

# Human rights violated by inaction on climate, ECHR rules in landmark case

## Court finds in favour of group of older Swiss women who claimed weak policies put them at greater risk of death from heatwaves

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Women from the KlimaSeniorinnen group speak to reporters after the European court of human rights issued verdicts on three landmark climate cases. Photograph: Christian Hartmann/Reuters

Weak government climate policies violate fundamental human rights, the European court of human rights has ruled.

In a landmark decision on one of three major climate cases, the first such rulings by an international court, the ECHR raised judicial pressure on governments to stop filling the atmosphere with gases that make extreme weather more violent.

The court's top bench ruled that Switzerland had violated rights of a group of older Swiss women to family life, but threw out a French mayor's case against

France and that of a group of young Portuguese people against 32 European countries.

“It feels like a mixed result because two of the cases were inadmissible,” said Corina Heri, a law researcher at the University of Zürich. “But actually it’s a huge success.”

The court, which calls itself “the conscience of Europe”, found that Switzerland had failed to comply with its duties to stop climate change. It also set out a path for organisations to bring further cases on behalf of applicants.

The Swiss verdict opens up all 46 members of the Council of Europe to similar cases in national courts that they are likely to lose.

Joie Chowdhury, an attorney at the Centre for International Environmental Law campaign group, said the judgment left no doubt that the climate crisis was a human rights crisis. “We expect this ruling to influence climate action and climate litigation across Europe and far beyond,” she said.

The facts of the three cases varied widely, but they all hinged on the question of whether government inaction on climate change violated fundamental human rights. Some of the governments argued that the cases should not be admitted, and that climate policy should be the subject of national governments rather than international courts.

The plaintiffs attending the hearing in the court in Strasbourg, some as young as 12, celebrated after a member of a panel of 17 judges read out the verdicts. The climate activist Greta Thunberg joined a gathering outside the court before the hearing to encourage faster action.

The KlimaSeniorinnen, a group of 2,400 older Swiss women, told the court that several of their rights were being violated. Because older women are more likely to die in heatwaves – which have become hotter and more common because of fossil fuels – they argued that Switzerland do its share to stop the planet heating by the Paris agreement target of 1.5C (2.7F) above preindustrial levels.

The court ruled that Swiss authorities had not acted in time to come up with a good enough strategy to cut emissions. It also found the applicants had not had appropriate access to justice in Switzerland.

But it also rejected the cases of four individual applicants who had joined the KlimaSeniorinnen.

“I’m very happy,” said Nicole Barbry, 70, a member of the KlimaSeniorinnen who had come to Strasbourg. “It’s good that they’re finally listening to us.”

The Portuguese children and young people – who because of their age will see greater climate damage than previous generations – argued that climate-fuelled disasters such as wildfires and smoke threatened their right to life and discriminated against them based on their age.

The court did not admit the case, deciding that the applicants could not bring cases against countries other than Portugal and adding that they had not pursued legal avenues in Portugal against the government.

“Their [the Swiss] win is a win for us, too,” said Sofia Oliveira, a 19-year-old applicant in the Portuguese case. “And a win for everyone.”

The French case, brought by the MEP Damien Carême, argued that France’s failure to do enough to stop climate change violated his rights to life and privacy and family life. Carême filed the case when he was the mayor of Grand-Synthe, a coastal town vulnerable to flooding. The court did not admit the case because Carême no longer lives there.

The ECHR rejects about 90% of all applications it receives as inadmissible but fast-tracked the three climate cases to its top bench because of their urgency. It delayed hearings on six more climate cases to get a result on the rulings on Tuesday.

The rulings will influence three other international courts that are examining the role of government climate policy on human rights.

Charlotte Blattner, a researcher at the University of Berne who specialises in climate law, said the court had delivered a bold judgment in favour of a viable future. “The nature and gravity of the threat of climate change – and the urgency to effectively respond to it – require that governments can and will have to be held accountable for their lack of adequate action,” she said.

## Strasbourg court’s Swiss climate ruling could have global impact, say experts

**Decision by European court of human rights around vulnerability of older women to heatwaves marks significant shift**

## **Isabella Kaminski**

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Members of the Swiss group Senior Women for Climate Protection after the announcement of the Strasbourg court's decisions on Tuesday. Photograph: Frederick Florin/AFP/Getty Images

Members of the Swiss group Senior Women for Climate Protection after the announcement of the Strasbourg court's decisions on Tuesday. Photograph: Frederick Florin/AFP/Getty Images

A landmark legal ruling at the European court of human rights could open the floodgates for a slew of new court cases around the world, experts have said.

The Strasbourg-based court said earlier this week that Switzerland's failure to do enough to cut its national greenhouse gas emissions was a clear violation of the human rights of a group of more than 2,000 older Swiss women. The women argued successfully that their rights to privacy and family life were being breached because they were particularly vulnerable to the health impacts of heatwaves.

It was the first time the court, which is responsible for interpreting the European convention on human rights, a treaty signed by all members of the Council of Europe, had ruled on a climate change-related matter.

Lawyers, academics and campaigners will be poring over the 250-page judgment for months to come. But it is already clear that it marks a significant shift in the role that courts will play in addressing the climate crisis and how states will have to respond.

“The court really recognised that it cannot be that because everyone is affected no one has the right to seek justice for climate harm,” said Nikki Reisch, climate and energy director at the Center for International Environmental Law. “And it acknowledged that because of the clear impacts of climate change on human rights there is a basis for victims to make claims.”

The 17-judge panel did not prescribe exactly what Switzerland should do to address the problem, leaving it to the Council of Europe’s committee of ministers to come up with a solution.

But it did lay out minimum governance standards that states should have “due regard” to, such as setting carbon budgets and interim targets, keeping these updated and based on the best available evidence, and being transparent about how well they are being met.

Reisch said: “What the court did quite clearly was to say that, while the Swiss government retains some discretion to define the precise measures it will take, that discretion is not unfettered; it has to be within the bounds of what science shows is clearly required to prevent further harm.”

The ruling has not received an entirely glowing welcome. The rightwing Swiss People’s party accused the court of overreach and called for Switzerland to leave the Council of Europe.

There was a similar backlash in the UK from some politicians and rightwing media. The energy secretary, Claire Coutinho, wrote on X that she was concerned by the decision. “How we tackle climate change affects our economic, energy, and national security,” she said. “Elected politicians are best placed to make those decisions.”

In response, Jessica Simor KC, who represented the Swiss women in court, pointed out that the UK government maintains it has plans and policies to meet its legally binding carbon budgets. “If so, it is complying with its obligations. If not, it is acting contrary to the will of elected representatives,” she wrote.

Reisch said: “Governments that sought to shield their action or inaction from the court’s scrutiny ... may be critical of such a decision.

“But what is really striking in this case is that you have 17 judges from many different countries, perspectives and legal backgrounds and this was a near unanimous decision.”

The only dissenting opinion was from the UK judge Tim Eicke, who argued that the rest of the panel “tried to run before it could walk” and “went beyond what was legitimate”.

The remaining judges appear to have been conscious of such criticism, noting that judicial intervention cannot replace legislative and executive action. “However, democracy cannot be reduced to the will of the majority of the electorate and elected representatives, in disregard of the requirements of the rule of law,” they state in their ruling.

Corina Heri, a postdoctoral researcher at the University of Zurich, noted that although this was the first time the court had ruled specifically on climate change, it has a long history of dealing with environmental cases. “These are cases where the environment of the home is affected by things like noise, pollution, garbage, cases about toxic industrial emissions and other things where people’s health is threatened. It’s something that the court has gotten more and more willing to engage with over time.”

“They did not overstep their bounds,” said Reisch, “but affirmed the vital role of courts in enforcing the legal obligations of states in preventing environmental harm.”

The ruling opens the way for several climate-related lawsuits that had been adjourned at the court. One brought by Greenpeace Nordic against the Norwegian government seeks to prevent the expansion of fossil fuel extraction in the Arctic. Another is being brought by an Austrian man with a temperature-dependent form of multiple sclerosis who argues, like the Swiss women, that this makes him particularly vulnerable to heatwaves.

It is also expected to bolster ongoing lawsuits around Europe.

The UK’s high court recently allowed Friends of the Earth and two individuals affected by the impacts of climate change to challenge what they describe as the government’s “inadequate” climate protection strategy. A two-day hearing into the national adaptation plan will take place in June.

Will Rundle, head of legal for Friends of the Earth, said it had similarities with the Swiss lawsuit “not least because our case also deals with deficient state action on climate and its adverse impact on health and human rights”.

In previous decisions, UK judges noted that the European convention had not yet been applied to climate change, suggesting they will now have to consider the issue in a fresh light.

Experts believe the latest ruling opens the floodgates for future litigation around Europe.

Although the judgment applies directly only to Switzerland, it has clear implications for other states within the Council of Europe that have not set ambitious emission reduction targets or put in place good climate governance.

“All of these countries are subject to the same obligation,” says Reisch. “Where there’s a gap between their climate measures and what science shows is necessary to protect human rights, they will have to act to close that gap or face legal consequences.”

Reisch added that the court had put to bed the “drop in the ocean” argument, where governments seek to downplay their contribution to global climate change.

The decision is also expected to invigorate ongoing political discussions around amending the convention to recognise the right to a clean, healthy and sustainable environment.

The ruling will make international waves if it is cited in forthcoming advisory opinions on climate change from the international court of justice and the inter-American court of human rights.

And it may even influence litigation outside European borders, because courts are increasingly having to handle questions of state responsibility beyond national borders and are looking at other jurisdictions for guidance in how to handle climate lawsuits.

Kelly Matheson, deputy director of global climate litigation at Our Children’s Trust, said: “Courts in the US are trying to dismiss these sorts of cases. Or they’re saying this is not our job, this is the job of the other two branches of government. So I think that statement will have influence in US litigation.”

Our Children's Trust, a non-profit organisation, has orchestrated many high-profile youth-led lawsuits across the US including last year's successful case in Montana and submitted third-party scientific briefs in the cases before the Strasbourg court.

“The European court of human rights has now said in unequivocal terms that courts have a role to play,” said Matheson.