

World view



By Charlotte
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European ruling on climate and rights is a game changer

The European Court of Human Rights' judgment in a Swiss case cements the concept that climate inaction violates human rights. Responsible nations will take heed.

On 9 April, the European Court of Human Rights delivered a groundbreaking ruling: states are obliged to protect their citizens from the threats and harms of climate change. And in that regard, judges said, Switzerland's climate action has been inadequate (see go.nature.com/4azjhvd).

This marks the first time that an international human-rights court has linked protection of human rights with duties to mitigate global warming, clarifying once and for all that climate law and policy do not operate in a human-rights vacuum. The ruling is bound to alter the course of climate protection around the world.

The case was brought by Swiss Senior Women for Climate Protection (*Verein KlimaSeniorinnen Schweiz*), a group of more than 2,500 Swiss women aged 64 or over. They argued that they are at greater risk of heat-related illness or death than most people – and that, given that temperatures are rising, Switzerland was doing too little to reduce its greenhouse-gas emissions and contribute to meeting the 2015 Paris Agreement targets. In doing so, Switzerland was violating its duty to protect them. The court agreed.

As a lawyer who helped to collate scientific and legal evidence to advise the court, I consider this judgment crucial in putting climate law and policy on a human-rights track. It sets a precedent for the 46 member states of the Council of Europe and will act as a benchmark for climate-change litigation worldwide. The ruling makes judicial history, in terms of the legal remedies and the judges' reasoning.

Here's what the ruling contains, why it must be seen as a success, and what nations must do to comply.

At its heart is Article 8 of the European Convention on Human Rights (ECHR): the right to private and family life. Unlike most laws, human rights are formulated to be open-ended so authorities can secure the protection of these rights in the face of new threats. Climate change is such a threat – and one that, unlike conventional environmental hazards, “should carry considerable weight in the weighing-up of any competing considerations”, according to the judges.

The court held that countries need to “adopt, and to effectively apply in practice, regulations and measures capable of mitigating the existing and potentially irreversible future effects of climate change”. It differentiated between climate ambition – the level of protection from adverse effects of climate change to which people are entitled – and the means of providing protection. Ambition can be reviewed by the court; the choice of means, less so.

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Without prescribing specific years or percentage reductions, the ruling set out how a nation can show it is compliant. It must set out a timetable and targets for achieving carbon neutrality, and pathways and interim targets for reducing greenhouse-gas emissions. Measures must be implemented in a timely, appropriate and consistent manner. Governments must also provide evidence that they have complied with targets, and update targets regularly.

Two more requirements follow from Article 8 of the ECHR. States must provide information about climate regulations and measures (or their absence) to the public. And they must take citizens' views into account in decisions.

Switzerland has not met these requirements, the judges found by 16 votes to one. Its regulatory framework is not sufficient to provide and apply “effective protection of individuals within its jurisdiction from the adverse effects of climate change on their life and health”.

What must Switzerland do now? Both the executive and the legislature must act, from the Federal Council to parliaments and governments at the federal, cantonal and municipal levels. They must set a greenhouse-gas budget and emissions pathways with timetables that are scientifically sound, legally binding and capable of bringing about the necessary reductions. Authorities must become more responsive to the needs of people most affected by climate change and find ways of acting on their views.

Reactions to the ruling are not promising. Several Swiss newspapers, politicians and commentators have claimed that ‘foreign’ judges are ‘making domestic climate policy’, calling it ‘dangerous’, and warning of a ‘demise of democracy’. This is disconcerting for several reasons.

Fifty years ago, Switzerland voluntarily committed itself to the ECHR, and abiding by the rule of law is an essential part of being a democratic state. As the court emphasized, “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. The remit of domestic courts and the Court is therefore complementary to those democratic processes”. Swiss domestic courts had a chance to adjudicate on the matter, but failed. The Swiss government also knew that it was doing too little, having for decades avoided introducing meaningful emissions reductions for fear of holding back the economy.

Switzerland should welcome the judgement as a nudge to overcome inertia, just as the Netherlands and Germany have done over similar rulings by their domestic courts. Thanks to the *KlimaSeniorinnen*, policymakers now know what level of protection they must guarantee, and they have access to cutting-edge studies on emissions budgets.

Countries are legally bound to protect their citizens from climate change. Until they do so, those who suffer the most will have to insist on their basic rights being respected.