

Protection of the climate and protection from the effects of climate change are human rights obligations. Human rights must therefore always be considered when designing measures to address climate change.

This study looks at climate change from a human rights perspective and demonstrates that both climate mitigation and climate adaptation are part of the duties held by states.

In the context of the most recent developments within the UN human rights bodies and international and regional jurisprudence, in particular the Advisory Opinion on climate change of the International Court of Justice (2025) and the judgment of the European Court of Human Rights in the KlimaSeniorinnen case (2024), the study shows how the effects of climate change affect human rights and lead to the obligation to act on human rights grounds.

The study categorises Swiss climate policy and legislation as part of human and fundamental rights policy and analyses the far-reaching substantive and procedural obligations of the state.

In addition, the study examines the human-rights-related risks of measures to address climate change, as well as extra-territorial obligations, the role of private actors and the rights of future generations.

Climate change as a human rights issue

A human rights perspective on climate change mitigation and adaptation

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About the SHRI

The Swiss Human Rights Institution (SHRI) is Switzerland's independent national human rights institution. Its mandate is to protect the human rights of the whole population and to advocate for their rights.
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Abbreviations

Aarhus Convention	Convention of 25 June 1998 on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters
Art. / Arts.	article / articles
CC	Cantonal constitution
CEDAW	United Nations Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EIA	environmental impact assessment
EPA	Federal Act on the Protection of the Environment of 7 October 1983, SR. 814.01
FC	Swiss Federal Constitution
IACtHR	Inter-American Court of Human Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights of 16 December 1966
ICJ	International Court of Justice
ICCPR	International Covenant on Civil and Political Rights of 16 December 1966
IPCC	International Panel on Climate Change
ITLOS	International Tribunal for the Law of the Sea
NDC	Nationally Determined Contributions
OHCHR	Office of the High Commissioner for Human Rights
para. / paras.	paragraph / paragraphs
SHRI	Swiss Human Rights Institution
SLAPP/SLAPPs	Strategic Litigation against Public Participation
UDHR	Universal Declaration of Human Rights
UN	United Nations
UN Climate Agreement	Paris Agreement of 12 December 2015
UNCRC	United Nations Convention on the Rights of the Child of 20 November 1989
UN CRPD	United Nations Convention on the Rights of Persons with Disabilities of 13 December 2006
UNFCCC	United Nations Framework Convention on Climate Change of 9 May 1992
UPR	Universal Periodic Review

Introduction

Climate change is placing the world's entire ecosystem at acute risk due to advancing global warming, rising sea levels and frequent extreme weather events as a result of human activity. It is one of the central challenges facing society in our time and the impacts are already being experienced by many people worldwide. Reports from the Intergovernmental Panel on Climate Change (IPCC), for instance, show that climate change poses enormous threats to human rights¹. The right to life is at the forefront of these but other human rights are also affected, such as the rights to health, clean drinking water, food and housing.

In this context, the Swiss Human Rights Institution (SHRI) sees climate change as a human rights challenge which requires a clear definition of Switzerland's obligations in the realms of both climate mitigation and climate adaptation. Climate mitigation means taking action to protect the climate by reducing greenhouse gas emissions and climate adaptation involves targeted and effective measures to adapt to the consequences of climate change. Human rights also entail an obligation to provide effective legal remedies for climate-related loss and damage and procedural guidelines for climate measures, particularly with regard to transparency, participation and accountability.

The SHRI highlights the fact that climate mitigation and adaptation are integral components of Switzerland's human rights obligations. In addition to political processes, the protection of individual rights in legal proceedings plays a legitimate and important role, especially in order to protect vulnerable people, draw attention to their needs and define the duties of the state to provide protection. Climate policy should therefore be understood as part of the state's human and fundamental rights policy, which is based on core protection obligations and focused on the fundamental rights of those affected.

However, in its work to date, the SHRI has established that climate-related regulatory and control instruments have so far been developed from an economic and technical perspective. Key human rights implications are often overlooked or even contested, as demonstrated by reactions to the judgment of the European Court of Human Rights in *Verein KlimaSeniorinnen and Others v. Switzerland* (KlimaSeniorinnen judgment)².

Firstly, there is inadequate protection of vulnerable groups particularly affected by the impacts of climate change, such as older people, children, people with disabilities and those living in poverty. Secondly, there is a failure to take account of intergenerational responsibility, as climate-related decisions have long-term effects on the rights of future generations for whom there is insufficient provision today for participation and legal protection. Thirdly, climate protection measures that are necessary from a human rights perspective, but have so far been inadequate, should be as ambitious as possible and take account of the relevant obligations and competences. Fourthly, there are shortcomings in constitutional and procedural safeguards, especially with regard to access to information, participation in decision-making processes and access to effective legal remedies.

This study uses these oversights as an opportunity to map out systematically the human rights principles of a coherent climate policy for Switzerland. The aim is to identify Switzerland's human rights obligations in the context of climate change and thus to contribute to strengthening the human rights dimension of Swiss climate policy.

Objectives

This study presents an analysis of Switzerland's climate-related human rights obligations which ensue from the current case law and from the opinions and communications of the United Nations human rights bodies.

Through this analysis, the SHRI is seeking to strengthen the human rights perspective on climate change in political and legal discourse and thereby to frame climate change as a human rights issue rather than simply a technical or economic matter. Swiss climate policy should thus include the human rights perspective in decision-making and implementation processes.

The study is aimed at Switzerland's political decision-makers and administrative bodies at local, regional and national level, as well as courts and other specialists. It seeks to provide a basis for climate mitigation and adaptation measures to be viewed as human rights issues and designed accordingly. The study is accompanied by a policy brief in which the SHRI has formulated specific recommendations for the above-mentioned stakeholders³.

Clarity about the scope of human rights obligations in relation to climate mitigation and adaptation can also help to ensure that national human rights institutions⁴, civil society organisations and rights holders⁵ are better able to understand climate mitigation and adaptation measures, advise decision-makers and participate in the development, implementation and monitoring of these measures. The established position of human rights case law and opinions and communications by human rights bodies also provide points of reference for rights holders regarding the strategies they can pursue to protect their rights in relation to climate change and climate protection.

A human rights perspective on climate change

To view climate change from a human rights perspective means considering it not primarily as an economic or technical problem but as a threat to fundamental legal rights, such as those to life, health, physical integrity and housing. Climate change represents a human-made threat that endangers the human rights of current and future generations.

Although the effects of climate change are felt all over the world, people in the Global South and vulnerable groups, including here in Switzerland, are disproportionately affected by the consequences and, in part, are already experiencing severe violations of their human rights today. In addition to the structural conditions that have led to this, a human rights perspective shifts the focus to the fates of individuals and makes their specific concerns visible.

A human rights perspective also takes account of the responsibility for rights violations in the context of climate change. Those who experience violations of their rights as a result of climate change can use human rights instruments to assert their rights in relation to states and other actors. National and international courts have now recognised that state action or inaction on climate change can lead to human rights violations. From a human rights perspective, major emitters of greenhouse gases, whether past or present and whether states or private actors, have a particular responsibility to reduce emissions and to contribute to compensation for irreversible damage.

A human rights perspective on climate change also makes it clear that enforcing these rights is a crucial lever to ensure climate policy that is effective and based on social justice. Furthermore, it demands protection of the human rights of those who work to protect and defend these rights.

This study demonstrates that human-rights-based climate policy, in view of both climate mitigation and adaptation, must pursue the highest possible ambitions, prioritise the groups that are most at risk and most affected and hold the main drivers of climate change accountable. Climate change mitigation and adaptation measures must be designed in accordance with the rule of law. In addition, procedural safeguards related to human rights, in particular transparency, participation and access to effective legal remedies, must be guaranteed.

Structure

This study includes analysis of legal doctrine and theory that form the basis of the SHRI's positions. An accompanying policy brief contains specific recommendations for action for cantonal and national bodies, as well as for policy-makers and legislators. The study is structured as follows.

The first section examines the relationship between climate change and human rights. It traces how climate change became a human rights issue, and explores the role of the courts in the context of climate litigation. It also looks at the limits of the human rights perspective in the climate context.

The second section deals with climate mitigation as a human rights obligation. It presents the state obligations on emissions reduction which are derived from international and national legal sources. It also covers the role of private actors and the rights of future generations. Building on this, the following section focuses on climate adaptation as a human rights obligation. It shows which general and specific state obligations arise from substantive rights and then explains the significance of procedural guarantees such as information, participation and access to legal remedies.

This is followed by an exploration of the human-rights-based approach to climate-related loss and damage. The next section

analyses procedural rights which are relevant in the context of climate change.

Finally, the risks to human rights which may arise as a result of climate mitigation and adaptation measures themselves, for instance through violations of land rights, political repression or a socially uneven distribution of costs are investigated.

The conclusion draws the results together and reflects on how human rights in relation to climate change will need to develop to guarantee continued effective protection in the future.

- 1 IPCC (2023), Summary for Policymakers, in: Lee, Hoesung / Romero, José et al. (eds.), Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, Geneva: IPCC.
- 2 ECtHR (Grand Chamber), Verein KlimaSeniorinnen Schweiz and Others v. Switzerland No. 53600/20, 09.04.2024.
- 3 The policy brief is available in the working languages of the SHRI: German, French and Italian.

- 4 See also Eisen, Nathaniel / Eschke, Nina (2020), Climate Change and Human Rights. The Contribution of National Human Rights Institutions. A Handbook, Berlin: Deutsches Institut für Menschenrechte / Center for International Environmental Law.
- 5 Rights holders are individuals who have legal rights under the international human rights protection system. These rights are fulfilled by the corresponding obligations of state and, where applicable, non-state duty bearers.

**How climate change led
to human rights obligations**

Climate in the courts

**The limits of the human rights
perspective on climate change**

Right to life

The right to life¹ is affected by extreme weather events, such as flooding, storms, heatwaves and drought, which can have fatal consequences. In addition, many people's lives are at risk due to the gradual climate-related destruction of livelihoods, for instance through the spread of disease. The International Court of Justice encapsulates this in its Advisory Opinion on climate change: "The adverse effects of climate change may impair the enjoyment of the right to life in various ways"².

In its General Comment No. 36 on the right to life, the UN Human Rights Committee establishes a clear link between climate change and the enjoyment of this right for current and future generations³. In the individual case of *Teitiota v. New Zealand* the Committee applied this link to a specific case for the first time⁴. The proceedings were initiated by Ioane Teitiota, a citizen of the Pacific island nation of Kiribati, who had applied unsuccessfully for asylum in New Zealand on the grounds of the rising sea level in his homeland. Although the UN Human Rights Committee confirmed the legality of his forced repatriation, it also highlighted the fact that people who flee the impacts of climate change should not be returned to their homeland if they are exposed to life-threatening risk due to the effects of climate change.

1 Art. 10 para. 1 FC, Art. 3 UDHR; Art. 6 ICCPR, Art. 6 UNCRC, Art. 10 UN CRPD, Art. 2 ECHR.

2 International Court of Justice, *Obligations of States in Respect of Climate Change*, Advisory Opinion, 23.07.2025, paras. 377 and 378.

3 UN Human Rights Committee (2019), General comment No. 36 on Article 6: right to life, UN Doc. CCPR/C/GC/36, para. 62.

4 UN Human Rights Committee (2020), Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2728/2016, UN Doc. CCPR/C/127/D/2728/2016.

How climate change led to human rights obligations

In recent years climate change has increasingly become established as a distinct human rights issue. There is now broad agreement that the impacts of climate change adversely affect the proper exercise of fundamental human rights and that this results in specific, legally relevant state obligations. International human rights bodies and other international legal actors have expressly recognised and developed these human rights dimensions of climate change in case law, expert opinions and authoritative statements.

The UN human rights bodies, which monitor the implementation of the internationally binding human rights treaties, have systematically considered the consequences of climate change for some years now. In its Resolution 7/23 of March 2008, the UN Human Rights Council stated that: “[C]limate change poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights”¹. Since then, through General Comments², decisions in individual cases³, recommendations set out in periodic reports⁴ and a joint statement by several UN human rights bodies⁵, the UN human rights institutions have both addressed the human rights impacts of climate change and outlined specific obligations for states to refrain from certain actions and adopt others in relation to climate change mitigation and adaptation. This development was further strengthened institutionally through a UN Human Rights Council resolution establishing a Special Rapporteur on the promotion and protection of human rights in the context of climate change⁶.

Both the European Court of Human Rights (ECtHR) and the International Court of Justice (ICJ) recognise that state action or inaction on climate change has relevance in relation to human rights⁷. For example, in its judgment in the case of *Verein KlimaSeniorinnen and Others v. Switzerland* (Klima-Seniorinnen judgment), the ECtHR refers to the “causal relationship between climate change and the enjoyment of Convention rights”⁸. Similarly, in its 2025 Advisory Opinion on climate change, the ICJ considers that the adverse effects of climate change may impair the effective enjoyment of human rights protected by international law⁹.

International human rights bodies have also pointed out that human rights give rise to substantive state obligations to address climate-related loss and damage¹⁰. Further momentum for a human rights perspective on climate change is provided by the national and international debate on the recognition of a human right to a healthy and sustainable environment.

The human rights dimension of climate change is also set out in the Paris Agreement¹¹. The Preamble calls on states to respect, promote and consider their human rights obligations when adopting measures to address climate change. Particular emphasis is placed on the right to health and the rights of migrants, children, people with disabilities and people in vulnerable situations, as well as gender equality, empowerment of women and intergenerational equity.

International climate treaties such as the UN Framework Convention on Climate Change (UNFCCC) and the Paris Agreement do not establish any directly enforceable subjective rights for rights holders and do not provide for an individual complaints mechanism. Express provisions embedding climate mitigation and protection from climate change as subjective rights in constitutional or international law are also still missing.

Against this backdrop, rights holders are increasingly relying on established human rights to compel the state through the courts to protect them more effectively from the impacts of climate change and to adopt appropriate measures to tackle it¹². The aim of these court cases is for state action on climate change to be intensified through a more targeted response to the scientifically recognised and predicted impacts of climate change and, as far as possible, to prevent these impacts. Of particular relevance here are the at least partially successful cases of *Urgenda Foundation v. The State of the Netherlands*¹³ heard by the Dutch Supreme Court, *Neubauer et al. v. Germany* at the German Federal Constitutional Court¹⁴ and *Verein KlimaSeniorinnen et al. v. Switzerland* at the ECtHR. In all these cases the states concerned were obliged to take more extensive measures to protect the climate and mitigate climate change.

When it comes to compelling non-state actors through the courts to take climate mitigation and adaptation measures, human rights provide a normative framework for determining corporate due diligence obligations. This is illustrated by the recent decision by the Cantonal Court of Zug in the case of *Asmania et al. v. Holcim* concerning the procedural requirements in a climate case against the company¹⁵. The court noted that climate lawsuits against companies involve multiple levels of regulation, including human rights which are linked to a civil claim. The court went on to say that this intertwining serves, in particular, to interpret open legal standards of private law. Since the ECtHR *KlimaSeniorinnen* judgment, the human right to respect for private and family life has provided an important framework for climate-related civil cases as well¹⁶.

In climate-related constitutional and private law proceedings the courts face the difficult task of

applying the law to the challenges posed by climate change. The background to this is that the climate is a global and intertemporal issue which cannot simply be reduced to a specific legal relationship between a single individual and a single state or company. Yet for court rulings, precisely this type of categorisation is necessary in order for the courts to determine legal responsibility. They must consider whether a particular action—or in the case of climate protection more usually inaction—was the cause of an alleged rights violation in a way that has legal relevance. The separation of the temporal and spatial causes on the one hand and the specific impacts on the other present significant challenges for the legal allocation of responsibility. The courts approach these challenges in climate cases in two ways: by building on the existing case law and by further developing the law in response to novel legal questions. The line between these two approaches is often blurred.

The limits of the human rights perspective on climate change

Human rights offer a regulatory framework that enables the specific impacts of climate change on rights holders to be made visible and the duties of states to be defined. At the same time, there are limits to the obligations and entitlements derived from human rights in view of the structural dimension of climate change. Human rights aim to protect individual legal positions, whereas global inequalities, the different historical contributing factors and issues of international climate justice are only reflected to a limited extent. Furthermore, human rights are primarily focused on states, although a large proportion of the greenhouse gas emissions that contribute to global warming are emitted by private actors.

Enforcement is also limited by procedural obstacles. In the context of an all-encompassing phenomenon like climate change, providing evidence of individual impact remains difficult, future generations have no direct access to justice and there is a reluctance to recognise collective rights to institute legal proceedings.

Finally, the debate about whether nature has independent rights indicates that the anthropocentric, or human-centred, perspective on human rights is only capable of comprehending one aspect of the problem. It always links climate change to the interests of individual legal protection and the environment is only understood as the human environment. In contrast, an ecocentric approach establishes equal status between the interests of natural entities such as glaciers, rivers and ecosystems on the one hand and those of people on the other¹⁷.

Despite these limitations, the human rights perspective is still a key reference framework for classifying state action, making individual impacts visible and setting and implementing minimum standards for a just climate policy¹⁸.

- 1 UN Human Rights Council (2008), Resolution 7/23, Human rights and climate change, UN Doc. A/HRC/RES/7/23.
- 2 See e.g. UN Committee on the Rights of the Child (2023), General comment No. 26 on children's rights and the environment, with a special focus on climate change, UN Doc. CRC/C/GC/26, para. 91; UN Human Rights Committee (2019), General comment No. 36 on Article 6: right to life, UN Doc. CCPR/C/GC/36, para. 62; UN Committee on Economic, Social and Cultural Rights (2023), General comment No. 26 on land and economic, social and cultural rights, UN Doc. E/C.12/GC/26, paras. 56–58; UN Committee on the Elimination of Discrimination against Women (2018), General recommendation No. 37 on gender-related dimensions of disaster risk reduction in a changing climate, UN Doc. CEDAW/C/GC/37.
- 3 See e.g. UN Human Rights Committee (2020), *Teitiota v. New Zealand*, Communication No. 2728/2016, UN Doc. CCPR/C/127/D/2728/2016, 24.10.2019; UN Human Rights Committee (2022), *Daniel Billy et al. v. Australia*, Communication No. 3624/2019, UN Doc. CCPR/C/135/D/3624/2019, 21.07.2022; UN Committee on the Rights of the Child (2021), *Sacchi and Others v. Argentina*, Decision adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 104/2019, UN Doc. CRC/C/88/D/104/2019, 22.09.2021.
- 4 UN Committee on Economic, Social and Cultural Rights (2025), Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland, UN Doc. E/C.12/GBR/CO/7, paras. 12 and 13; UN Committee on the Elimination of Discrimination against Women (2025), Concluding observations on the ninth periodic report of Sri Lanka, UN Doc. CEDAW/C/LKA/CO/9, paras. 59 and 60; UN Committee on the Rights of the Child (2022), Concluding observations on the combined fifth and sixth periodic reports of Germany, UN Doc. CRC/C/DEU/CO/5–6, para. 33.
- 5 UN Committee on the Elimination of Discrimination against Women / UN Committee on Economic, Social and Cultural Rights / UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families / UN Committee on the Rights of the Child / UN Committee on the Rights of Persons with Disabilities (2019), Joint statement on human rights and climate change, UN Doc. HRI/2019/1.
- 6 UN Human Rights Council (2021), Mandate of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, UN Doc. A/HRC/Res/48/14. The current Special Rapporteur (since 2024) is professor of law Elisa Morgera.
- 7 The Inter-American Court of Human Rights (IACtHR) stated in its Advisory Opinion on the climate crisis and human rights that the realisation of human rights is closely related to climate change (Inter-American Court of Human Rights, Advisory Opinion OC-23/17, *The Environment and Human Rights*, 15.11.2017).
- 8 ECtHR (Grand Chamber), *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* No. 53600/20, 09.04.2024, para. 545, see also paras. 431–436.
- 9 International Court of Justice, *Obligations of States in Respect of Climate Change*, Advisory Opinion, 23.07.2025, paras. 384–386.
- 10 UN Human Rights Council (2023), Human rights and climate change, Resolution 53/6, UN Doc. A/HRC/RES/53/6; UN Human Rights Council (2024), Analytical study on the impact of loss and damage from the adverse effects of climate change on

the full enjoyment of human rights, exploring equity-based approaches and solutions to addressing the same: Report of the Secretary-General, UN Doc. A/HRC/57/30, para. 16.

- 11 Paris Agreement of 12 December 2015.
- 12 Savaresi, Annalisa / Setzer, Joana (2022), Rights-based litigation in the climate emergency: mapping the landscape and new knowledge frontiers, in: *Journal of Human Rights and the Environment* 13/1, pp. 7–34; Peel, Jacqueline / Osofsky, Hari M. (2018), A Rights Turn in Climate Change Litigation?, in: *Transnational Environmental Law* 7/1, pp. 37–67.
- 13 Supreme Court of the Netherlands, Judgment 19/00135 of 20.12.2019.
- 14 Federal Constitutional Court of Germany, BVerfG, decision of 24.03.2021.
- 15 Cantonal Court of Zug, decision A1 2023 9 of 17.12.2025, Consideration 3.7.2.
- 16 For instance, at The Hague Court of Appeal in its decision in the case of *Shell Plc v. Verein Milieudefensie et al.* of 12.11.2024, No. 200.302.332/01, paras. 7.6–7.27.
- 17 Knöpfel, Laura / Leu, Fiona (2025), Rechte der Natur: Nachhaltigkeit neu denken, oder: Wenn Gletscher klagen könnten, in: Sieber-Gasser, Charlotte / Bürgi Bonanomi, Elisabeth / Koch, Rika (eds.), *Nachhaltige Entwicklung im Schweizer Recht*, Bern: Stämpfli, pp. 117–140.
- 18 Theil, Stefan (2021), *Towards the Environmental Minimum: Environmental Protection through Human Rights*, Cambridge: Cambridge University Press.

Climate mitigation as a human rights obligation

The obligation to reduce greenhouse gas emissions

Emissions budgets, reduction pathways and monitoring mechanisms

Extraterritorial emissions reductions

Responsibility of private actors

Rights of future generations

Right to health

Rising temperatures, longer periods of hot weather, natural disasters¹ and increasing levels of air pollution are a threat to the right to health². Vulnerable groups, such as older people³ and people with underlying health conditions are particularly at risk.

In its General Comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health, the UN Committee on the Rights of the Child highlights that climate change is one of the greatest threats to children's health and that it exacerbates health disparities⁴.

In the *KlimaSeniorinnen* judgment⁵ the European Court of Human Rights holds that climate change represents a serious threat to health and wellbeing, especially for vulnerable groups. The Court considers the protection of health requirement contained in the right to respect for private and family life (Art. 8 ECHR) and derives from it the obligation of states parties to take effective and coherent climate change mitigation measures.

Right to an adequate standard of living

The right to an adequate standard of living⁶, especially the rights to clean drinking water⁷, food⁸ and housing⁹, is seriously affected by the consequences of climate change. Events such as droughts, flooding, storms, wildfires and extreme temperatures have devastating impacts on agriculture, affecting food production and water supplies. The right to housing comes under threat, for instance, where rising sea levels risk whole areas becoming uninhabitable.

In its Advisory Opinion on climate change, the International Court of Justice highlights that the adverse effects of climate change can significantly interfere with the enjoyment of the right to an adequate standard of living, which includes access to food, water and housing¹⁰.

1 International Court of Justice, *Obligations of States in Respect of Climate Change*, Advisory Opinion, 23.07.2025 (ICJ, Advisory Opinion Climate Change), para. 376; Federal Constitutional Court of Germany, *BVerfG*, Order of 24.03.2021, paras. 23 and 99.

2 The right to health is enshrined in international law and implicitly in constitutional law, specifically in Art. 10 para. 2 FC, Art. 12 ICESCR, Art. 25 UDHR, Art. 5 ICERD, Art. 12 CEDAW, Art. 24 para. 1 UNCRC and Art. 25 UN CRPD.

3 ECtHR (Grand Chamber), *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, No. 53600/20, 09.04.2024 (ECtHR, *KlimaSeniorinnen v. Switzerland*).

4 UN Committee on the rights of the child (2013), General comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health (Art. 24), UN Doc. CRC/C/GC/15, para. 50.

5 ECtHR, *KlimaSeniorinnen v. Switzerland*.

6 Arts. 11 and 12 ICESCR; Art. 27 para. 1 and 3 UNCRC; Art. 14 para. 2(h) CEDAW; Art. 28 para. 2(a) UN CRPD; UN Committee on the Elimination of Discrimination against Women (2018), General recommendation No. 37 (2018), on gender-related dimensions of disaster risk reduction in the context of climate change, UN Doc. CEDAW/C/GC/37.

7 Arts. 11 and 12 ICESCR; Art. 24 para. 2(c) UNCRC; Art. 14 para. 2(h) CEDAW; UN Committee on Economic, Social and Cultural Rights (2003), General comment No. 15 on the right to water, UN Doc. E/C.12/2002/11.

8 Art. 11 ICESCR; Art. 28 para. 2(a) UN CRPD; UN Committee on Economic, Social and Cultural Rights (1999), General comment No. 12 on the right to adequate food, UN Doc. E/C.12/1999/5.

9 Art. 11 ICESCR; Art. 25 UDHR; UN Committee on Economic, Social and Cultural Rights (1991), General comment No. 4: The Right to Adequate Housing, UN Doc. E/1992/23.

10 ICJ, *Advisory Opinion Climate Change*, para. 380.

Climate mitigation as a human rights obligation

Climate mitigation is targeted at the causes of climate change. The requirement for effective protection and realisation of human rights gives rise to obligations to reduce greenhouse gas emissions¹. In its *KlimaSeniorinnen* judgment, the ECtHR specified that the health protection dimension of the right to respect for private and family life according to Article 8 ECHR entails a specific obligation for the state to reduce greenhouse gas emissions².

The obligation to reduce greenhouse gas emissions

In the *KlimaSeniorinnen* judgment the ECtHR holds that, in order to fulfil its human rights protection obligations, Switzerland must reduce its greenhouse gas emissions³. In its 2025 Advisory Opinion on climate change, the ICJ also clarifies that the enjoyment of human rights is not possible without protecting the climate. States must therefore take mitigation measures to reduce emissions in order to guarantee people's rights and livelihoods⁴.

Even before it was confirmed by the international courts⁵ that measures to tackle climate change at source form part of human rights obligations, national courts had already recognised climate protection as a human rights obligation. In its ground-breaking judgment in *Urgenda Foundation v. The State of the Netherlands*⁶, the Dutch Supreme Court required the country's government to reduce greenhouse gas emissions compared with 1990 levels by at least 25 % by 2020 and not, as originally provided for, by only 20 %. The Court based its ruling on the state's protection obligation derived from the right to life (Art. 2 ECHR) and the right to private and family life (Art. 8 ECHR). The German Federal Constitutional Court took a similar line in *Neubauer et al. v. Germany*⁷, when it ruled that the legislator must provide more detailed regulation on the continuation of the greenhouse gas reduction targets for periods after 2030.

Parallel to these developments in the courts, the UN human rights bodies stressed at an early stage the link between human rights and climate protection⁸. In 2014, Human Rights Council's Special Procedures mandate holders published an open letter highlighting the obligation of states "to reduce ... emissions so as to hold the increase in global temperature below levels that would cause widespread harm to the enjoyment of human rights"⁹. In 2018 the UN Committee on Economic and Social Rights made it clear that the States parties must revise the nationally determined contributions (NDCs) under the Paris Agreement so that these are in line with their human rights obligations. This means that in setting their climate targets, states must take both international environmental law and human rights into account¹⁰.

In addition, the UN Committee on the Elimination of Discrimination against Women in its General

Emissions budgets, reduction pathways and monitoring mechanisms

Recommendation No. 37 noted that states are obliged to implement effective mitigation measures to address increasing disaster risks due to climate change¹¹. In a joint statement issued by a number of UN treaty bodies in 2019, the UN Committee on the Elimination of Discrimination against Women, the UN Committee on Economic and Social Rights and several other committees maintained that, in order to comply with their human rights obligations, states must implement “policies aimed at reducing emissions, which reflect the highest possible ambition”¹².

Finally, the recommendations issued in the context of the Universal Periodic Review (UPR) also call on states, including Switzerland, to adopt comprehensive climate change mitigation and adaptation measures¹³. These recommendations emphasise that climate change mitigation measures are not just desirable, but form part of states’ accountability with respect to human rights.

The ICJ points out that the international human rights treaties, climate change treaties and other environmental treaties, as well as relevant obligations under customary international law, are interrelated and inform each other. It goes on to say that states must therefore take their obligations under climate change law and environmental law into account when implementing their human rights obligations¹⁴. This means it is a priority that mitigation measures be focused on the target of limiting global warming to a maximum of 1.5° C, in accordance with the Paris Climate Agreement. When defining national reduction measures, states must take into account the principle of common but differentiated responsibilities¹⁵, in accordance with the UNFCCC and the Paris Agreement.

To fulfil their human rights protection obligations, states must therefore define the extent to which greenhouse gas emissions are still permissible¹⁶. This requires them to set national emissions budgets and reduction pathways to achieve carbon neutrality, that is a situation where the remaining emissions are fully offset by reduction or compensation measures¹⁷. On this basis, specific reduction targets, monitoring mechanisms and regular reviews of these targets must be established. The legal framework for this must be continually aligned with the best available scientific knowledge to ensure that the reduction pathways remain consistent with it¹⁸. 19.

Extraterritorial emissions reductions

With regard to reducing greenhouse gas emissions, Switzerland also has a duty of protection that extends beyond its borders²⁰. In the *Klima-Seniorinnen* judgment the ECtHR thus indicated that emissions generated abroad during the production of goods and services imported into Switzerland must be taken into account²¹.

A state's cross-border protection obligation also covers the regulation of extraterritorial activities by private actors, such as companies which are headquartered within its sovereign territory. In its General Comment No. 24²² on state obligations in the context of business activities, for instance, the UN Committee on Economic and Social Rights held that the human rights obligations of the states parties do not end at their territorial borders. "States parties are required to take the necessary steps to prevent human rights violations abroad by companies domiciled in their territory and/or jurisdiction".

In a joint statement on human rights and climate change issued in September 2019, five UN human rights bodies set out specific climate policy measures and added that "States must regulate private actors, including by holding them accountable for harm they generate both domestically and extraterritorially"²³. In its closing remarks on Switzerland in 2019, the UN Committee on Economic and Social Rights expressly called on the Swiss government to adopt measures to reduce global investment in the fossil fuel industry by Swiss public and private financial institutions²⁴.

Responsibility of private actors

The state has a duty not only to respect and guarantee human and fundamental rights, it must also protect these rights from interference by private actors. This duty of protection acquires a particular importance and urgency in the context of climate change. Studies have indicated the significant contributions to climate change made by the largest oil, gas, coal, cement and energy companies (known as the "Carbon Majors")²⁵. Due to this concentration of climate-damaging activities among private actors, states have a duty to protect their populations from the impacts of these companies' activities. For example, in its 2025 Advisory Opinion, the ICJ held that, in accordance with international customary law, states have an obligation to undertake preventative and precautionary measures for the prevention of harm to the climate system, in order to fulfil their due diligence obligations. This includes regulation of private actors²⁶.

Through policies, jurisprudence and statements by UN human rights institutions, companies are increasingly being held responsible for respecting human rights, including through an obligation to conduct human rights due diligence²⁷. The Commission on Human Rights of the Philippines, which operates as the national human rights institution, published a report in 2022 which examined the responsibility of the Carbon Majors for the human rights impacts of climate change²⁸. The report points out that these companies have a responsibility to carry out human rights due diligence and adopt corrective action, including in their value chains.

Rights of future generations

A key aspect of human rights obligations in relation to climate change is the responsibility towards future generations. The Swiss Federal Constitution explicitly places obligations on Switzerland to act sustainably, take responsibility for future generations and ensure the long-term preservation of natural resources (Preamble, Art. 2 and Art. 73).

In its General Comment No. 26 on children's rights and the environment, the UN Committee on the Rights of the Child stresses this principle of intergenerational equity and the interests of future generations: "While the rights of children who are present on Earth require immediate urgent attention, the children constantly arriving are also entitled to the realization of their human rights to the maximum extent."²⁹

In the *KlimaSeniorinnen* case the ECtHR looked in particular at the issue of the rights of future generations. Measures to address climate change inevitably raise questions about intergenerational burden-sharing, "both in regard to the different generations of those currently living and in regard to future generations"³⁰. Since future generations have no voice in decision-making processes today, the Court recognises the role of civil society organisations which can also bring legal action on behalf of those who may be affected in the future³¹.

- 1 Burger, Michael / Wentz, Jessica (2015), *Climate Change and Human Rights*, New York: Sabin Center for Climate Change Law, Columbia Law School & United Nations Environment Programme, 205; ECtHR (Grand Chamber), *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, No. 53600/20, 09.04.2024 (ECtHR, *KlimaSeniorinnen v. Switzerland*), paras. 542 and 544.
- 2 ECtHR, *KlimaSeniorinnen v. Switzerland*, paras. 550 and 558ff.
- 3 ECtHR, *KlimaSeniorinnen v. Switzerland*, paras. 550 and 558ff.
- 4 International Court of Justice, *Obligations of States in Respect of Climate Change, Advisory Opinion*, 23.07.2025 (ICJ, *Advisory Opinion Climate Change*), paras. 403ff.
- 5 In addition to the ECHR and ICJ, this also includes the International Tribunal for the Law of the Sea (ITLOS) and the Inter-American Court of Human Rights (IACtHR): ITLOS, *Advisory Opinion on the Request submitted to the Tribunal by the Commission of Small Island States on Climate Change and International Law*, 21.05.2024; IACtHR, *Advisory Opinion OC-23/17, The Environment and Human Rights*, 15.11.2017.
- 6 Supreme Court of the Netherlands, *Judgment 19/00135 of 20.12.2019*.
- 7 Federal Constitutional Court of Germany, *BVerfG, Order of 24.03.2021*.
- 8 For a comprehensive overview, see: Mayer, Benoit (2021), *Climate Change Mitigation as an Obligation Under Human Rights Treaties?* in: *American Journal of International Law*, pp. 409–451.
- 9 Open Letter from UN Special Procedures Mandate-Holders, *A New Climate Change Agreement Must Include Human Rights Protection for All*, https://www.ohchr.org/sites/default/files/Documents/HRBodies/SP/SP_To_UNFCCC.pdf (accessed 19.01.2026).
- 10 UN Committee on Economic, Social and Cultural Rights (2018), *Climate change and the International Covenant on Economic, Social and Cultural Rights. Statement of the Committee on Economic, Social and Cultural Rights*, 31.10.2028, UN Doc. E/C.12/2018/1 (UN Committee on Economic, Social and Cultural Rights (2018)), para. 6.
- 11 UN Committee on the Elimination of Discrimination against Women (2018), *General recommendation No. 37 on the gender-related dimensions of disaster risk reduction in the context of climate change*, UN Doc. CEDAW/C/GC/37.
- 12 UN Committee on the Elimination of Discrimination against Women / UN Committee on Economic, Social and Cultural Rights / UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families / UN Committee on the Rights of the Child / UN Committee on the Rights of Persons with Disabilities (2019), *Statement on human rights and climate change*, UN Doc. HRI/2019/1.
- 13 UN Human Rights Council (2023), *UPR of Switzerland (4th Cycle—42nd Session), Thematic List of Recommendations*.
- 14 ICJ, *Advisory Opinion Climate Change*, para. 404.
- 15 The international law principle of common but differentiated responsibilities refers to the shared responsibility of states for climate change. It acknowledges that this responsibility is unequally distributed due to the differing (historical) contributions to the causes of climate change by different states and their varying economic and technical capacities.
- 16 ECtHR, *KlimaSeniorinnen v. Switzerland*, para. 550.
- 17 ECtHR, *KlimaSeniorinnen v. Switzerland*, para. 550.
- 18 ECtHR, *KlimaSeniorinnen v. Switzerland*, para. 550.
- 19 This is a broad interpretation of the judgment, see:

- Çalı, Başak / Bhardwaj, Chhaya (2024), Watch this space: Executing Article 8 Compliant Climate Mitigation Legislation in Verein KlimaSeniorinnen v. Switzerland, in Blog of the European Journal of International Law, <https://www.ejiltalk.org/watch-this-space-executing-article-8-compliant-climate-mitigation-legislation-in-verein-klimaseniorinnen-v-switzerland/> (accessed 03.12.2025).
- 20 UN Committee on Economic, Social and Cultural Rights (2018).
 - 21 ECtHR, *KlimaSeniorinnen v. Switzerland*, paras. 278, 279, 280, 283, 285 and 387.
 - 22 See also Committee on Economic, Social and Cultural Rights (2017), General comment No. 24 on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, UN Doc. E/C.12/GC/24.
 - 23 UN Committee on the Elimination of Discrimination against Women / UN Committee on Economic, Social and Cultural Rights / UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families / UN Committee on the Rights of the Child / UN Committee on the Rights of Persons with Disabilities (2019), Joint statement on human rights and climate change, UN Doc. HRI/2019/1.
 - 24 UN Committee on Economic, Social and Cultural Rights (2019), Concluding observations on the fourth periodic report of Switzerland, E/C.12/CHE/CO/4, para. 19.
 - 25 Heede, Richard (2014), Tracing anthropogenic carbon dioxide and methane emissions to fossil fuel and cement producers, 1854–2010, in: *Climate Change*, 122, pp. 229–241.
 - 26 ECtHR, *KlimaSeniorinnen v. Switzerland*, e.g. paras. 282 and 427.
 - 27 United Nations (2011), UN Guiding principles on business and human rights: implementing the United Nations “Protect, Respect and Remedy” framework. UN Doc. HR/PUB/11/04.
 - 28 Commission on Human Rights of the Philippines (2022), National Inquiry on Climate Change Report, p. 98ff.
 - 29 UN Committee on the Rights of the Child (2023), General comment No. 26 on children’s rights and the environment, with a special focus on climate change, UN Doc. CRC/C/GC/26, para. 11.
 - 30 ECtHR, *KlimaSeniorinnen v. Switzerland*, paras. 410, 419 and 420. Para. 420: “In this connection, the Court notes that, in the specific context of climate change, intergenerational burdensharing assumes particular importance both in regard to the different generations of those currently living and in regard to future generations. While the legal obligations arising for States under the Convention extend to those individuals currently alive who, at a given time, fall within the jurisdiction of a given Contracting Party, it is clear that future generations are likely to bear an increasingly severe burden of the consequences of present failures and omissions to combat climate change (see paragraph 119 above) and that, at the same time, they have no possibility of participating in the relevant current decisionmaking processes.”
 - 31 ECtHR, *KlimaSeniorinnen v. Switzerland*, para. 489.

Climate adaptation as a human rights obligation

General obligations in relation to climate adaptation

Adaptation obligations in relation to specific human rights

Intersectional requirements for climate adaptation measures

Right to work and right to education

Other social rights, such as the right to work¹ and the right to education², are also affected by climate change. Extremes of climate, such as heatwaves, exacerbate working conditions and endanger people's health and safety at work. Rising temperatures, more frequent extreme weather events and environmental destruction lead to job losses in climate-dependent sectors like agriculture, fishing and tourism.

The right to education is also threatened by extreme changes in the weather and the climate. The UN Committee on the Rights of the Child noted in its General Comment No. 26 that the right to education is significantly vulnerable to the effects of environmental damage which "can result in school closures and disruptions, school dropout and the destruction of schools and places to play"³.

1 Arts. 6 and 7 ICESCR.

2 Art. 13 ICESCR; Art. 19 in conjunction with Art. 61a ff. FC.

3 UN Committee on the Rights of the Child (2023), General comment No. 26 on children's rights and the environment, with a special focus on climate change, UN Doc. CRC/C/GC/26, para. 51.

Climate adaptation as a human rights obligation

Because climate change has far-reaching impacts on the enjoyment of human rights, states' human rights obligations include a duty to implement adaptation measures. These should help alleviate the negative consequences of climate change on human rights and strengthen the resilience of those affected. Each state can implement adaptation measures largely independently of the actions of other states and these measures can have a direct effect on the enjoyment of human rights at the local level¹.

Since the signing of the Paris Agreement in 2015, the UN human rights bodies have increasingly been recognising that climate change adaptation is an integral component of human rights obligations². The ECtHR moved in a similar direction when it reflected in its ruling in the *KlimaSeniorinnen* judgment that the effective protection of the human rights concerned requires adaptation measures which alleviate the most severe and immediate impacts of climate change, taking into account any particular relevant needs for protection³. In its Advisory Opinion on climate change, the ICJ also concludes that failure to implement adaptation measures or inadequate implementation can result in a violation of human rights obligations⁴.

General obligations in relation to climate adaptation

The UN human rights bodies and the courts recommend that states develop and implement comprehensive adaptation plans, strategies and measures which are designed to fulfil human rights requirements and take the needs of particularly vulnerable groups into account. In the *KlimaSeniorinnen* judgment the ECtHR also stated that adaptation measures must be adopted and implemented in line with the best available scientific knowledge⁵. This covers systematic collection and recording of data on the effects of climate change, including the impact on vulnerable groups.

Adaptation measures should be developed jointly with rights holders and states must provide information about the measures taken⁶. In addition to the measures themselves, implementation and monitoring mechanisms are necessary to ensure their effectiveness, establish transparency and hold accountable those responsible.

These obligations on the adoption of adaptation measures require that states make available sufficient financial, technical and material resources for their implementation. Wealthy states are expected to fulfil their duty of international solidarity and support lower-income countries with climate finance, technology transfer and capacity-building⁷.

Adaptation obligations in relation to specific human rights

The climate change adaptation obligations of states are determined on the basis of individual substantive rights.

For instance, the right to life, according to the ECtHR and the UN Human Rights Committee, covers the duty of states to set up effective disaster preparedness and early warning systems to protect people from the life-threatening consequences of extreme weather events⁸. This duty also extends to protection from the immediate impacts of climate change, such as drought, flooding and heatwaves⁹.

The UN Committee on Economic, Social and Cultural Rights has made it clear that the right to health requires states to recognise and alleviate health risks due to climate change¹⁰. In addition, the Committee on the Elimination of Discrimination against Women stated further that adaptation measures should aim to prevent both physical and psychological health implications, for example through the development of climate-resilient healthcare systems and by taking account of the particular needs of women, children, older people and people with disabilities¹¹. Similarly, the UN Committee on the Rights of the Child emphasised that states should place the health concerns of children at the heart of their climate change adaptation and mitigation strategies¹².

Closely linked to the right to health is the right to water and sanitation, which guarantees safe access to clean drinking water and adequate wastewater disposal. In times of increasing water scarcity, states must ensure that commercial water use does not limit human consumption or water quality¹³.

The right to food also plays a key role. Climate change poses risks to harvests, food resources and supply chains, leading to food insecurity, especially in the countries of the Global South. In this regard the UN Committee on Economic, Social and Cultural Rights has made it clear that states are obliged to take measures to safeguard the right to adequate food, even in worsening climatic conditions¹⁴. Such measures include, in particular, promoting climate-resilient agriculture and sustainable farming practices and supporting communities whose livelihoods rely directly on natural resources¹⁵.

The right to adequate housing requires states to design their housing policy so that homes can

withstand increasing climate-related risks. The UN Committee on Economic, Social and Cultural Rights clarified in this respect that adequate housing must offer protection, especially against climate-related, environmental and health risks. In this context, buildings and settlements must be protected against extreme weather events, such as flooding, storms and heatwaves¹⁶.

In addition, in a changing climate reality, the right to social security is one of the central obligations of the state. Social protection systems must be able to cushion the blow of climate-related risks and respond flexibly in emergency situations. This includes both protection from loss of income and access to support in the event of disasters or climate-related displacement. In its General Comment on the right to social security, the UN Committee on Economic, Social and Cultural Rights notes that states should pay particular attention to ensuring that social security systems are in a position to respond in emergencies, for instance during and after natural disasters¹⁷. The UN Committee on the Rights of the Child expressly called on states to introduce social security measures and social protection floors which provide protection from environmental disasters and slow-onset harms, such as those caused by climate change¹⁸.

Intersectional requirements for climate adaptation measures

The human rights obligations of states to adapt to climate change must also be understood from an intersectional perspective. This acknowledges that different forms of disadvantage, including gender, social background, age or disability, can overlap and reinforce each other. The impacts of climate change do not affect individuals in isolation on the basis of a single protected characteristic. Instead people are often affected by the intersection of multiple dimensions, such as gender, age, disability, poverty, ethnic identity or residence status. The interactions between different dimensions can intensify existing inequalities and lead to the violation of multiple human rights.

Several UN human rights committees have stressed that state climate policies and adaptation measures must take these intersectional vulnerabilities into account. The UN Committee on the Elimination of Discrimination against Women highlights the fact that climate change and disasters aggravate existing gender inequalities and measures should therefore be designed in accordance with the principles of substantive equality and non-discrimination.

In addition, particular account should be taken, for example, of the needs of older women¹⁹, as was made clear by the ECtHR's *KlimaSeniorinnen* judgment²⁰. In this case the complainants incorporated the intersection of age and gender-related vulnerability into a legal claim to invoke Switzerland's duty to protect. This intersectional perspective took into account the fact that it was the interaction of gender and age that led to the complainants being "disproportionately affected by heat-related morbidity and mortality"²¹.

Human-rights-based climate adaptation thus requires not only formal equal treatment but substantive equality which specifically addresses structural disadvantages. States have an obligation to systematically account for intersectional risks, effectively involve affected groups in decision-making processes and ensure that adaptation measures do not reproduce or exacerbate existing discrimination.

- 1 ECtHR (Grand Chamber), *Verein Klima-Seniorinnen Schweiz and Others v. Switzerland*, No. 53600/20, 09.04.2024 (ECtHR, *Klima-Seniorinnen v. Switzerland*), para. 418.
- 2 UN Human Rights Council (2024), Resolution adopted by the Human Rights Council on 10 July 2024, Human rights and climate change, UN Doc. A/HRC/RES/56/8; UN Committee on the Rights of the Child (2023), General comment No. 26 on children's rights and the environment, with a special focus on climate change, UN Doc. CRC/C/GC/26 (UN Committee on the Rights of the Child (2023)); UN Committee on the Elimination of Discrimination against Women (2018), General recommendation No. 37 gender-related dimensions of disaster risk reduction in the context of climate change, UN Doc. CEDAW/C/GC/37 (UN Committee on the Elimination of Discrimination against Women (2018)).
- 3 ECtHR, *KlimaSeniorinnen v. Switzerland*, paras. 538, 552 and 555.
- 4 International Court of Justice, *Obligations of States in Respect of Climate Change*, Advisory Opinion, 23.07.2025 (ICJ, *Advisory Opinion Climate Change*), paras. 384–386.
- 5 ECtHR, *KlimaSeniorinnen v. Switzerland*, para. 552.
- 6 ECtHR, *KlimaSeniorinnen v. Switzerland*, para. 553; ICJ, *Advisory Opinion Climate Change*, paras. 372–386, 387 in conjunction with the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 25.06.1998 (Aarhus Convention).
- 7 Art. 4 UNFCCC; Arts. 9, 10 and 11 Paris Agreement.
- 8 ECtHR, *Budayeva and Others v. Russia*, Nos. 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02, 20.03.2008; UN Human Rights Committee (2019), General comment No. 36 on Article 6: right to life, UN Doc. CCPR/C/GC/36 (UN Human Rights Committee (2019)).
- 9 UN Human Rights Committee (2019), General comment No. 36 on Article 6: right to life, UN Doc. CCPR/C/GC/36, para. 62; UN Human Rights Committee (2019), Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2751/2016, *Portillo Cáceres v. Paraguay*, No. 2751/2016, UN Doc. CCPR/C/126/D/2751/2016, 25.7.2019.
- 10 UN Committee on Economic, Social and Cultural Rights (2000), General comment No. 14 on the right to the highest attainable standard of health (Art. 12), UN Doc. E/C.12/2000/4 (UN Committee on Economic, Social and Cultural Rights (2000)); UN Committee on Economic, Social and Cultural Rights (2018), *Climate Change and the International Covenant on Economic, Social and Cultural Rights*. Statement by the Committee on Economic, Social and Cultural Rights, UN Doc. E/C.12/2018/1 (UN Committee on Economic, Social and Cultural Rights (2018)).
- 11 UN Committee on the Elimination of Discrimination against Women (2018); UN Committee on the Rights of the Child (2023); UN Committee on Economic, Social and Cultural Rights (2000).

- 12 UN Committee on the Rights of the Child (2013), General comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health (Art. 24), UN Doc. CRC/C/GC/15 (UN Committee on the Rights of the Child (2013)), para. 50.
- 13 UN Committee on Economic, Social and Cultural Rights (2002), General comment No. 15 on the right to water, UN Doc. E/C.12/2002/11; UN Committee on Economic, Social and Cultural Rights (2000); see also UN Committee on the Rights of the Child (2013).
- 14 UN Committee on Economic, Social and Cultural Rights (2018) in conjunction with the UN Committee on Economic, Social and Cultural Rights (1999), General comment No. 12 on the right to adequate food (Article 11 of the International Covenant on Economic, Social and Cultural Rights), UN Doc. E/C.12/1999/5 (UN Committee on Economic, Social and Cultural Rights (1999)).
- 15 UN Committee on Economic, Social and Cultural Rights (1999); see also UN Committee on Economic, Social and Cultural Rights (2009), General comment No. 16 on State obligations in the context of business activities, UN Doc. E/C.12/GC/24, paras. 20–23; UN Committee on the Rights of the Child (2013), paras. 48–50.
- 16 UN Committee on Economic, Social and Cultural Rights (1991), General comment No. 4 on the right to adequate housing, UN Doc. E/1992/23, para. 8(d); UN Committee on Economic, Social and Cultural Rights (1997), General comment No. 7 on forced evictions, UN Doc. E/1998/22, paras. 13–16, in conjunction with UN Committee on Economic, Social and Cultural Rights (2018).
- 17 UN Committee on Economic, Social and Cultural Rights (2008), General comment No. 19 on the right to social security (Art. 9), UN Doc. E/C.12/GC/19, para. 50.
- 18 UN Committee on the Rights of the Child (2023), para. 47.
- 19 UN Committee on the Elimination of Discrimination against Women (2018), esp. paras. 2 and 4.
- 20 ECtHR, *KlimaSeniorinnen v. Switzerland*.
- 21 Sußner, Petra (2023), *Intersektionalität als Strategie: Der Fall KlimaSeniorinnen v. Switzerland*, in: *Zeitschrift des deutschen Juristinnenbundes*, 2023/2, own translation.

**A human-rights-based
approach to loss and damage**

The right to effective remedies

Duty of international cooperation

Right to social security

The right to social security¹ is the right when necessary to claim benefits which facilitate a stable and adequate standard of living. It includes access to and receipt of monetary and non-monetary benefits without discrimination to ensure protection from hardship.

Climate change poses particular challenges to this right because it intensifies poverty and inequality. Low-income households and people on low incomes, who often bear the least responsibility for the climate crisis, are particularly affected². Climate-related extreme events can lead to greater unemployment, loss of income and poverty, as well as weakening social protection systems. Vulnerable people are especially at risk. The Office of the United Nations High Commissioner for Human Rights notes, for example, that climate change disrupts social protection systems and essential healthcare services, which can have serious consequences for people with disabilities³.

1 Arts. 12 and 41 FC Art. 9 ICESCR, Art. 5 ICERD, Art. 11 CEDAW, Art. 26 UNCRC, Art. 28 UN CRPD.

2 UN Human Rights Council (2025), *Weathering the storm: poverty, climate change and social protection*. Report of the Special Rapporteur on extreme poverty and human rights, Olivier De Schutter, UN Doc A/HRC/59/51.

3 UN Human Rights Council (2020), *Analytical study on the promotion and protection of the rights of persons with disabilities in the context of climate change*, Report of the Office of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/44/30, para. 9.

A human-rights-based approach to loss and damage

Alongside climate mitigation and adaptation, there is a third dimension to addressing climate change: how to deal with climate-related loss and damage¹. For example, in its General Comment No. 26, the UN Committee on the Rights of the Child calls on states to take note that, “from a human rights perspective, loss and damage are closely related to the right to remedy and the principle of reparations, including restitution, compensation and rehabilitation”².

Loss and damage in the sense of Article 8 of the Paris Agreement describes harms associated with the adverse effects of climate change which arise or cannot be prevented, despite mitigation and adaptation measures. It includes both irreversible damage, such as the loss of land, livelihoods or cultural identity, and reparable damage to infrastructure or buildings and also crop failures. These climate-related adverse effects particularly impact the people who have contributed the least to climate change and they endanger human rights such as the right to life, health and an adequate standard of living. They give rise to individual human rights obligations for states in addressing climate-change-related loss and damage³.

Human rights entail an obligation on the part of states to take measures to prevent human rights violations associated with climate change and to establish effective guarantees that such violations will not be repeated. At the same time, human rights demand that reparations be made for damage which arises due to climate change. This includes ensuring that all those affected have full access to the courts and to effective legal remedies⁴.

The UN Committee on the Rights of the Child and the Office of the High Commissioner for Human Rights (OHCHR) noted that the obligations of states in relation to climate change and other environmental damage cover all rights holders and damage that occurs both within and beyond the borders of their territory⁵. In relation to private actors, the Committee on the Rights of the Child affirmed that states have an obligation “to address any harm and climate change-related risks to children’s rights in the context of business enterprises’ extraterritorial activities and operations ... and [to] enable access to effective remedies for rights violations”⁶.

The right to effective remedies

In terms of international human rights protection, effective remedies means equal and effective access to justice; fair court rulings which are enforced; adequate, effective and swift compensation of the damage suffered in the form of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition; and access to information about rights violations and compensation mechanisms in a comprehensible form⁷.

The right to effective remedies for loss and damage is a fundamental principle of international human rights law. The UN Secretary General’s recent report to the UN Human Rights Council states that this right also applies to human rights violations relating to loss and damage from climate change⁸. This means that people who suffer loss and damage due to the adverse effects of climate change have the right to access effective legal remedies⁹.

Duty of international cooperation

Several UN bodies have emphasised the duty of states to cooperate internationally and, in relation to climate change, to take the polluter pays principle into account and to support poorer countries where possible¹⁰. The ICJ also refers in its Advisory Opinion on climate change to international cooperation as a pressing legal obligation in international law¹¹. As a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR)¹², Switzerland is committed to taking steps individually and through international assistance and cooperation to achieve the full realisation of the rights recognised in the Covenant.

Several UN human rights bodies have confirmed that states are legally obliged to work together to develop global measures to address the climate-related loss and damage suffered by the countries that are most at risk. The UN Committee on the Rights of the Child stresses that states should undertake measures, including through international cooperation, to provide financial and technical assistance to address loss and damage¹³.

At the 28th session of the Conference of the Parties to the UN Framework Convention on Climate Change (COP) in 2023 the new Fund for responding to Loss and Damage was established to provide the most vulnerable countries with support in addressing climate-related damage and the first steps were taken towards its implementation¹⁴. However, the pledges made to date only cover a fraction of the estimated annual costs of loss and damage¹⁵. The latest Universal Periodic Review of human rights in Switzerland included recommendations on supporting the operationalisation of the fund and providing new and additional resources for climate loss and damage¹⁶.

- 1 UN Committee on the Rights of the Child (2023), General comment No. 26 on children's rights and the environment, with a special focus on climate change, UN Doc. CRC/C/GC/26 (UN Committee on the Rights of the Child (2023)), para. 106.
- 2 UN Committee on the Rights of the Child (2023) paras. 104–106.
- 3 Toussaint, Patrick / Martínez Blanco, Adrian (2020), A human rights-based approach to loss and damage under the climate regime, in: *Climate Policy* 20, 748; UN Human Rights Council (2024), Analytical study on the impact of loss and damage from the adverse effects of climate change on the full enjoyment of human rights, exploring equity-based approaches and solutions to addressing the same: Report of the Secretary-General, UN Doc. A/HRC/57/30 (UN Human Rights Council (2024)), para. 16.
- 4 UN Human Rights Council (2024), paras. 18–20.
- 5 UN Committee on Economic, Social and Cultural Rights (2018), Climate change and the International Covenant on Economic, Social and Cultural Rights. Statement of the Committee on Economic, Social and Cultural Rights, 31.10.2028, UN Doc. E/C.12/2018/1, para. 5; Human Rights Council (2016), Analytical study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health Report of the Office of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/32/23, para. 38.
- 6 UN Committee on the Rights of the Child (2023), para. 108.
- 7 Shelton, Dinah (2006), Human Rights, Remedies, in: Wolfrum, Rüdiger (ed.), *Max Planck Encyclopedias of International Law*, <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1738> (accessed 19.01.2026).
- 8 UN Human Rights Council (2024), para. 17.
- 9 UN Human Rights Council (2024), paras. 45ff.
- 10 See also, e.g. UN Committee on Economic, Social and Cultural Rights (1991), General comment No. 3 (Art. 2, para. 1, of the Covenant), UN Doc. E/1991/23, para. 14; UN Committee on Economic, Social and Cultural Rights (2023), General comment No. 26 on land and economic, social and cultural rights, UN Doc. E/C.12/GC/26, para. 58.
- 11 International Court of Justice, *Obligations of States in Respect of Climate Change*, Advisory Opinion, 23.07.2025, paras. 302 and 308.
- 12 International Covenant on Economic, Social and Cultural Rights of 16.12.1966.
- 13 UN Committee on the Rights of the Child (2023), para. 106.

- 14 Conference of the Parties (2024), Report of the Conference of the Parties on its twenty-eighth session, held in the United Arab Emirates from 30 November to 13 December 2023, Addendum, Part two: Action taken by the Conference of the Parties at its twenty-eighth session, UN Doc. FCCC/CP/2023/11/Add.1.
- 15 UN Human Rights Council (2024), para. 25.
- 16 UN Human Rights Council (2023), UPR of Switzerland (4th Cycle—42nd Session), Thematic List of Recommendations, Recommendations 39.185 and 39.186.

Right to information and participation

Access to justice

Right to private and family life

Climate change is a threat to the right to private and family life¹ because it profoundly disrupts people's daily lives and personal safety. Extreme weather events, heatwaves, flooding and air pollution all adversely affect health, housing and quality of life and force many people to abandon their familiar surroundings. These impacts are not just a threat to physical integrity, they also pose risks to social and family life.

In its Advisory Opinion on climate change the International Court of Justice also concludes that the adverse effects of climate change impact the right to private and family life and that failure to implement timely and appropriate adaptation measures may be a violation of this right².

Right to property

The right to property³ is threatened when, for instance, property is damaged or destroyed by extreme weather.

The UN Committee on Economic, Social and Cultural Rights highlights in its General Comment No. 26 how sea level rise, land degradation, desertification and increasingly frequent extreme weather events such as droughts and flooding due to climate change severely affect the availability and usability of land. This poses risks to property and land-use rights, especially those of farmers, fishers and Indigenous Peoples⁴.

1 Arts. 13 and Art. 10 para. 2 FC; Art. 12 UDHR; Art. 17 ICCPR; Art. 16 UNCRC; Art. 22 UN CRPD; Art. 8 ECHR.

2 International Court of Justice, *Obligations of States in Respect of Climate Change*, Advisory Opinion, 23.07.2025, para. 381.

3 Art. 26 FC; Art. 5(b) ICERD; Art. 16 para. 1(h) CEDAW; Art. 12 para. 5 UN CRPD.

4 UN Committee on Economic, Social and Cultural Rights (2023), *General comment No. 26 on land and economic, social and cultural rights*, UN Doc. E/C.12/GC/26, paras. 56–58.

Climate measures are only consistent with human rights principles if they are designed in such a way as to guarantee information and participation rights and the principles of transparency and the rule of law¹. It must also be possible for climate measures to be reviewed by a court to assess both their effectiveness and any possible subjective effects on the rights of those concerned. Procedural rights are therefore just as fundamental as material guarantees in the context of climate change.

International environmental treaties which guarantee access to information, public participation in decision-making and access to justice thus provide the key international legal framework for procedural rights in the context of climate change. Of particular relevance here is the Aarhus Convention². Both the ECtHR and the ICJ make reference to the importance of the Aarhus Convention in the context of climate change³.

The first pillar of the Aarhus Convention requires Switzerland to make environmental information available to the public and to ensure effective access to this information (Arts. 4 and 5). In the *KlimaSeniorinnen* judgment the ECtHR ruled that the health dimension of the right to private and family life (Art. 8 ECHR) obliges states to provide comprehensive, up-to-date and understandable information about the state of the climate, as well as about existing and anticipated climate risks and climate protection measures. Further, states must guarantee effective access to this information⁴.

The public must have transparent and accessible ways of assessing the risks to which they are exposed as a result of climate change⁵. Timely and effective access to the relevant information must be guaranteed for everyone affected, especially those who may be directly impacted by climate-related regulations or measures or the absence of these, so that their informed participation in decision-making processes is ensured⁶. In the environmental context, the environmental impact assessment (EIA) is of great importance⁷. The EIA report and results are public (Art. 10d EPA) and provide the people with information about a planned project's environmental impacts, including climate-related impacts⁸.

The right to access information is closely connected to the right to participation⁹. All population groups, with particular attention to women, children and people with disabilities, must be equitably and effectively involved in decision-making processes about the environment¹⁰. Their participation is not only a democratic principle, it is a prerequisite for the legitimacy and effectiveness of state measures. Adaptation policies that are based on local knowledge and the experiences of the people affected are generally fairer and more sustainable¹¹. To meet these requirements, the usual political participation processes, such as popular initiatives and referendums, must be complemented by developing and applying participatory formats which facilitate effective participation by different groups.

The human rights framework also covers access to a fair trial and effective legal remedies. States have an obligation to establish independent and impartial complaint and redress mechanisms to protect people whose rights are violated due to the impacts of climate change or as a result of inadequate or discriminatory adaptation measures. In this sense the ICJ also notes in its Advisory Opinion on climate change that the due diligence required of states may include political and programmatic measures but also necessitates legal, administrative and institutional structures to ensure states comply with their obligations¹². In the *KlimaSeniorinnen* judgment the ECtHR also explains that domestic courts must carefully examine legal measures to address climate change, assessing them on the basis of the latest scientific knowledge¹³.

From a procedural law perspective, the fact that everyone is affected by climate change, albeit not to the same extent, presents a considerable problem. Added to this is the challenge that future generations will have to live with the real impacts of climate change and will have to bear a significant proportion of the costs of climate mitigation and adaptation measures, but themselves have no access to justice at this point in time.

The ECtHR sought to address these challenges in its *KlimaSeniorinnen* judgment by recognising, under certain conditions, the right of associations to institute legal proceedings¹⁴. Against the background of climate change as a common concern of humanity and given the global and intergenerational dimension of climate change, organisations can play an important role in representing the interests of particularly affected or under-represented groups¹⁵. According to the jurisprudence of the Court in the *KlimaSeniorinnen* judgment, an association has standing to lodge an application if it is lawfully established, has the purpose of protecting the human rights of its members or other affected individuals and is adequately qualified and representative to act on behalf of persons affected by the adverse effects of climate change¹⁶. The fact that the Court was prepared, in relation to climate change, to grant standing to associations but not to their individual members, indicates how challenging it is to assign legal standing in the context of climate change¹⁷.

In *Greenpeace Nordic and Others v. Norway* the Court made it clear that associations can also have the right to bring an application, even if they do not have any members, provided they can demonstrate that they are acting in the interests of the general public and future generations¹⁸. For Switzerland and the other states parties to the ECHR, it follows that authorities and courts must guarantee access to effective complaint and redress mechanisms to associations dedicated to the protection of human rights in relation to climate change¹⁹ (Art. 46 ECHR).

- 1 ECtHR (Grand Chamber), Verein KlimaSeniorinnen Schweiz and Others v. Switzerland, No. 53600/20, 09.04.2024 (ECtHR, KlimaSeniorinnen v. Switzerland), para. 553; International Court of Justice, Obligations of States in Respect of Climate Change, Advisory Opinion (ICJ, Advisory Opinion Climate Change), paras. 372–386, 387.
- 2 Convention of 25 June 1998 on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).
- 3 ECtHR, Greenpeace Nordic and Others v. Norway, Nos. 34068/21, 28.10.2025 (ECtHR, Greenpeace Nordic v. Norway), para. 295 and ECtHR, KlimaSeniorinnen, paras. 538 and 554; ICJ, Advisory Opinion Climate Change, para. 130.
- 4 ECtHR, KlimaSeniorinnen v. Switzerland, para. 538f. See also, ECtHR, Greenpeace Nordic v. Norway para. 295.
- 5 ECtHR, KlimaSeniorinnen v. Switzerland, para. 539d.
- 6 ECtHR, KlimaSeniorinnen v. Switzerland, para. 554a.
- 7 An environmental impact assessment (EIA) is a process to assess whether a planned project may have significant impacts on the environment (Art. 10a ff. EPA). An EIA is usually undertaken as part of the process of applying for a building permit.
- 8 ECtHR, Greenpeace Nordic v. Norway, paras. 318 and 319, 335.
- 9 Arts. 6–8 Aarhus Convention.
- 10 ICJ, Advisory Opinion Climate Change, paras. 130 and 383, paras. 553–554.
- 11 See also IPCC (2022), Summary for Policymakers, in: Pörtner, Hans-Otto / Roberts, Debra C. / Poloczanska, Elvira S./Mintenbeck, Katja / Tignor, Melinda M.B. / Alegría, Andrés / Craig, Marlies / Langsdorf, Stefanie / Löschke, Sina / Möller, Vincent / Okem, Andrew (eds.), Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change. Cambridge University Press: Cambridge / New York.
- 12 ICJ, Advisory Opinion Climate Change, para. 347.
- 13 ECtHR, Advisory Opinion Climate Change, paras. 616 and 633.
- 14 ECtHR, Advisory Opinion Climate Change, paras. 489–502.
- 15 ECtHR, Advisory Opinion Climate Change, paras. 489 and 499.
- 16 ECtHR, Advisory Opinion Climate Change, para. 502.
- 17 ECtHR, Advisory Opinion Climate Change, paras. 494–501.
- 18 ECtHR, Greenpeace Nordic v. Norway, para. 309.
- 19 See also Federal Office of Justice (Bundesamt für Justiz), Urteil des Europäischen Gerichtshofs für Menschenrechte in der Sache Verein KlimaSeniorinnen Schweiz und andere gegen die Schweiz vom 9. April 2024, Rechtliche Analyse (15.05.2024), p. 6.

**Human rights defenders
under pressure**

**Violation of human rights
in the course of the climate
transformation**

**The financial costs of the
climate transformation**

**Equality of rights
and protection from
discrimination**

Whether internationally, nationally or locally, the consequences of climate change do not affect people in the same way. Vulnerable groups are especially affected, including those living in poverty, children, people who are sick, older people, people with disabilities, women and people who work in sectors particularly impacted by climate change. If they do not receive the necessary protection through targeted adaptation and mitigation measures, the right to equality and to protection from discrimination¹ may be violated.

In its General Recommendation No. 37 on gender-related dimensions of disaster risk reduction in a changing climate, the Committee on the Elimination of Discrimination against Women stated that climate change mitigation and adaptation measures should be designed and implemented in accordance with the human rights principles of substantive equality and non-discrimination².

1 Art. 8 para. 2 FC; Art. 2 para. 2 UNCRC;
Arts. 5 CRPD; Art. 2 ICERD; Art. 2 CEDAW.

2 UN Committee on the Elimination of Discrimination
against Women (2018), General recommendation
No. 37 on the gender-related dimensions of disaster
risk reduction in the context of climate change,
UN Doc. CEDAW/C/GC/37, para. 14.

Risks to human rights from climate measures

Measures that are intended to deliver climate mitigation and adaptation can themselves impair the fundamental rights of third parties or lead to subsequent restrictions of human rights. These consequences must therefore also be taken into account¹.

Human rights defenders under pressure

Human rights defenders who take peaceful action individually or collectively to protect human rights in the context of climate change also come under pressure. Worldwide, commitment to climate protection has, in fact, become a dangerous endeavour in many places. According to the organisation Global Witness, between 2012 and 2024 a total of 2,253 land, environment and climate defenders were killed or disappeared².

In response to the continued worsening of climate change, in recent years the climate movement in Switzerland has increasingly focused on civil disobedience and non-violent protest. This has resulted in intensive criminal prosecution of climate activists by the Swiss justice system, with many people being convicted of coercion, trespass and other criminal offences. This raises fundamental human rights questions, especially with regard to freedom of assembly and freedom of expression and protection from disproportionate state interference in political participation³.

A further threat is posed by intimidation lawsuits, known as SLAPPs (strategic litigation against public participation). These seek to deter human rights defenders, NGOs and journalists from public participation. An example in the context of climate action is the case brought against Greenpeace by the company Energy Transfer, in which a US state court sentenced Greenpeace to pay hundreds of millions of dollars (*Energy Transfer v. Greenpeace*)⁴.

Violation of human rights in the course of the climate transformation

Overcoming climate change—climate transformation—requires moving away from fossil fuel energy production and towards the extensive development and expansion of sustainable sources of energy. However, the extraction of critical raw materials, such as lithium, manganese and cobalt, which are essential for the transformation of energy production and come primarily from the Global South, is associated with significant risks to human rights. For example, in areas where these materials are extracted, there may be an impact on access to water, the health and safety of workers may be at risk and there may be attacks against human rights defenders⁵. Similarly, the cultivation of bio-fuel crops can put food security at risk and lead to land grabs and associated human rights violations against local communities⁶. In addition, large energy projects often lack the necessary consent of affected communities which violates their participation rights⁷.

In its General Comment No. 26⁸ the UN Committee on Economic, Social and Cultural Rights also points out that large-scale climate mitigation and adaptation measures, such as renewable energy projects, can affect land-use and property rights. At the same time, access to information and meaningful consultation with those affected by such projects and the free, prior and informed consent of Indigenous Peoples must be respected⁹. Accordingly, in 2021 the Norwegian Supreme Court¹⁰ ruled retrospectively as illegal the construction of a wind power plant in a traditional Indigenous Sámi area, because the construction of the wind farm posed a threat to the Sámi way of life¹¹. The Swiss energy company BKW and the financial institution Credit Suisse were involved in the construction project¹².

The financial costs of the climate transformation

It is also relevant to note that, if measures are designed with inadequate consideration of the impact on society, the costs of the energy transition may place an unacceptable strain on the already precarious situation of low-income households and may also risk violating their social rights.

At the same time, high investment in climate mitigation ties up public funds. Particularly in states with limited budget leeway, this may reduce their ability to finance the necessary adaptation measures. A human-rights-based climate policy therefore requires a careful balancing process, to ensure that both emissions-reducing and adaptation measures are adequately funded and the burdens of the transformation are shared in a way that is socially equitable.

- 1 Donald, Megan (2022), *The Human Rights Impacts of Climate Change Mitigation and Adaptation Measures*, Berlin: Deutsches Institut für Menschenrechte (Donald (2022)).
- 2 Global Witness (2025), <https://globalwitness.org/en/campaigns/land-and-environmental-defenders/in-numbers-lethal-attacks-against-defenders-since-2012/> (accessed 27.10.2025).
- 3 In January 2024 five UN special rapporteurs wrote a joint letter to Switzerland expressing their concern about the criminal prosecution of demonstrators in relation to peaceful climate protests in Zurich in 2020 and 2021 (letter available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublic-CommunicationFile?gld=28705>, accessed: 16.12.2025). See also Bluwstein, Jevgeniy / Demay, Clémence / Benoit, Lucie (2023), *Ziviler Ungehorsam und Klimaprozesse in der Schweiz – Worum wird an den Schweizer Gerichten gekämpft?* Bern: humanrights.ch.
- 4 Eckes, Christina / Paiement, Phillip (2025), *Silencing Greenpeace. Can the EU prevent the chilling effect on democracy from crossing the Atlantic?*, in: *VerfBlog*, 2025/3/31, <https://verfassungsblog.de/greenpeace-slapp-energy-transfer/> (accessed 15.12.2025).
- 5 Business and Human Rights Resource Center (2025), *Transition Minerals Tracker: Global Analysis of Human Rights Policies and Practices*, p. 30; Donald (2022), pp. 28ff.
- 6 Donald (2022), p. 29.
- 7 Donald (2022), pp. 25ff.
- 8 UN Committee on Economic, Social and Cultural Rights (2023), *General comment No. 26 on land and economic, social and cultural rights*, UN Doc. E/C.12/GC/26 (UN Committee on Economic, Social and Cultural Rights (2023)), paras. 1.2 and 56ff.
- 9 UN Committee on Economic, Social and Cultural Rights (2023), paras. 16ff.
- 10 Supreme Court of Norway, *Statnett SF et al. v. Sør-Fosen* s. 1, HR-2021-1975-S, judgment of 11.10.2021.
- 11 Strömngren, Johan / Nystuen, Gro / Wille, Petter (2021), *Human Rights protection against interference in traditional Sami Areas*, Oslo: Norwegian Human Rights Institution.
- 12 Kaufmann, Bruno, *Historisches Urteil – Indigene Sami gewinnen Rechtsstreit um Windkraft-Park*, in: SRF 11.10.2021.

The right to a clean, healthy and sustainable environment

Worsening environmental pollution sparked an international debate about whether and how a right to a clean, healthy and sustainable environment should be recognised as a human right. This culminated in 2022 when the UN General Assembly passed a resolution unanimously with eight abstentions recognising this right as a universal human right¹. Prior to the Assembly, Switzerland had worked with a small group of states to promote the recognition of this right. For as it was expressed by the Swiss Government: “A healthy environment is a prerequisite for the enjoyment of human rights”². The right to a healthy environment is also guaranteed in regional human rights systems³.

In Switzerland, Article 74 of the Constitution states that the Confederation must legislate to protect the population and the natural environment from damage or nuisance. However, a human-rights entitlement to a healthy environment cannot be derived from this provision. Instead, it grants the Confederation comprehensive legislative powers and at the same time obliges it to enact appropriate legislation⁴. This is despite the fact that Karl Oftinger, in the preparatory work for the Constitution’s article on environmental protection, maintained that everyone should have a fundamental right to peace and quiet, clean air and safe water⁵. Furthermore, the latest Universal Periodic Review of human rights in Switzerland contained recommendations to “strengthen legislation to protect and promote the right to a clean, healthy and sustainable environment” and to “incorporate at the constitutional and legal levels the human right to a clean, healthy and sustainable environment”⁶. Incidentally, in contrast to the Federal Constitution, the cantonal constitution of Geneva includes a fundamental right to a healthy environment (Art. 19 CC Geneva)⁷.

The Parliamentary Assembly of the Council of Europe has called on the Committee of Ministers of the European Council to pass a binding legal instrument on a separate right to a healthy environment, possibly as an additional protocol to the ECHR⁸. In March 2024, the European Network of National Human Rights Institutions, of which the SHRI is an associate member, also called on the Council of Europe⁹ to adopt a binding instrument on the right to a healthy environment. Such a right would introduce and define new human rights standards to address the link between climate protection and human rights.

Another approach is to advocate for the “greening” of human rights. This refers to the process whereby already established and codified human rights standards are further developed to substantiate an understanding of climate protection as a component of the obligations of states to protect human rights. In its Advisory Opinion on climate change of July 2025, the ICJ notes that, “the right to a clean, healthy and sustainable environment results from the interdependence between human rights and the protection of the environment”¹⁰. It goes on to state that this right to protection is an essential condition for the enjoyment of *all* human rights¹¹.

- 1 UN General Assembly (2022), The human right to a clean, healthy and sustainable environment, Resolution 76/300, UN Doc. A/RES/76/300.
- 2 Swiss Federal Department of Foreign Affairs, Switzerland's contribution to recognising the right to a clean, healthy and sustainable environment, 28.07.2022, <https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-89824.html> (accessed 13.01.2026).
- 3 Art. 24 of the African Charter on Human and People's Rights; Art. 11 para. 1 of the Protocol of San Salvador to the American Convention on Human Rights, and the Inter-American Court of Human Rights (2017), Advisory Opinion OC-23/17 of November 15, 2017, requested by the Republic of Colombia, The environment and human rights.
- 4 Griffel, Alain (2023), Umweltrecht in a Nutshell, 3rd edition, Zurich / St. Gallen: DIKE, p. 12.
- 5 Karl Oftinger, quoted in: Binder / J. (1970), Immissionschutz, Zeitschrift für Präventivmedizin 15, p. 210.
- 6 UN Human Rights Council (2023), UPR of Switzerland (4th Cycle—42nd Session), Thematic List of Recommendations, Recommendations 39.194 and 39.184.
- 7 See also Kopp, Judith (2025), Das Recht auf gesunde Umwelt im Kanton Genf, in: Knöpfel, Laura (ed.), Kantone als Labore für Menschenrechte, Fribourg: Swiss Human Rights Institution.
- 8 Parliamentary Assembly of the Council of Europe (2021), Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe, Resolution 2396 (2021).
- 9 European Network on National Human Rights Institutions (ENNHRI) (2024), ENNHRI calls on Council of Europe Member States to adopt a binding instrument on the right to a healthy environment, https://ennhri.org/wp-content/uploads/2024/03/ENNHRI-Statement_CDDH-ENV-March-2024.pdf (accessed 25.07.2025).
- 10 International Court of Justice, Obligations of States in Respect of Climate Change, Advisory Opinion, 23.07.2025 (ICJ, Advisory Opinion Climate Change), para. 393.
- 11 ICJ, Advisory Opinion Climate Change, para. 393.

Climate change presents human rights protection with a historic stress test. It poses an acute threat to fundamental legally protected rights such as the rights to life, health, water and housing and the right to private and family life. In particular, it represents a threat to people in the Global South and to vulnerable groups. This study shows that climate change is not to be seen as an abstract environmental problem, but as a specific danger to the human rights of current and future generations. Climate change thus has its place in the history of large-scale human-made crises which have often led to the further development of human rights.

International and national courts and UN human rights bodies now clearly recognise these human rights dimensions. An effective response to climate change requires both an ambitious reduction in emissions (necessitating reduction pathways that are consistent with the best available scientific knowledge and the target of restricting warming to 1.5° C) and a comprehensive adaptation to the already unavoidable consequences of climate change. States must take measures to protect and support those who are already suffering the consequences of climate change or are at particular risk. These obligations must be met based on the best available scientific knowledge and must take into particular account the needs of vulnerable groups.

With regard to loss and damage, human rights also impose an obligation on states to prevent human rights violations, to create guarantees that such violations will not be repeated and to ensure that damage is compensated. At the same time, climate change highlights the structural limits of traditional ways of thinking about human rights. On the one hand, the causes and effects of climate change are spatially separated, with those responsible and those affected often being in different parts of the world. On the other hand, the causes and effects are also often separated in time and a human rights perspective means taking into account the rights of future generations.

In addition, private actors also have to bear responsibility for human rights in the context of climate change, as demonstrated in this study. The future development of human rights protection must therefore include extraterritorial obligations, an increased focus on the regulation of private actors and consideration of the rights of future generations.

Similarly, the analysis shows that climate measures can themselves contain risks to human rights, for instance through changes in land use, interference with political rights or a socially inequitable distribution of the costs. The measures needed to overcome climate change are thus only legitimate and sustainable if they are implemented in ways that are human-rights-based, fair and inclusive. Transparent processes, participation and access to justice form the indispensable procedural framework for this.

For Switzerland, this results in a clear remit: climate policy is human and fundamental rights policy. It must be designed to be ambitious, coherent and based on science. It must protect those who are most severely affected by the consequences and also ensure that the burdens of the transformation are fairly distributed. This includes holding private emitters accountable and strengthening international cooperation in relation to human rights obligations.

This study is intended to drive further clarification and strengthening of the human rights dimension of climate mitigation and adaptation. It demonstrates that effective, just and sustainable climate protection without human rights is inconceivable and, conversely, that human rights cannot be guaranteed without effective climate protection.

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Since the KlimaSeniorinnen judgment of the European Court of Human Rights in April 2024, the issue of climate and human rights has gained greater relevance in Switzerland and therefore also for the Swiss Human Rights Institution (SHRI). The SHRI has analysed this groundbreaking judgment and the obligations for Switzerland that arise from it. The SHRI has also supported the implementation process of the judgment by providing opinions to the Committee of Ministers of the Council of Europe.

In order to systematically categorise Swiss climate policy and legislation as part of human and fundamental rights policy, the SHRI also participates in legislative processes at cantonal level by submitting consultation responses and points out the substantive and procedural obligations that arise from human rights.

The SHRI also sees its work on the issue of climate and human rights as part of its remit to explain and communicate the role of international institutions in protecting human rights. The responses within Switzerland to the KlimaSeniorinnen judgment have shown that there is a particular need for this in the context of climate and human rights.

The issue of climate change and human rights is embedded in the SHRI's priority topic "Outsourcing of responsibility for human rights". Through this priority topic the SHRI analyses who has responsibility for human rights in complex contexts such as climate change and how human rights in Switzerland and worldwide can be protected from cross-border violations.

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