senior Swiss women against the Swiss government and dismissing two other cases. This is the first such decision by an international court. Below are some key takeaways and resources/perspectives.

Later this year, we expect the advisory opinion from the International Court of Justice on liability for climate change, especially for those most vulnerable to climate change impacts including small island developing states and future generations.

Kristen

ECHR Climate Change Decisions

The case **Verein KlimaSeniorinnen Schweiz and Others v. Switzerland** concerned a complaint by four women and a Swiss association, *Verein KlimaSeniorinnen Schweiz*. The association's members number over 2000 and average 74 years in age. Concerned about the consequences of climate change related heatwaves on their living conditions and health, the members claimed that the Swiss authorities have not taken sufficient action to mitigate the effects of climate change.

Summary of findings:

- The ECHR found that the **European Convention on Human Rights encompasses a right to effective protection by the State authorities from the serious adverse effects of climate change** on lives, health, well-being and quality of life.
- While the Court found that the individual applicants did not fulfill the victim-status criteria under Article 34 of the Convention, the **association does have the right to bring a complaint on the individuals' behalf**.
- In this case, the Swiss Confederation had **violated the right to respect for private and family life of the Convention and the right of access to the court**. Specifically, there had been critical gaps in the process of putting in place the relevant domestic regulatory framework, including a failure by the Swiss authorities to quantify, through a carbon budget or otherwise, national greenhouse gas (GHG) emissions limitations.
- The state had **failed to take into consideration the compelling scientific evidence concerning climate change** and had not taken the complaints seriously. Ironically, despite the state's inactions, the **remedy is for Switzerland to assess specific measures** to be taken with the assistance of the Committee of Ministers.

The case **Carême v. France** concerned a complaint by a former inhabitant and mayor of the municipality of Grande-Synthe, who claimed that France has taken insufficient steps to prevent global warming and that this failure entails a violation of the right to life and the right to respect for private and family life.

Key Finding:

- Like the case against Switzerland, the Court dismissed the complaint because the **individual did not have victim status** within the meaning of Article 34 of the Convention.

Finally, the case **Duarte Agostinho and Others v. Portugal and 32 Others** concerned the current and future severe effects of climate change, which the applicants attribute to the respondent States, and which they claim impact their lives, well-being, mental health and the peaceful enjoyment of their homes.

Key Finding:

- The Court dismissed this case because the applicants had not pursued any legal avenue in Portugal and, thus, **had not exhausted their domestic remedies**.

Precedent:

- **Forty-six states** are signatories of the European Convention on Human Rights - every country in Europe except Belarus and the Russian Federation. While the case is specific to Switzerland, it lays out who qualifies as a victim, what inaction looks like under the Convention, and what obligations states owe their citizenry, especially in relation to climate change.
- **The Swiss verdict opens up all 46 members of the Council of Europe to similar cases** in national courts. While the facts of the cases varied, they all hinged on the question of whether government inaction on climate change violated fundamental human rights. Some of the governments responded with the same argument upon which the U.S. sometimes relies: cases should not be admitted as climate policy should be the subject of national governments rather than international courts.

For legal details:

ECHR Press Release: Attached

Opinion: [Verein KlimaSeniorinnen Schweiz and Others v. Switzerland](#) (including Dissent)

Convention: [European Convention on Human Rights](#)

ECHR: [Questions and Answers on the rulings in the three cases concerning climate change](#)

NPS Resources: [Climate Change Law: The Impact of Recent Cases on Climate Security](#)

[Report](#)

[Briefing](#)

Perspectives:

The Guardian: [Human rights violated by Swiss inaction on climate, ECHR rules in landmark case](#)

Euronews: [‘Historic’ European Court of Human Rights ruling back Swiss women in climate change case](#)

Reuters: [Climate inaction violates human rights. What ECHR’s ruling means for future litigation?](#)

Forbes: [Switzerland Climate Change Case Links Policies To Human Rights: What To Know About Landmark Decision](#)

CBC News (Video): [Swiss women prevail in landmark climate case at Europe’s human rights court](#)