

Media documents for «Swiss Climate Senior Women and Others v. Switzerland»

Documents for media background discussion

Tuesday, 7 March 2023, 14:00 - 15:15 CET

<https://greenpeace.zoom.us/j/93382643530?pwd=RXRUVmY3SnFFdjhXREtMZW90ZDhnZz09>

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Also downloadable at en.klimaseniorinnen.ch/

1. Starting point

The 29th March 2023 has the potential to go down in history as a milestone in the global fight against the ever-more imminent climate crisis. Climate change has not only become the biggest threat to humanity, but is increasingly threatening human rights. Extreme heat waves are triggering a health crisis that costs thousands of lives every year. The right to health and the right to life are under threat.

For the first time ever, the European Court of Human Rights (ECtHR) in Strasbourg is holding a public hearing to assess the extent to which a nation such as Switzerland must reduce its greenhouse gas emissions more stringently to protect the human rights of its own population.

The reason for this is the complaint with which the Senior Women for Climate Protection and four individual plaintiffs from Switzerland have now reached the ECtHR.

The complaint by the Climate Seniors is one of three climate change lawsuits (see [ECtHR fact sheet](#)) that are currently pending before the 17-member Grand Chamber. The three lawsuits are:

- *Association of Senior Women for Climate Protection and Others v. Switzerland* (application no. 53600/20)
- *Carême v. France* (no. 7189/21)
- *Duarte Agostinho and Others v. Portugal and 32 Other States* (no. 39371/20)

The complaint by the Senior Women for Climate Protection will be heard on 29 March 2023 as the first climate case ever to come before the Grand Chamber. The same chamber will

also hear a case concerning France (Carême) on the same day. The public hearing for the third case (Duarte Agostinho), in which Switzerland is a co-defendant with 32 other countries, is planned for late summer.

The preliminary decision to hold the hearing before the court's Grand Chamber underlines the fundamental significance of the lawsuits. Based on these three cases, the Grand Chamber of the court will define the jurisprudence on the issue of the climate crisis and human rights, which will have far-reaching consequences. A leading judgement is expected, which states of the Council of Europe will have to follow. Interest around the world in the judgement from Strasbourg is therefore intense.

2. The issue

The Swiss Senior Women established their Association in August 2016 with around 150 senior women as an association of affected people. Today, the association has more than 2,000 members across Switzerland, with an average age of 73. As older women are the population group most severely affected by the increase in extreme heat events and the association represents their interests, only women who have reached the retirement age of 64 can become members.

Senior Women for Climate Protection Switzerland is standing up for the protection of their fundamental rights, especially the right to life and health. These fundamental rights are explicitly protected in the European Convention on Human Rights (ECHR), which Switzerland ratified in 1974. Ever-more frequent and acute extreme heat events due to human-induced climate change particularly endanger the health and lives of older women. Because case law dictates that only particularly affected groups can file an application, the Senior Women for Climate Protection's application is restricted to women of retirement age.

The fact that senior women in particular suffer from the increasingly frequent and acute heat waves is confirmed by reports and studies by the [Federal Office for the Environment \(FOEN\)](#), the [Federal Office for Civil Protection \(FOCP\)](#) and the [Swiss Academy of Sciences](#). In the [Global Risks Report](#) published annually by the World Economic Forum (WEF), extreme weather events are among the most likely risks of all for humanity.

3. The legal journey of the Senior Women for Climate Protection

Below are the stages in the legal journey of the Climate Seniors:

- In November 2016, the Senior Women for Climate Protection [made representations](#) to the Federal Council, the Department of the Environment, Transport, Energy and Communication (DETEC) and the Federal Offices for the Environment (FOEN) and Energy (SFOE), and demanded that the authorities do more to tackle climate

change. The demand was rejected on the grounds that there is no encroachment in the personal legal sphere of the plaintiffs.

- In May 2017, the Senior Women for Climate Protection then took their case to the next highest court, the Federal Administrative Court (FAC) in St. Gallen. That court [rejected](#) the complaint at the end of 2018 on the grounds that the complainants are not affected in a particular way by the Swiss Confederation's measures to fight climate change, as all people, and even winter tourism, the water sector, etc., are affected by global warming in some way.
- The subsequent appeal brought by the Senior Women for Climate Protection to the Federal Supreme Court of Switzerland was also unsuccessful. The case, which [progressed](#) to Lausanne, was [rejected](#) there in May 2020 on the grounds that the (fundamental) rights of the complainants are not currently affected with the severity required to be able to defend themselves by reference to the Federal Act on Administrative Procedure (APA).
- On 26 November 2020, the Senior Women for Climate Protection filed an application with the European Court of Human Rights (ECtHR) in Strasbourg. The lawsuit, commonly referred to as the 'Swiss climate lawsuit', overcame two hurdles there. In late March 2021, the ECtHR decided to treat the Senior Women for Climate Protection's application as a [priority](#). In late April 2022, the ECtHR finally announced that it will deal with the case [in the Court's Grand Chamber](#). This underlines the significance the ECtHR attaches to the Swiss climate lawsuit.

4. The final judges: the European Court of Human Rights (ECtHR)

The European Convention on Human Rights (ECHR) came into existence after the Second World War. At that time, there was a great need to secure the rule of law and better protect human rights in Europe. In particular, the intent was that protection of human rights should no longer be dependent on individual nations. The convention, which was finally drafted under the Council of Europe, was signed on 4 November 1950 by 13 states. The European Convention on Human Rights came into force in 1953. Switzerland joined the Council of Europe in 1963 and ratified the ECHR in 1974 ([more information](#)).

The European Court of Human Rights (ECtHR) rules on applications in which a breach of the ECHR is alleged. Like the Council of Europe, it is based in Strasbourg, France. The Council of Europe is currently made up of 46 member states; each member delegates a judge to the ECtHR. The ECtHR has been presided over by Irishwoman [Síofra O'Leary](#), who also chairs the hearings in the Grand Chamber, since 1 November 2022.

On 26 November 2020, the Senior Women for Climate Protection and four individual plaintiffs submitted their [application](#) on the decision of the Federal Supreme Court (see point 3 above), to the ECtHR. This was limited to 20 pages due to the court's guidelines. Switzerland [stated its position](#) on the complaint on 16 July 2021. In its submission on 13 October 2021, the Senior Women for Climate Protection and the four individual plaintiffs were able to state their detailed position on the [facts of the case](#) and the [legal situation](#), as

well as respond to Switzerland's arguments. In turn, Switzerland [made its reply](#) on 21 November 2021.

After the matter was transferred to the Grand Chamber, the parties were given a deadline of 5 December 2022 to respond to various [questions asked by the court](#) and, in conclusion, to set out both the facts of the case and the legal issues in 70 pages. The legal team of the Senior Women for Climate Protection, which has now been expanded to five members for the proceedings before the Grand Chamber, delivered its [Observations on the facts, admissibility and merits](#) (original English version) to the ECHR on 2 December 2022.

The Senior Women for Climate Protection are requesting the court to direct Switzerland to act without delay to protect their human rights and to take the legislative and administrative actions necessary to make their contribution to limit global temperature increase to a maximum of 1.5 degrees. This includes specific emissions reduction targets (see [Requests to the Court](#)). Equally, emissions occurring abroad that result from our consumption and in connection with our finance streams must be reduced and avoided.

[All the relevant documents](#) submitted for the assessment of the application 'Association of Senior Women for Climate Protection Switzerland and Others v. Switzerland' (no. 53600/20) by both parties and by third parties to the Grand Chamber can be found on the [Senior Women for Climate Protection website](#):

- [Submission by the Senior Women for Climate Protection](#) (English title: Observations on the facts, admissibility and the merits)
- Submission by the Swiss Government (Statement in [French](#) (original) and [English](#) (unofficial translation) – and observations on the facts in [French](#) (original) and [English](#) (unofficial translation)
- [Submissions by the 23 third parties](#).

5. Answers from the Senior Women for Climate Protection to frequently asked questions

I. Why have you filed a lawsuit?

We have filed a lawsuit because Switzerland is doing far too little to contain the climate catastrophe. Rising temperatures are already having serious impacts on our physical and mental health. The big spike in heat waves is making us older women sick. Compared to the population as a whole, we older women are exposed to a significantly increased risk of disease and death as a result of extreme heat waves.

II. Why are only women pursuing this case? Why is the health of women more affected?

Elderly women are extremely vulnerable to the effects of heat. There is substantial evidence to show that they are at a significant risk of death, as well as ill health as a result of heat. Accordingly, the harm and risks caused by climate change is sufficient to engage the State's positive obligations to protect their right to life and well-being as guaranteed by Articles 2 and 8 of the Convention.

III. Why do you say that Switzerland is not doing enough in terms of climate protection? Isn't Switzerland already doing what is possible, isn't it very progressive on this issue anyway?

Swiss climate policy is clearly inadequate with regard to the target of limiting global warming to a maximum of 1.5 degrees Celsius. If every country's response was the same as what Switzerland is doing today, global warming of up to three degrees Celsius could be expected by 2100.

We have set out in detail in our legal briefs what Switzerland must do. Here are the most important points:

- Domestic emissions must need to be reduced by more than 60% by 2030 with domestic measures instead of the previously planned 34%
- In addition to reducing these domestic emissions with domestic measures, Switzerland, as a rich country with high historical emissions, must, by 2030, facilitate substantial emission reductions abroad which exceed the total of all domestic emissions that continue to accrue within Switzerland until 2030.

Swiss climate policy is also falling far behind relative to *comparable* countries: In particular, the Swiss target of reducing domestic emissions to 34% below 1990 levels by 2030 through domestic measures is significantly lower than the target set in the EU (55%), not to mention Denmark (70%), Finland (60% carbon neutral by 2035) and Germany (65%).

IV. Why is climate policy relevant to human rights? What is the role and remit of the European Court of Human Rights (ECtHR)?

Climate change is the greatest threat to human rights today. Limiting global warming to a maximum of 1.5 degrees (the lower, the better) is crucial in order to limit, so far as possible, the negative impacts on the ability of people to exercise their human rights now and in future.

Climate policy is relevant to the human rights protected by the European Convention on Human Rights, because the increasing extreme weather events mean that climate change is a risk to human lives. In our case, the more frequent and intense heat waves with increasing global warming pose a real and serious risk to our lives and to our physical and mental health. That is why Switzerland has a duty to protect us. This duty of protection arises from our right to life (Art. 2 [ECtHR](#))¹ and our right to private and family life (Art. 8 [ECtHR](#))² (as, incidentally, also provided under Art 10 (1) of the Swiss [Federal Constitution](#)). In other words, it is Switzerland's obligation under ECtHR law to actively protect our lives and our physical and mental health from the risks of climate change.

¹ Article 2(1) ECtHR: "Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law."

² Article 8 ECtHR: "(1) Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

It is the duty of the ECtHR to review the alleged violations of the ECtHR (such as, in this case, in particular, Articles 2 and 8 ECtHR).

V. What would be the effect of a favourable judgment?

The concrete effect of a judgment in our favour depends on which of our requests the ECtHR upholds and also on the specific reasoning of the judgment. If the ECtHR were to find a violation of Article 2 (right to life) and/or Article 8 ECtHR (right to private and family life), the Federal Council and Parliament would have to remedy the human rights violation and revise the relevant laws. The ECtHR may issue specific instructions in this regard, which we have requested.

A favourable judgment would set a precedent for all 46 member states of the Council of Europe. This means that domestic courts would be able to apply the precedent set by the ECtHR and that if they did not, appeals from all these countries could be based on this decision and one could expect the court to apply the principles developed in the case of KlimaSeniorinnen in other cases, as well.

VI. What would happen if you lost?

The specific effect of rejecting our application would depend on the detailed grounds of the judgment. At worst, dismissing our application could legitimise Switzerland's inadequate climate policy. However, the judgment would also send a negative signal to the other 45 member states of the Council of Europe.

VII. Are you the only ones who have filed a climate case with the ECtHR?

Several climate cases have been filed with the ECtHR. In addition to the case of KlimaSeniorinnen, numerous other cases are currently pending.

The ECtHR decided that it would take the application of the KlimaSeniorinnen as the first climate case to be heard before the Grand Chamber on 29 March 2023. That same day, the same Chamber will also hear a case relating to France (Carême). The Grand Chamber has also scheduled the hearing of a third case (Duarte Agostinho), in which Switzerland is a co-respondent along with 32 other countries, but the date for it has not yet been set. On the basis of these three cases, the Grand Chamber will define the jurisprudence on the climate crisis and human rights, which will have far-reaching consequences.

VIII. In Switzerland, it is up to the people to decide, why are you filing an application with the ECtHR and not going down the political route instead?

In view of the catastrophic effects of climate change on nature and mankind, it cannot be "either or". Both paths are important, both must be pursued and should not be played off against each other.

Switzerland's inadequate climate policy negatively affects and violates our human rights. Consequently, in addition to the political approach, a legal approach is also needed. This is the precise reason the courts are there: to judge human rights violations. They do this solely in accordance with the law and thus beyond politics.

The KlimaSeniorinnen are also intensively pursuing political remedies in their fight for better protection of their lives and health. They have supported the glacier initiative and, after the parliamentary debate, are also supporting the counter-proposal of the parliament.

IX. Why is the case before the Grand Chamber?

In deciding to transfer our lawsuit to the Grand Chamber for consideration, the ECtHR accorded it the greatest possible consideration. The reason for this is that it considers the case to be of significant importance. Crucially, if it does not uphold the Senior Women's application it will have the effect of reversing the decision of the Dutch Supreme Court in Urgenda and the judgments of apex courts in Belgium, Germany and France. These Courts have all held that States are obliged to do their share to prevent climate change in order to protect human rights.

X. Who is involved as a third party in your case before the Grand Chamber?

23 third parties have submitted observations in our case before the Grand Chamber of the ECtHR. These third parties are providing the court with important information to assist in its decision-making.

We are very pleased by the active participation of third parties from all over Europe, the United States and international organisations in our case, which shows the high level of attention and importance being given to it. The third parties include individuals and institutions with extensive expertise, such as the former UN High Commissioner for Human Rights, climate scientists who have contributed to the IPCC assessment reports, health experts who have investigated extreme heat phenomena in more detail, and legal scholars specialising in human rights and environmental protection. Eight countries also submitted observations as third parties. All of these submissions can be found on our website. Questions regarding the observations should be addressed directly to those third parties.

⇒ On the website of the Senior Women for Climate Protection you will find the [detailed answers to the ten most frequently asked questions](#).

6. Further information and contacts

6.1. Dates of the public hearing

Date: Wednesday, 29 March 2023

Time: 9:15 am – approx. 11:30 am

Location: European Court of Human Rights (ECHR), Strasbourg, France

6.2. Supporters on site

Senior Women for Climate Protection especially invite women of a similar age to come to Strasbourg and show their support, but, of course, everyone else is also most welcome. Two to three hundred people are expected to gather on Wednesday, 29 March 2023 at 8 am in front of the court to cheer on the Senior Women for Climate Protection when they go to the public hearing. Later in the day, supporters will also meet in the [Pavillon Joséphine](#) in Strasbourg, where the Senior Women for Climate Protection, the individual plaintiffs

attending, the legal team and representatives of Greenpeace will also be gathering in the afternoon.

We would like to refer you to the latest video of the Senior Women for Climate Protection:

DE: Es geht los! Klimagerechtigkeit jetzt - <https://youtu.be/8u6qKHVVISw>

FR: C'est parti ! Pour la justice climatique - <https://youtu.be/fA-gk92Qrk8>

IT: Eccoci qua! Per la giustizia climatica - <https://youtu.be/AM6yEkfsaH4>

EN: It's time ... for climate justice - <https://youtu.be/yl9cnqUcy5k>

6.3. Interviews

Interviews with Senior Women for Climate Protection and individual plaintiffs

A delegation of Senior Women for Climate Protection will travel to Strasbourg by train on Tuesday, 28 March 2023. Media professionals who are interested in accompanying the Senior Women for Climate Protection on this trip are welcome to contact Yvonne Anliker, media spokesperson for Greenpeace Switzerland: yvonne.anliker@greenpeace.org, +41 79 306 53 42.

The following board members of the Senior Women for Climate Protection are available to provide information to the media:

- Rosmarie Wydler-Wälti, Co-Präsidentin des Vereins KlimaSeniorinnen, +41 79 567 67 73, rosmariewydler@sunrise.ch (German)
- Anne Mahrer, Co-Présidente des Aînées pour la protection du climat, +41 79 249 72 17, anne.mahrer@bluewin.ch (French)
- Norma Bargetzi, Anziane per la protezione del clima, +41 79 352 98 89, normaba@bluewin.ch (Italian)
- Elisabeth Stern, Member of the Board of Senior Women for Climate Protection Switzerland: +41 79 351 22 00, elisabeth.stern@bluewin.ch (English)

Journalists who would like to speak to individual plaintiffs should contact Anne Mahrer, Co-Présidente des Aînées pour la protection du climat, +41 79 249 72 17, anne.mahrer@bluewin.ch.

Pictures of the Senior Women for Climate Protection:

<https://media.greenpeace.org/Detail/27MDHUFPPZP>

Interviews with the legal team

NB: the legal team of the Senior Women for Climate Protection can be contacted by media professionals for interviews by no later than Friday, 10 March 2024. After that date, the lawyers will only be available to provide information after the public hearing.

- Cordelia Bähr, Lead Lawyer, Senior Women for Climate Protection, +41 78 801 70 34, baehr@ettwein.ch (English and German)
- Raphaël Mahaim, Avocat au Barreau, +41 79 769 70 33, rmahaim@r-associes.ch (French)

Interviews with Greenpeace Switzerland

- Georg Klingler, Project Coordinator and Climate Expert, Greenpeace Switzerland, +41 79 785 07 38, georg.klingler@greenpeace.org (German, French and English)

6.4. Accreditation for media professionals at the ECHR

You will find all information about accreditation and access to ECHR hearings on the ECHR website ([French](#), [English](#)).

Media service: [French](#), [English](#)

ECHR press releases on [climate cases](#).

Taking part in a hearing: [French](#), [English](#)

After the hearing, representatives of the Senior Women for Climate Protection and Greenpeace, as well as the legal team, will be available live in Strasbourg for interviews.

KlimaSeniorinnen Schweiz, Greenpeace Switzerland / März 2023