



Case of *KlimaSeniorinnen Schweiz and Others v. Switzerland*

Application no. 53600/20, April 9, 2024



Truths and myths about the ruling

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25th Swiss Global Change Day, April 9, 2025

Outline

1. The rise of climate litigation – The emergence of *KlimaSeniorinnen v. Switzerland*
2. Truths and myths about the ruling
 - Separation of powers
 - Human rights and climate change
 - Victim status
 - Right to private and family life
3. *Post KlimaSeniorinnen v. Switzerland* – What since? What now?

Proceedings in *KlimaSeniorinnen v. Switzerland*

Oct 2016
Request to DETEC

Apr 2017
Decision of DETEC

Nov 2018
Decision by Federal
Administrative Court

May 2020 Decision by
Federal Supreme Court

Apr 2024 Decision by
European Court of Human
Rights (ECtHR)

A close-up photograph showing a pair of hands cupped together, holding a small, rectangular piece of white paper with frayed, torn edges. The paper is held in the center of the palms. On the paper, the words "HUMAN RIGHTS" are written in a bold, black, hand-drawn font. The word "HUMAN" is on the top line, and "RIGHTS" is on the bottom line. The background is dark, making the hands and the paper stand out. The lighting is soft, highlighting the texture of the skin and the paper.

HUMAN
RIGHTS

Climate Impact	Human Impact	Rights Implicated
Sea Level Rise <ul style="list-style-type: none"> • Flooding • Sea Surges • Erosion • Salination of land and water 	<ul style="list-style-type: none"> • Loss of land • Drowning, injury • Lack of clean water, disease • Damage to coastal infrastructure, homes, and property • Loss of agricultural lands • Threat to tourism, lost beaches 	<ul style="list-style-type: none"> • Self-determination [ICCPR;ICESCR,1] • Life [ICCPR, 6] • Health [ICESCR, 12] • Water [CEDAW,14; ICRC 24] • Means of subsistence [ICESCR,1] • Standard of living [ICESCR, 12] • Adequate housing [ICESCR,12] • Culture [ICCPR, 27] • Property [UDHR,17]
Temperature Increase <ul style="list-style-type: none"> • Change in disease vectors • Coral bleaching • Impact on Fisheries 	<ul style="list-style-type: none"> • Spread of disease • Changes in traditional fishing livelihood and commercial fishing • Threat to tourism, lost coral and fish diversity 	<ul style="list-style-type: none"> • Life [ICCPR, 6] • Health [ICESCR, 12] • Means of subsistence [ICESCR, 1] • Adequate standard of living [ICESCR, 12]
Extreme Weather Events <ul style="list-style-type: none"> • Higher intensity storms • Sea Surges 	<ul style="list-style-type: none"> • Dislocation of populations • Contamination of water supply • Damage to infrastructure: delays in medical treatment, food crisis • Psychological distress • Increased transmission of disease • Damage to agricultural lands • Disruption of educational services • Damage to tourism sector • Massive property damage 	<ul style="list-style-type: none"> • Life [ICCPR,6] • Health [ICESCR,12] • Water [CEDAW,14; ICRC 24] • Means of subsistence [ICESCR,1] • Adequate standard of living [ICESCR, 12] • Adequate and secure housing [ICESCR,12] • Education [ICESCR,13] • Property [UDHR,17]
Changes in Precipitation <ul style="list-style-type: none"> • Change in disease vectors • Erosion 	<ul style="list-style-type: none"> • Outbreak of disease • Depletion of agricultural soils 	<ul style="list-style-type: none"> • Life [ICCPR,6] • Health [ICESCR,12] • Means of subsistence [ICESCR,1]

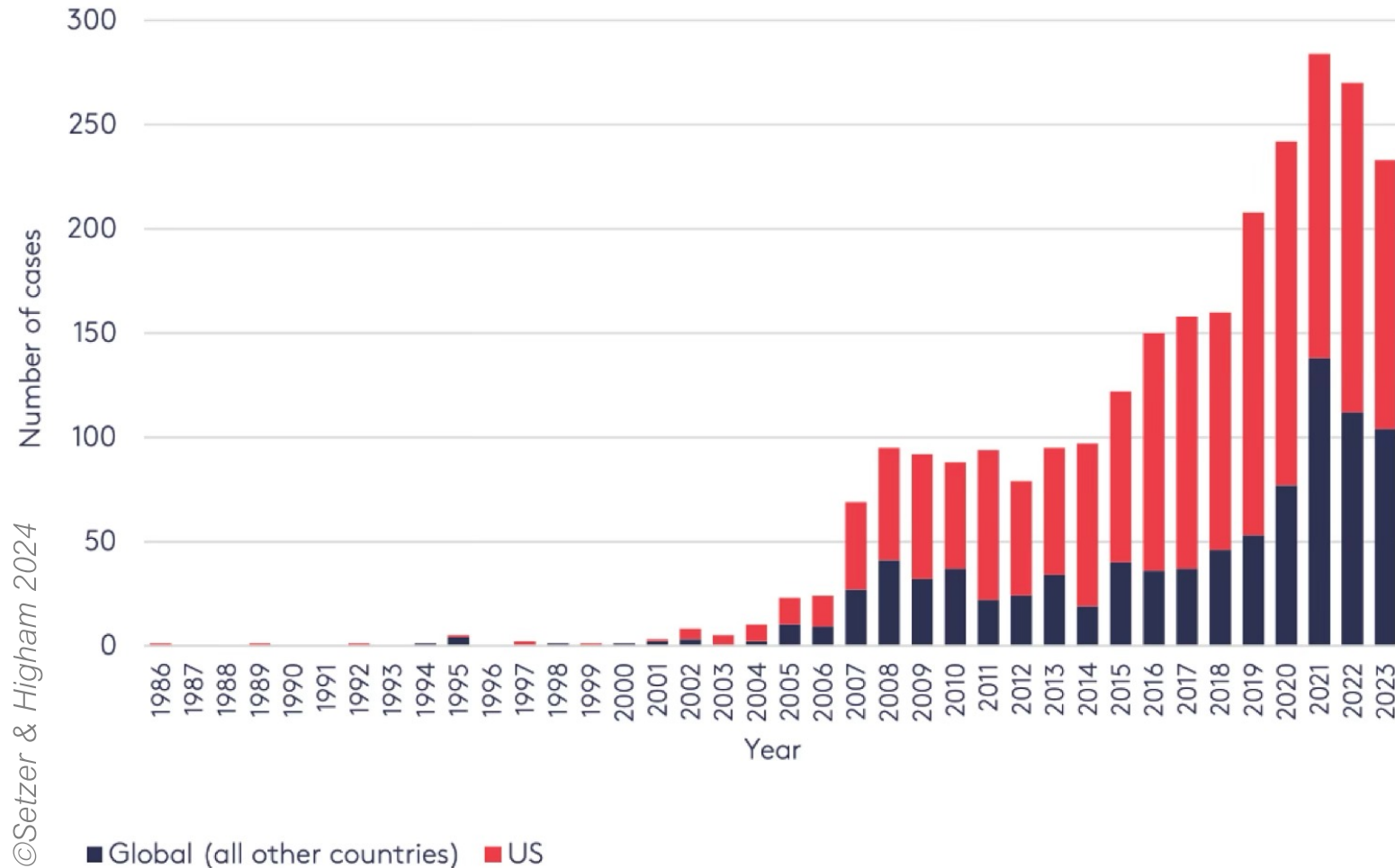
UDHR = Universal Declaration of Human Rights; ICCPR = International Covenant on Civil and Political Rights; ICESCR = International Covenant on Economic, Social and Cultural Rights; CEDAW = Convention on the Elimination of All Forms of Discrimination against Women; ICRC = Convention on the Rights of the Child.

Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.

Paris Agreement (2015), preamble, recital 11.

The Rise of Climate Change Litigation

Figure 1.1. Number of climate litigation cases within and outside the US, 1986–2023



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- ★ Court d’Appel Bruxelles, *ABSL Klimatzaak v. Belgium*, 2021/AR/15gs, 2022/AR/737, 2022/AR/891, 30.11.2023
- ★ Tribunal Administratif de Paris, *Association Oxfam France et al. v. France*, Nos. 1904967, 1904968, 1904972, 1904976/4-1, 14.10.2021
- ★ Bundesverfassungsgericht, *Neubauer et al. v. Deutschland*, 1 BvR 2656/18, 1 BvR 96/20, 1 BvR 78/20, 1 BvR 288/20, 1, 29.4.2021
- ★ Hoge Raad, *State of the Netherlands v. Stichting Urgenda*, ECLI:NL:HR:2019:2007, 20.12.2019

KlimaSeniorinnen Schweiz and Others v. Switzerland

Application no. 53600/20, April 9, 2024

TIME

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INTERVIEW

WORLD • SWITZERLAND

Heute Aktivist, morgen Richter: Wie

NZZ

Daniel Jositsch zum Klima-Urteil
«Die Schweiz muss im Europara
klarmachen, dass es so nicht geh

KOMMENTAR

Katharina Fontana

**Absurdes Urteil gegen die Schweiz:
Strassburg betreibt Klimapolitik von der
Richterbank herab**

Seine Partei bejubelt den Richterspruch von Strassburg als Sieg
den Kapitalismus. Der SP-Ständerat Daniel Jositsch hält ihn f
«ausserord

NZ

David Vonplon, Dan
17.04.2024, 17.00 Uhr

GASTKOMMENTAR

Ulrich Meyer

**Der Menschenrechtsgerichtshof hat den
Rubikon überschritten**

Unil

UNIL | Université de Lausanne

KlimaSeniorinnen Schweiz and Others v. Switzerland



Separation of powers

Primacy of legislative and executive branches, but judicial oversight needed; review limited to Convention rights



Human rights & climate change

Climate law and policy do not operate in a human-rights vacuum; considerable weight given to climate protection



Admissibility/ victim status

Individuals: serious extent and severity of the adverse consequences/risks, urgent need for protection
Associations: legally established and statutorily authorized, genuinely qualified and representative to act on behalf of members



Right to private and family life

Encompasses a right of individuals to effective protection by public authorities from serious adverse effects and risks to their lives, health, well-being, and quality of life resulting from anthropogenic climate change

~2025-6	International Court of Justice (ICJ)	Obligations of States in Respect of Climate Change
~2025	Inter-American Court of Human Rights (IACtHR)	Advisory Opinion on the Climate Emergency and Human Rights
2024	International Tribunal for the Law of the Sea (ITLOS)	Advisory Opinion on Climate Change and International Law, Case No. 31
2022	United Nations General Assembly (UNGA)	Resolution on the Human Right to a Clean, Healthy and Sustainable Environment A/RES/76/300
2021	Human Rights Council (HRC)	Resolution on the Human Right to a Clean, Healthy and Sustainable Environment A/HRC/RES/48/13
2021	Committee on the Elimination of Discrimination Against Women (CEDAW), Committee on Economic, Social and Cultural Rights (CESCR), Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), Committee on the Rights of the Child (CRC), Committee on the Rights of Persons with Disabilities (CRPD)	Joint Statement on 'Human Rights and Climate Change' HRI/2019/1
2020	HRC Independent Expert	Report on International Solidarity and Climate Change A/HRC/44/44
2018	Special Rapporteur on the Promotion and Protection of Human Rights in the Context of Climate Change	The Framework Principles on Human Rights and the Environment A/HRC/37/59
2018	Committee on the Elimination of Discrimination Against Women (CEDAW)	General Recommendation No. 37 on the Gender-Related Dimensions of Disaster Risk Reduction in the Context of Climate Change, UN Doc CEDAW/C/GC/37
2018	Committee on Economic, Social and Cultural Rights (CESCR)	Statement: Climate Change and the International Covenant on Economic, Social and Cultural Rights, UN Doc E/C.12/2018/1

KlimaSeniorinnen Schweiz and Others v. Switzerland

Right to Private and Family Life (Art. 8 ECHR)

States must (§§ 550 and 554):

1. set a timetable for achieving carbon neutrality through a target timeline and using carbon budgets;
2. set out specific interim targets and pathways to reduce GHG emissions for sectors that are capable of meeting 1.;
3. provide evidence showing whether they have duly complied, or are in the process of complying, with the relevant GHG reduction targets;
4. update the targets regularly with due diligence, based on the best available evidence; and
5. implement them in a timely, appropriate, and consistent manner;
6. provide adequate information about climate regulations and measures (or the absence thereof) to the public, in particular to the people most affected; and
7. have procedures in place through which their views about the regulations and measures can be taken into account in the decision-making process.

Post KlimaSeniorinnen Schweiz and Others v. Switzerland



Die Bundesversammlung – Das Schweizer Parlament
Curia Vista – Die Geschäftsdatenbank

24.053 Geschäft des Parlaments

Erklärung des Ständerates. Urteil des EGMR « Verein KlimaSeniorinnen Schweiz vs Schweiz »

Einreichungsdatum: 22.05.2024

Stand der Beratung: Erledigt



Die Bundesversammlung – Das Schweizer Parlament
Curia Vista – Die Geschäftsdatenbank

24.054 Geschäft des Parlaments

Erklärung des Nationalrates. Urteil des EGMR « Verein KlimaSeniorinnen Schweiz u.a. vs Schweiz »

Bundesrat klärt seine Haltung zum EGMR-Urteil über den Klimaschutz

Bern, 28.08.2024 - Der Bundesrat hat sich an seiner Sitzung vom 28. August 2024 mit dem Urteil des Europäischen Gerichtshof für Menschenrechte zu den KlimaSeniorinnen befasst. Er bekennt sich zur Mitgliedschaft der Schweiz im Europarat und zum System der Europäischen Menschenrechtskonvention (EMRK). Wie National- und Ständerat würdigt er jedoch die Auslegung der EMRK bezogen auf den Klimaschutz kritisch. Weiter ist er der Auffassung, dass die Schweiz die klimapolitischen Anforderungen des Urteils erfüllt. Schliesslich lehnt der Bundesrat eine Erweiterung des Verbandsbeschwerderechts auf Klimafragen ab.

Proceedings in *KlimaSeniorinnen v. Switzerland*



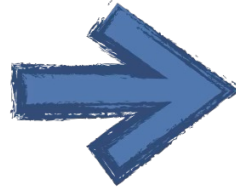
KlimaSeniorinnen v. Switzerland ... and science?

Climate change governance is not a human-rights-free zone



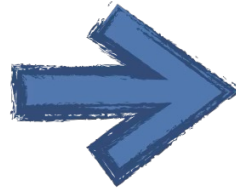
Connection of mitigation duties under international & domestic climate law, and human rights law

Affectedness of people to threats and impacts of climate change



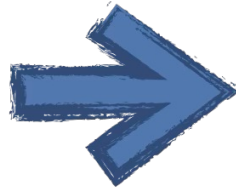
Risks, impacts, causation/attribution

Need for adequate goals and targets, based on best available science and equity



Multi-disciplinary methodology of CO₂ budgets

Preventative state action needed



Evaluation of achievement of goals/targets, and measures' effectiveness



GRAND CHAMBER

CASE OF VEREIN KLIMASENIORINNEN SCHWEIZ
AND OTHERS v. SWITZERLAND

(Application no. 53600/20)

JUDGMENT

Art 34 • Victim • *Locus standi* • Separate key criteria set out for establishing victim status of individual applicants and *locus standi* (representation) of associations in climate-change context • Need for effective protection of Convention rights taking into account special features of this phenomenon without undermining the exclusion



Annex

KlimaSeniorinnen Schweiz and Others v. Switzerland

Separation of Powers in the Context of Climate Change

- Combating climate change first and foremost is the duty of domestic legislative and executive branches of government (§412)
- Democracy \neq rule of majority in disregard of rule of law (§412)
- Judiciary has to have the necessary oversight over legislative and executive branches to ensure compliance with law
- Switzerland accepted the Court's jurisdiction by ratifying the European Convention on Human Rights in 1974
- Court's oversight is limited to enforcement of Convention rights (§413)

KlimaSeniorinnen Schweiz and Others v. Switzerland

On Human Rights and Climate Change

- Climate law and policy do not operate in a human-rights vacuum
- „(C)limate change is one of the most pressing issues of our times“ (§410)
- Key differences between climate change and „regular“ environmental threats and harms
 - Source of harm, nature of CO₂ (not per se harmful), complexity of chain of effects, single vs. polycentric solutions, intergenerational burden-sharing, long-term effects and short-term trade-offs (§§416 ff.)
- „(Climate protection should carry considerable weight in the weighing-up of any competing considerations“ (§542)

KlimaSeniorinnen Schweiz and Others v. Switzerland

Victim Status

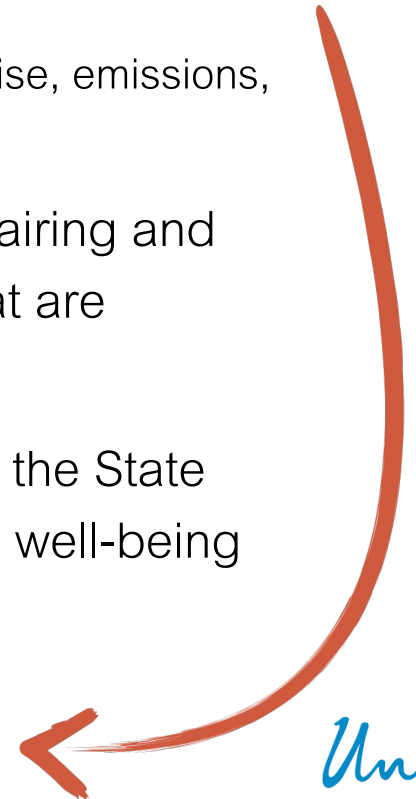
- No *actio popularis* → high threshold to grant victims access to justice
- For individuals (§488)
 - the level and severity of (the risk of) adverse consequences of governmental action or inaction affecting the applicant must be significant; and
 - pressing need to ensure the applicant's individual protection, owing to the absence or inadequacy of any reasonable measures to reduce harm.
- denied to individual climate seniors (§533)
- For associations (§502)
 - lawfully established in home jurisdiction, with standing to act;
 - pursues a dedicated purpose in accordance with its statutory objectives in the defence of the human rights of its members or other affected individuals within the jurisdiction concerned; and
 - genuinely qualified and representative to act on behalf of members or said individuals.
- granted to association *KlimaSeniorinnen* (§§521-6)

KlimaSeniorinnen Schweiz and Others v. Switzerland

Right to Private and Family Life (Art. 8 ECHR) (1)

- Established case law of ECtHR:
 - Article 8 ECHR protects individuals against physical and mental threats and harm to their health, well-being and quality of life,
 - even if these are caused by (natural) disasters or (man-made) industrial pollution, noise, emissions, odours or other disturbances (§516)
- Likewise, the adverse effects of climate change are capable of seriously impairing and threatening the health, well-being and quality of life of individuals – effects that are causally linked to anthropogenic GHG emissions
- Article 8 ECHR encompasses „a right for individuals to effective protection by the State authorities from serious adverse effects of climate change on their life, health, well-being and quality of life“ (§519)

Effective protection of human rights,
living instrument, in light of present-
day conditions (§ 434)



KlimaSeniorinnen Schweiz and Others v. Switzerland

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- States‘ margin of appreciation is wide for measures, narrow for goals/targets (§543)

KlimaSeniorinnen Schweiz and Others v. Switzerland

Right to Access to Court (Article 6 §1 ECHR)

- Swiss courts had not provided convincing reasons why they considered it unnecessary to examine the merits of the association's complaints
- The courts had failed to examine the scientific evidence concerning climate change and did not engage seriously or at all with the action brought by the association
- The association's "right of access to a court was restricted in such a way and to such an extent that the very essence of the right was impaired" (§638)