

## Grand Chamber to examine case concerning complaint by association that climate change is having an impact on their living conditions and health

The Chamber of the European Court of Human Rights to which the case **Verein KlimaSeniorinnen Schweiz and others v. Switzerland** (application no. 53600/20) had been allocated has **relinquished jurisdiction in favour of the Grand Chamber of the Court**<sup>1</sup>.

The case concerns a complaint by a Swiss association and its members, a group of elderly people who are campaigning against the consequences of global warming on their living conditions and health.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

### Principal facts

The applicants are, on the one hand, an association under Swiss law for the prevention of climate change whose members are women with an average age of 73 (650 members are over 75) and, on the other, four elderly women (between 78 and 89) who complain of health problems, worsening during heatwaves, which undermine their living conditions and health.

On 25 November 2016, under section 25a of the Federal Law on administrative procedure of 20 December 1968, the applicants submitted a request to the Federal Council and other authorities, pointing to various failings in the area of climate protection and seeking a decision on a material act (*Realakte*). They also called on the authorities to take the necessary measures to meet the 2030 goal set by the 2015 Paris Agreement on climate change (COP21).

In a decision of 25 April 2017 the Federal Department for the environment, transport, energy and communication declared the request inadmissible, finding that the applicants were not individually affected in terms of their rights and could not be regarded as victims.

On 27 November 2018 the Federal Administrative Court dismissed an appeal by the applicants, finding that women of over 75 were not the only population group affected by climate change.

In a judgment of 5 May 2020, notified on 19 May 2020, the Federal Court dismissed an appeal dated 21 January 2019, finding that the applicants were not sufficiently affected by the alleged failings in terms of their right to life (Article 2 of the Convention), or their right to respect for private and family life, including respect for their home (Article 8), in order to assert an interest worthy of protection within the meaning of section 25a of the above-mentioned Federal Law of 1968.

### Complaints and procedure

The application was lodged with the European Court of Human Rights on 26 November 2020.

On 17 March 2021 the Swiss Government was given [notice](#)<sup>2</sup> of the application, with questions from the Court. At the same time, the Chamber decided to grant the cases priority under Rule 41 of the Rules of the Court.

<sup>1</sup> Under Article 30 of the European Convention of Human Rights "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber."

<sup>2</sup> In accordance with Rule 54 of the Rules of Court, a Chamber of seven judges may decide to bring to the attention of a Convention State's Government that an application against that State is pending before the Court (the so-called "communications procedure"). Further information about the procedure after a case is communicated to a Government can be found in the Rules of Court.

The applicants submit that the respondent State has failed to fulfil its positive obligations to protect life effectively (Article 2) and to ensure respect for their private and family life, including their home (Article 8). They allege in particular that the positive obligations under the above-mentioned Convention provisions should be considered in the light of the principles of precaution and intergenerational fairness contained in international environmental law. In this context they complain that the State has failed to introduce suitable legislation and to put appropriate and sufficient measures in place to attain the targets for combating climate change.

They further complain that they have not had access to a court within the meaning of Article 6 of the Convention, alleging that the domestic courts have not properly responded to their requests and have given arbitrary decisions affecting their civil rights, in particular totally rejecting their specific situation of vulnerability in relation to heatwaves.

Lastly, the applicants complain of a violation of Article 13 (right to an effective remedy), arguing that no effective domestic remedy is available to them for the purpose of submitting their complaints under Articles 2 and 8.

The Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber on 26 April 2022.

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#### Press contacts

[echrpess@echr.coe.int](mailto:echrpess@echr.coe.int) | tel: +33 3 90 21 42 08

**We would encourage journalists to send their enquiries via email.**

**Denis Lambert (tel : + 33 3 90 21 41 09)**

Tracey Turner-Tretz (tel : + 33 3 88 41 35 30)

Inci Ertekin (tel : + 33 3 90 21 55 30)

Neil Connolly (tel : + 33 3 90 21 48 05)

Jane Swift (tel : + 33 3 88 41 29 04)

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