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Mandate of the Special Rapporteur on the promotion and protection of human rights in the context of climate change

Verein KlimaSeniorinnen Schweiz v Switzerland

Submission under Rule 9.2 of the Rules of the Committee of Ministers regarding the supervision of the execution of judgments and of terms of friendly settlements in relation to*Verein KlimaSeniorinnen Schweiz v Switzerland* (53600/20) by the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Prof. Elisa Morgera (the Special Rapporteur)

The Special Rapporteur respectfully provide the following written observations, as a submission under Rule 9.2 of the Rules of the Committee of Ministers regarding the supervision of the execution of judgments and of terms of friendly settlements in relation to*Verein KlimaSeniorinnen Schweiz v Switzerland* (53600/20).

The Special Rapporteur is part of "[t]he system of Special Procedures" that "is a central element of the United Nations human rights machinery and covers all human rights: civil, cultural, economic, political, and social."[1] They serve as an independent human rights expert selected for their "(a) expertise; (b) experience in the field of the mandate; (c) independence; (d) impartiality; (e) personal integrity; and (f) objectivity."[2] They "undertake to uphold independence, efficiency, competence and integrity through probity, impartiality, honesty and good faith" and "not receive financial remuneration." [3]

In the performance of their mandates, the Special Rapporteurs are considered as experts on mission for the United Nations, within the meaning of Articles VI and VII of the Convention on the Privileges and Immunities of the United Nations, adopted by the United Nations. General Assembly on 13 February 1946. In accordance with Article VI, Section 22, as experts on mission for the United Nations, the Special Rapporteurs enjoy such privileges and immunities as are necessary for the independent exercise of their functions, including in respect of words spoken or written and acts done by them in the course of the performance of their missions, immunity from legal process of every kind.

This submission is made voluntarily without prejudice to, and should not be considered as a waiver, express or implied, of the privileges and immunities of the United Nations, its officials and experts on mission, pursuant to the 1946 Convention on the Privileges and Immunities of the United Nations.

Authorization for the position and views expressed by the Special Rapporteur, in full accordance with the independence afforded to her mandate, was neither sought nor

[1] Office of the High Commissioner for Human Rights ("OHCHR"), *Special Procedures of the Human Rights Council*, https://www.ohchr.org/en/hrbodies/sp/pages/introduction.aspx
[2] Human Rights Council, Institution-building of the United Nations Human Rights Council, A/HRC/RES/5/1 (June 18, 2007), https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/5/1
[3] OHCHR, *Special Procedures of the Human Rights Council.*

given by the United Nations, the United Nations Human Rights Council, the Office of the United Nations High Commissioner for Human Rights, or any of the officials associated with those bodies.

The submission is in relation to:

1) Climate change mitigation adequate to effectively protect human rights;
2) Climate change adaptation adequate to effectively protect human rights;
3) Access to information on and public participation.

I. Introduction

In its judgment in *Verein KlimaSeniorinnen Schweiz v Switzerland* (53600/20), the Grand Chamber of the European Court of Human Rights took a fundamental step in the protection of human rights against the adverse impacts of climate change.

As my mandate communicated earlier this year,[4] the Court's judgment is a historic breakthrough at the European and global levels. The Court's ruling underscores the importance of each State doing its fair share to reduce greenhouse gas (GHG) emissions, based on the global reductions needed to prevent ongoing and worsening human rights violations — particularly for groups in vulnerable situations, such as older women, who face distinct and disproportionate harm to their health and private lives from heatwaves.

The recent heatwaves in Europe and the evidence of climate change multiplying heat-related fatalities[5] could not provide a more powerful background for this important stage of the implementation process related to the judgment in *Verein KlimaSeniorinnen Schweiz v Switzerland.* This is also a crucial opportunity for all States party to the European Convention on Human Rights to learn from this process for the purposes of ensuring the adequacy of their own climate action and effective protection of human rights.

To that end, my mandate commended[6] the decision of the Committee of Ministers of the Council of Europe of March 2025, for confirming the paramount importance of public access to information to ensure the protection of all human rights in the context of climate change. As clarified in my 2024 report to the UN General Assembly (A/79/176), States must inform the public about the measures that are prioritised, the risks associated with the timing of emission reductions and the mitigation technologies relied upon, and any information that would enable the public to take action to prevent or mitigate harm to human health. In particular, I welcomed the specific questions from the Committee on the methodology for quantifying national greenhouse gas emission limitations according to the best available science and any national monitoring mechanism. It is indeed in the context of methodologies and underlying assumptions that one can understand whether all the relevant considerations arising from international and European Convention human rights obligations are taken into account and whether effective approaches have been devised to ensure compliance with these obligations.

The following sections will offer reflections and questions that should be relied upon in analysing the new submission by Switzerland to ensure its compliance with the *KlimaSeniorinnen* judgment and maximizing opportunities for all States party to the European Convention to learn and benefit from this process.

II. Mitigation

[4] https://www.ohchr.org/en/press-releases/2025/04/un-experts-urge-switzerland-and-other-states-step-climate-action-one-year.
[5] https://www.theguardian.com/environment/2025/jul/09/europe-june-heatwave-study-climate-breakdown-tripled-death-toll.
[6] https://www.ohchr.org/en/press-releases/2025/04/un-experts-urge-switzerland-and-other-states-step-climate-action-one-year.

The *KlimaSeniorinnen* judgment clarified the following State obligations in relation to the mitigation of climate change, to:

- "adopt, and to effectively apply in practice, regulations and measures capable of mitigating the existing and potentially irreversible, future effects of climate change" (§545);
- lay down in a binding and effective regulatory framework a target timeline for achieving carbon neutrality, the overall remaining carbon budget for the same time frame or an equivalent method of quantification of future GHG emissions, as well as intermediate GHG emissions reduction targets and pathways (§549-550(a-b));
- provide evidence of compliance, keep reduction targets updated with due diligence and based on the best available science, and act in good time and in an appropriate and consistent manner when devising and implementing the relevant legislation and measures (§550(c-e)).

A key question at this stage of the implementation process is whether Switzerland has appropriately quantified the limitations on its national GHG emissions, "through a carbon budget or otherwise" (§570 and 573) on the basis of the remaining global carbon budget vis-à-vis the 1.5ºC global average temperature limit, in accordance with:

- the common but differentiated responsibilities and relevant capabilities (CBDR-RC) principle, equity, historical responsibility as well as highest possible ambition as key principles under the UN Framework Convention on Climate Change (UNFCCC) and the Paris Agreement – all of which has human rights implications domestically and extraterritorially;
- and in accordance with applicable human rights obligations.

It seems helpful to recall, in this context, that the Court found that reliance on its Nationally Determined Contribution (NDC) is not sufficient to show that an appropriate quantification of emission reductions has been put in place (§571). Equally, the calculation should not be tokenistic, such as calculating cumulative emissions on the basis of existing targets that have been found insufficient to protect human rights. The implication is that States' net-zero date and interim targets and pathways *must be clearly based* on appropriate quantification.

It should also be recalled that the Committee on the Rights of the Child, in its General Comment No. 26 (2023), indicated that mitigation measures should reflect each State party's fair share of the global effort to mitigate climate change, in the light of the total reductions necessary to protect against continuing and worsening violations of children's rights.[7]

Based on the Court's findings, the following questions should be raised with a view to ascertaining whether the State has quantified GHG emission reductions on the basis of the remaining global carbon budget and with the collective action required to restrict global warming to 1.5ºC to prevent catastrophic human rights impacts:

1. Has the national carbon budget been calculated in relation to the global carbon budget for 1.5ºC, and which scientific sources have been relied upon to this end?

[7] A/HRC/56/46, paras 19-26.

2. If the State relied on an "equivalent method of quantification", how does this achieve the same objectives as setting targets in line with a national carbon budget – thereby ensuring alignment with restricting global temperature increase to 1.5°C?
3. How have the principles of equity and common but differentiated responsibilities and respective capabilities, and relevant human rights obligations, informed the States' quantification?
    a. How has the State avoided a disproportionate burden on children and future generations?
    b. How has the State sought to prevent foreseeable transboundary harm and human rights of individuals and groups located outside the State's territory that can be directly attributed to activities or private companies under its jurisdiction or control?
4. How has the State taken into account its historical responsibility as well as highest possible ambition in its assessment of "fair share" or other methodology?
    a. Has the State identified high-emission sectors (eg, agriculture, transport, finance) and prioritized them among proposed mitigation actions to ensure urgent, economy-wide absolute emission reductions?
    b. Has the State discontinued subsidies to public or private actors for investments in activities and infrastructure that are inconsistent with low GHG emission pathways, notably fossil fuels?[8]
    c. Has the State relied on untested or speculative technologies, such as geo-engineering, and has it taken into account concerns raised by UN human rights experts that these technologies act as a deterrent to emission reductions and may have negative impacts on the environment and on human rights?
    d. Has the State relied on carbon credits, and has it taken into account the concerns raised by UN human rights experts about their unproven contributions to climate change mitigation, inaccurate calculations of emission reductions actually achieved or likely to be achieved, and associated human rights harms in third countries?
5. How has the State considered embedded emissions?[9]
6. Is the existing legal framework sufficient and clear to comply with the State's due diligence to take all necessary measures, including administrative procedures and enforcement mechanisms, to prevent foreseeable human rights harm from climate change and to exercise adequate vigilance to ensure that such measures function efficiently, according to its capabilities and available resources?[10]

III. Adaptation

The Rapporteur welcomed the European Court's recognition of adaptation measures as part of effective protection under Article 8 in the *Klimaseniorinnen* case, to alleviate the most severe or imminent consequences of climate change, taking into account any relevant particular needs for protection of various groups in society that experience heightened levels of vulnerability and need special care and protection from the authorities.[11]

[8] A/HRC/59/42.
[9] *KlimaSeniorinnen Schweiz and Others v. Switzerland*, para 287; discussed in A/HRC/56/46, para.18.
[10] A/HRC/56/46.
[11] *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland,* paras 410 and 552.

It is worth recalling that the Human Rights Committee clarified that any lack, delay or inadequacy in climate change adaptation is a violation of human rights when the ability of human rights-holders to cope is compromised and negative impacts on their human rights are foreseeable, serious and attributable to State authorities.[12]

Based on multiple UN sources on human rights and climate change that clarified how States should give due consideration to intersectionality in the context of climate change adaptation, the following questions should be raised with a view to ascertaining whether the State has:

- implemented national adaptation plans that address both extreme weather disasters and slow-onset events, as well as both short-term and long-term impacts, by building or upgrading climate-resilient infrastructure;
- avoided discrimination in the design and implementation of adaptation policies and measures, taking into account groups at heightened risk and facing multiple grounds of discrimination or vulnerabilities (eg children with disabilities, older women), by selecting actions and approaches that do not hinder the enjoyment of human rights of persons in vulnerable situations;
- ensured that adaptation actions do not reduce the vulnerability of one group at the expense of others, future generations or the environment;
- developed disaster risk reduction and management strategies, early warning systems and emergency response plans that are inclusive of, and accessible to, children, older persons, persons with disabilities, women, migrants and other human rights holders at heightened risk;
- provided social protection mechanisms to reduce vulnerability to climate-related disasters and stresses, enabling people to become more resilient;
- ensured that emergency information, education, infrastructures and services are inclusive and accessible to children, persons with disabilities, older persons, migrants, women, and other human rights holders at heightened risk;
- provided for building the capacity of climate adaptation experts, planners, care providers and aid workers regarding the requirements and capacities of children, persons with disabilities, older persons, migrants, women, and other human rights holders at heightened risk;
- conducted needs and risk assessments on climate change and mental health,[13] and provided for timely access to high-quality, rights-based support that is responsive to the particular needs of persons affected by climate change and integrated into existing primary, general health and social care services;
- included, in consultation with affected people, improved climate resilience of housing and climate-disaster preparedness;
- generally assessed foreseeable negative impacts on human rights, notably disproportionately affected human rights holders, on an ongoing basis, by gathering, analysing and sharing disaggregated data according to gender, age and disabilities and supporting community-led research.[14]

[12] CCPR/C/135/D/3624/2019.

[13] UN Special Rapporteur on Climate Change and Human Rights, Policy Brief - Climate Change, Mental Health and Human Rights (2024), https://www.ohchr.org/en/documents/policy-briefs/policy-brief-climate-change-mental-health-and-human-rights

[14] A/HRC/56/46; A/HRC/44/30; CRC/C/GC/26; A/74/161; A/HRC/52/28; A/HRC/44/48; A/HRC/31/30; A/79/176.

It would be essential to ask how the latest science on the nexus between climate change and health, including mental health,[15] is being taken into account in adaptation policy and measures with a view to protecting the "right for individuals to effective protection by the State authorities from the serious adverse effects of climate change on their lives, health, well-being and quality of life" under Article 8 ECHR.[16] In other words, research at the intersection of climate change and health provides clear indications of foreseeable negative impacts that can and must be prevented as part of State due diligence under Article 8 ECHR in the area of climate change adaptation.

Finally, the State's efforts to advance climate change adaptation need to take into account relevant science on the inter-related planetary crisis –biodiversity loss, toxic pollution and economic inequalities. Accordingly, any assessment and proposed adaptation action must take an integral approach with a view to clarifying "the extent to which an action reduces vulnerabilities and climate-related risks, increase resilience and avoids maladaptation" [17] to ensure the protection of all inter-related life-supporting systems on which present and future generations rely upon.[18]

IV. Procedural requirements

The Special Rapporteur on Climate Change and Human Rights underscored that it is critical, for the effectiveness of all climate action, to recognize – on the same level as technical expertise – and to respectfully and genuinely integrate the lived experiences and distinctive knowledge of the human rights holders in situations of vulnerability as agents of change.[19]

To that end, the following questions should be raised with a view to ascertaining whether the State has:

- establishing systems to ensure timely access to high-quality, trustworthy, evidenced-based and accessible information on climate change and human rights to ensure that public authorities at all levels understand the foreseeability and preventability of negative human rights impacts of climate change and response measures and make holistic, effective and inclusive decisions to mitigate and adapt to climate change;
- establishing systems to ensure that the public is informed about the magnitude of actual and potential negative human rights risks and impacts of climate change and response measures, and about the adequacy of States' and

[15] Imperial Grantham Institute on Climate Change. The impact of climate change on mental health and emotional wellbeing: current evidence and implications for policy and practice. May 2021: https://www.imperial.ac.uk/grantham/publications/all-publications/the-impact-of-climate-change-on-mental-health-and-emotional-wellbeing-current-evidence-and-implications-for-policy-and-practice.php Monsour et al. The impact of climate change on the prevalence of mental illness symptoms. *Journal of Affective Disorders*. 2022; 300:430-440, doi:10.1016/j.jad.2021.12.124; World Health Organization, 2022. Mental Health and Climate Change: Policy Brief, https://www.who.int/publications/i/item/9789240045125; Liu et al. Is there an association between hot weather and poor mental health outcomes? A systematic review and meta-analysis. *Environment International*. 2021;153:106533. doi:10.1016/j.envint.2021.106533; Coffey et al. Understanding Eco-anxiety: A Systematic Scoping Review of Current Literature and Identified Knowledge Gaps. *The Journal of Climate Change and Health*. 2021; 3:100047. doi:10.1016/j.joclim.2021.100047.

[16] *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland,* paras 519 and 544.

17 IPCC, 2022: Summary for Policymakers, pp. 3–33, doi:10.1017/9781009325844.001, pg. 7.

[18] https://www.ohchr.org/en/press-releases/2025/07/un-experts-hail-landmark-inter-american-court-opinion-states-extensive.

[19] A/HRC/56/46, para 76.

businesses' responses to effectively protect and respect human rights in the context of climate change;

- integrated information systems on climate change sources and effects, including on biodiversity and ecosystem services, weather and natural disaster patterns, as well as on impacts on human health, mobility, labour, social, economic and cultural rights, and the right to a clean, healthy and sustainable environment, in terrestrial, freshwater and marine contexts;
- carried out a participatory process with meaningful representation of the human rights holders who are disproportionately affected by climate change for the design, implementation and monitoring of mitigation and adaptation measures;
- established surveillance systems that integrate health outcomes (including mental health) and climate and weather information, and develop and testing early detection and warning systems, in collaboration with affected human rights holders;
- identified and addressed barriers to access to information and effective participation of marginalized women and girls, children, older persons, persons with disabilities and other disproportionality affected human rights holders;
- ensured public participation, notably by representatives of most affected human rights holders, in the continuous monitoring, evaluation and learning (MEL) of climate action conducted by independent and impartial bodies, with safeguards against conflicts of interests; and
- mandated a national monitoring mechanism or other independent MEL process to gather, analyse and share disaggregated data on the human rights impacts of climate change and climate response measures, according to gender, age and disabilities.[20]

Respectfully submitted on 21 July 2025

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[20] A/HRC/55/56.