

Latest tool against Climate Change: Climate Change Litigation Worldwide

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In Germany, there is a growing social support for better climate protection. But never before has the German Federal Government been sued for its climate change inaction. Elsewhere, people have been turning to courts for climate protection.

In recent years, there has been a [wave of cases](#) around the world of people exerting pressure on governments and fossil fuel companies to demand more ambitious climate action. They take legal action to demand, for example, better climate mitigation measures, protection of their human rights, or compensation for the consequences of climate change.

In the Netherlands, a Court of Appeal has confirmed this month that the Dutch government must increase its climate ambition and reduce emissions to protect the rights of its citizens. Similar lawsuits are pending in many other countries, with senior women in Switzerland and children in the US and India using the law to demand climate justice. In Germany, a Peruvian farmer sued the energy company RWE. Ten families of the European Union are calling for stricter climate targets in a lawsuit. For a list of all climate lawsuits around the world, visit the Sabin Center for Climate Change Law and the Columbia Law School's database: <http://climatecasechart.com>

Here are a few examples.

Pending Cases

Germany: *Peruvian Farmer v RWE*

Status Collecting evidence, awaiting trial

Overview The Peruvian farmer Saúl Luciano Lliuya is suing the German energy company RWE. He demands that RWE cover its share of the cost of protection against possible floods and mudslides in his village (0.47%, based on RWE's contribution to global greenhouse gas emissions). His village is threatened by the melting of a glacial lake, which is exacerbated due to climate change.

Proceedings On 24 November 2015, Saúl Luciano Lliuya files a lawsuit against the energy giant RWE at the Essen Regional Court. Exactly one year later, the first hearing takes place. However, the court dismisses the action. In January 2017, Saúl Luciano Lliuya appealed against the judgment at the Higher Regional Court of Hamm. In November 2017, the court accepts the appeal and orders for the evidentiary phase - meaning that in principle it is possible that an emitter, as a contributor to climate change, can be held liable for the hazards associated with global warming. If there is evidence that support this, RWE could be held liable for climate damage in countries of the Global South- which the court confirmed twice in the 2017 decision. The evidentiary phase is now in progress.

Read More [Germanwatch](#)

Switzerland: *KlimaSeniorinnen v Swiss Government*

- Status** Pending. Waiting for a decision of the Federal Administrative Court.
- Overview** In Switzerland, the KlimaSeniorinnen, representing more than 1000 women aged 65 and over (and supported by Greenpeace Switzerland), are legally challenging the Swiss government's inadequate climate policies and mitigation measures. The KlimaSeniorinnen filed a legal request with the authorities, claiming that the Swiss authorities are failing to fulfil their duty to protect them as required by the Swiss Constitution and by the European Convention on Human Rights. As older women, they are particularly vulnerable to climate change impacts, especially the increase in heatwaves. Current research indicates that older women suffer the highest rate of mortality during periods of extreme temperatures
- Proceedings** On 25 November, 2016, the Klimaseniorinnen filed a complaint with the Swiss Government and three administrative bodies responsible for national climate policies, marking the first step in litigation. On 25 April, 2017 the Swiss Federal Department of the Environment, Transport, Energy and Communications (DETEC) denied the request. The Klimaseniorinnen appealed at the Federal Administrative Court on 26 May 2017 and is still pending at the time of writing.
- Good to know** The Klimaseniorinnen's first request to DETEC was not a direct lawsuit before a court. However, DETEC's refusal of the request on 25 April, 2017, is judicially reviewable before the Federal Administrative Court. A decision of the Federal Administrative Court could be appealed to the Federal Court and later on even to the European Court of Human Rights, since the Klimaseniorinnen also refer to the European Convention on Human Rights.
- Read more** [Klimaseniorinnen](#), [Scholarly Article](#)

Belgium: *Klimaatzaak v Kingdom of Belgium and others*

- Status** Pending trial. A written exchange of arguments will take place, probably until the end of 2019. The litigation may finally proceed to trial after three years of delays due to procedural and language challenges.
- Overview** The Klimaatzaak was brought by an organization of more than 35,000 thousand concerned citizens arguing that Belgian law requires the Belgian government's approach to reducing greenhouse gas emissions to be more aggressive. Specifically, they call for reductions of 40% below 1990 levels by 2020 and 87.5% below 1990 levels by 2050.
- Read More** [Klimaatzaak](#), [climatecasechart](#),

Pakistan: (7 year-old) *Rabab Ali v Federation of Pakistan and other*

- Status** Lawsuit filed, awaiting trial.
- Overview** In April 2016, a 7-year old girl, Rabab Ali, filed case against the Federation of Pakistan and the Province of Sindh in the Supreme Court of Pakistan. Her constitutional claim alleges that through the exploitation of fossil fuels, particularly coal, the government has violated the Public Trust

Doctrine and the youngest generation's fundamental constitutional rights to life, liberty, property, human dignity, information and equal protection of the law.

Read More [climatecasechart](#), [Complaint](#)

United Kingdom: *Plan B UK and others v UK*

Status Plan B has appealed the High Court's dismissal of the case

Overview On December 8, 2017, eleven citizens and a British charity, Plan B UK, filed a lawsuit against the UK's Secretary of State for Business, Energy, and Industrial Strategy. They claim that the Secretary of State violated the Climate Change Act 2008 (the 2008 Act) and other laws by failing to revise a 2050 carbon reduction target in light of the Paris Agreement and the latest IPCC science.

Proceedings On February 14, 2018, the claimants' application for judicial review was denied. On July 20, 2018, the High Court found the claims were not arguable and denied permission for the case to proceed. Plan B and the citizens have filed an appeal at the Court of Appeal on 26 July, 2018

Read More [Plan B](#), [climatecasechart](#), [LSE](#), [the guardian](#)

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USA: *Juliana et al v US government*

- Status** The trial was set to begin on 29 October, 2018. It has been temporarily paused by the US Supreme Court.
- Overview** 21 youth from the United States, with the support of the organization Our Children’s Trust, have filed a landmark constitutional case against the US federal government, seeking the adoption of a national science-based Climate Recovery Plan. The young people allege that the U.S. government has known for decades about catastrophic climate change, but has failed to act to protect the youth and essential public trust resources. They argue this is a violation of the youth’s constitutional rights to life, liberty, and property. The Trump administration has repeatedly tried to have the lawsuit dismissed.
- Proceedings** In November 2016, a federal judge denied the U.S. government and fossil fuel industry’s motions to dismiss the youth’s case. In June 2017, a magistrate judge released the fossil fuel industry defendants from the case. In March 2018, the Trump administration drastic legal tactics to have the case dismissed were rejected by the Ninth Circuit of Court of Appeals and a trial date was set for 29 October, 2018. On 20 July , 2018, the Ninth Circuit Court of Appeals rejected for a second the Trump administration’s request to have the case dismissed (through the extraordinary measure of a writ of mandamus). On 30 July , 2018, the U.S Supreme Court ruled unanimously in favour of the youth plaintiffs against the government’s attempt to avoid going to trial and affirmed the trial start date of 29 October, 2018. However, on 19 October, 2018, the US Supreme Court ordered a temporary administrative stay of the case while it considers the federal government’s new application to have the case dismissed. On 22, October, 2018, the young plaintiffs responded and asked the Court to allow their trial to proceed on October 29.
- Read more** [climatecasechart](#), [our children’s trust](#)

Norway: *Greenpeace Nordic and Nature and Youth v Norway*

- Status** Currently on appeal. The Court of Appeal will hear the case in late 2019.
- Overview** Young people that are a part of the NGO Nature & Youth, along with Greenpeace Nordic, filed a lawsuit against the government for granting new licenses to oil and gas companies for drilling in the Barents Sea. They are challenging a decision by the Norwegian Ministry of Petroleum to offer 13 different companies 40 blocks in 10 production licenses for exploratory drilling and oil and gas extraction in the South-East Barents Sea as a result of the 23rd licensing round on the Norwegian shelf. The petitioners allege that the licenses contradict the goals of the Paris Agreement and are a breach of the Norwegian constitution's protection of future generations and other international environmental and human rights law obligations.
- Proceedings** On 4 January, 2018, the Oslo District Court ruled in favour of the Norwegian Government. While the Court recognised the application of the right to a healthy environment in the Norwegian Constitution, it found that the government did not violate any of the relevant rights in making the licensing decision. The environmental groups appealed, requesting to go directly to the Supreme Court. The appeal was granted, but to the Court of Appeal.
- Read more** [climatecasechart](#), [greenpeace.org](#), [LSE](#)

European Union: *Ten Families and Saami Youth Association v EU*

- Status** In progress. Defense by EU Parliament and EU Council is expected.
- Overview** Ten families from Portugal, Germany, France, Italy, Romania, Kenya and Fiji and the Swedish Sami Youth Association Sáminuorra brought an action against the European Union's greenhouse gas emissions reductions. The plaintiffs allege that the EU's existing targets to reduce domestic greenhouse gas emissions by 40% by 2030 compared to 1990 levels is insufficient to avoid dangerous climate change and threatens their human rights to life, health, occupation and property under European and international law. The families state that the high level of greenhouse gases that are still allowed to be emitted through these three legal acts do not reflect what the EU can do according to its potential to reduce emissions.
- Proceedings** The lawsuit was filed on 24 May, 2018. On 13 August, 2018, the case was formally published in the Official Journal of the European Union. Several NGOs have applied to be interveners. The defense of the European Parliament and the European Council is expected in October 2018.
- Read More** [peoplesclimatecase](#), [climatecasechart](#), [Greenpeace International](#)

Decided Cases

Netherlands: *Urgenda v The Netherlands*

- Status** Successful. In October 2018, the first instance judgment was upheld in second instance. However, the state might still appeal.
- Overview** Along with 886 people, the Urgenda Foundation sued the Dutch government in 2015 for its inaction on climate change and not doing enough to prevent harm to ordinary people. The case is based on the government's duty of care, as well as on Articles 2 and 8 of the European Convention on Human Rights.
- Proceedings** On 14 April, 2015, Urgenda won and the Court ordered the state to make more stringent greenhouse gas emissions reductions by 2020. The appeal was heard on 28 May 2018. On October 9th, the Hague Court of Appeal confirmed the 2015 groundbreaking decision, meaning that the Dutch government must increase its climate ambition and reduce emissions to protect the rights of its citizens.
- Good to know** According to the United Nations Environment Program, the Urgenda case has been groundbreaking in the field of climate litigation and inspired cases around the world, including in Switzerland, India, Norway and Sweden.
- Read More** [Urgenda-Website](#), [Greenpeace International](#), [ELAW](#), [The Guardian](#)

Pakistan: *Asghar Leghari v Federation of Pakistan*

- Status** Successful. The court ruled against the state of Pakistan.
- Overview** Pakistani farmer Asghar Leghari filed a case challenging the government of Pakistan's inaction and delay in implementing the National Climate Change Policy. He also claimed that the delays in addressing Pakistani people's vulnerabilities associated with climate change violates the fundamental constitutional rights to life and dignity. The Lahore High Court Green Bench agreed with him in September 2015.
- Proceedings** The court held on 4 September, 2015, that Pakistan had violated citizens' rights to life, dignity and property and ordered the government to take

measures to minimise the impacts of changing weather patterns, including presenting a list of climate adaptation measures and to establish a Climate Change Commission. The court's innovative approach requires ongoing judicial supervision to ensure progress.

Good to Know The case is very interesting because it shows that even developing countries owe human right obligations to their citizens to protect them from climate change. Unlike many of the other lawsuits against governments, which focus on mitigation, this is a case for better adaptation measures.

Read More [ELAW](#), [Reuter](#)

Colombia: *Young People v Government of Colombia*

Status Successful. The Supreme Court found in favour of the young plaintiffs.

Overview Twenty-five young people, supported by environmental organisation *Dejusticia*, sued the Colombian government for failing to honour its commitment to tackling climate change. In a historic win, Colombia's Supreme Court of Justice found the Colombian government liable for not halting the increasing deforestation of the Amazon forest, thereby increasing the average temperature in the country and threatening the young people's rights to life, health, food, water and a healthy environment.

Proceedings In the first instance, the claim was rejected and the plaintiffs appealed on 26 February 2018. On April 5, 2018, the Supreme Court followed suit and ruled that the government should draw up and implement an action plan to limit deforestation.

Good to Know This case is interesting because the Supreme Court found that the Colombian Amazon is an "entity subject of a right" (legal personality), to which the State has duties to protect and conserve.

Read More [climatecasechart](#), [Reuters](#)

New Zealand: *Sarah Thomson v Minister of Climate Change*

Status Decided with a partial victory for Thomson.

Overview Law student Sarah Thompson filed a lawsuit in 2015 against New Zealand's Minister of Climate Change issues alleging that the Minister had failed in setting of greenhouse gas emissions reduction targets required under the Climate Change Response Act. The Act requires the Minister to set a target in keeping with the statements of the Intergovernmental Panel on Climate Change (IPCC) and to update that target as the IPCC issues updated findings. Thompson challenged both the target set pursuant to the Act and a new target set as part of New Zealand's NDC pursuant to the United National Convention on Climate Change and the Paris Agreement, both ratified by New Zealand.

Proceedings The lawsuit was filed on 10 November 2015 at the High Court. On 2 November 2017, the court found that the former minister should have carried out a review of the reduction targets based on the latest available

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science, in that case the Fifth Assessment Report of the IPCC. Before the decision from the court, an election in 2017 saw a new government which campaigned on eliminating all greenhouse gas emissions by 2050. Because the question was moot now that a new government was in place, the court declined to annul the target.

Good to know Importantly, the judgment had a long discussion regarding the authority of the courts to review climate change policy, noting that courts should not consider it a “no go area” simply because the state has entered international obligations, because the problem is a global one or because of the complexity of the science, and that the “IPCC reports provide a factual basis on which decisions can be made.”

Read more [climatecasechart](#), [LSE](#)

South Africa: *EarthLife Johannesburg v Minister of Environment*

Status	Successful for the plaintiff.
Overview	The environmental organization EarthLife asked the court to determine whether the approval of a 1,200 megawatt coal-fired power station was lawful. The plaintiff denounced that the approval process did not take sufficiently take into account the potential environmental damage, in particular the global climate impacts of power plant operations by 2060.
Proceedings	The lawsuit was filed in 2016 at the Supreme Court in Pretoria. Following hearings on 2 and 3 March 2017, it was decided on 17 March 2017 that the approval procedure was not legal. The High Court agreed that the Minister of Environmental Affairs should have required an assessment of the project's impacts on the global climate and the impacts of a changing climate on the project.
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Australia: *Peter Gray v Ministry of Planning*

Stand	Successful for the plaintiff.
Overview	Similar to <i>EarthLife Johannesburg</i> , Peter Gray sued the Minister for failing to include greenhouse gas emissions from the planned Anvil Hill Coal Mine opencast mine in New South Wales in the environmental impact assessment (EIA). The EIA report did not list the Scope 3 emissions (greenhouse gas emissions resulting from transport and further processing).
Proceedings	The lawsuit was filed in 2006 before the Land and Environmental Court of New South Wales. The hearings took place on 6 November and 7 November 2006. On 27 November, 2006, the court ruled that the approval process was invalid.
Good to know	The result was a setback. Due to a new approval process, the mine has been in operation since 2010. It has since been renamed Magoola Open Cut and is expected to run until 2031.
Read more	climatecasechart.com , envlaw.com

Sweden: *PUSH Sweden and others v Sweden*

Status	The lawsuit was rejected.
Overview	In Sweden, two youth organisations, PUSH (Powershift) Sweden and

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Fältbiologerna, and 156 individual plaintiffs, filed a lawsuit alleging that the Swedish State has been negligent and in breach of its duty of care by failing to pursue its domestic and internationally agreed climate objectives, specifically by approving the request from state-owned company Vattenfall to sell off their dirty lignite assets in Germany to a Czech company, EPH, that will likely try burn as much coal as possible. The youth claim that this is could lead to 1.2 billion tonnes of additional CO2 being released into the atmosphere. They estimate that this is equivalent to 22 years of Sweden's annual emissions as an entire country.

Proceedings

The lawsuit was filed on September 15, 2016 at the district court in Stockholm. In December 2016, the court dismissed the lawsuit, after determining that the plaintiffs had not experienced an injury from the governmental decisions at issue.

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