

Courtrooms: a growing arena in the climate fight

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The European Court of Human Rights (ECHR) heard in September 2023 a case brought by six Portuguese youths accusing governments of moving too slowly to counter climate change.

The battle against climate change is increasingly being fought in the courtroom, as national governments, specific laws and individual companies are targeted over their role in the crisis—sometimes

successfully.

On Tuesday, the European Court of Human Rights ruled that Switzerland was not doing enough to tackle [climate change](#), its first such ruling against a state on the subject, after a women's association mounted a legal challenge.

Here is some key background and analyst commentary on climate lawsuits around the world:

An explosion of lawsuits

The number of court cases linked to climate change doubled between 2017 and 2022, according to the UN Environment Programme and Columbia University's Sabin Center for Climate Change Law.

There were more than 2,500 cases lodged worldwide as of mid-December, the Sabin Center said in its [annual report](#), with more than 1,600 in the United States.

Of the cases worldwide, 135 were brought in developing countries, including so-called Small Island Developing States—far-flung nations whose land is some of the most at-risk from climate change.

"Why is climate litigation still growing? Because the climate crisis is increasing in its intensity, its immediacy," Michael Burger, executive director of the Sabin Center, told AFP.

"And because government and corporate action is inadequate to meet the moment," he added.

The number of cases being filed appears to have slowed over the past year, though it is still too early to tell for sure, according to the latest

report from the Grantham Research Institute on Climate Change in London.

Effectiveness

Climate change litigation has affected the "outcome and ambition of climate governance", experts from the UN's Intergovernmental Panel on Climate Change (IPCC) wrote in a report last year, adding that successful cases also serve as a form of external pressure on governments.

Urgenda, an [environmental organization](#) in the Netherlands, notched a notable win at the Dutch Supreme Court in 2019, with justices ordering the government to reduce its [greenhouse gas emissions](#) by 25 percent by the end of the following year.

Government policies "that are explicitly linked to the case" were subsequently introduced, said Catherine Higham, a Grantham Research Institute policy fellow.

Litigation 'cuts both ways'

But a number of high-profile cases have been unsuccessful, and those seeking a greener future are not the only ones filing lawsuits: high-emitting companies are starting to file suits against climate-friendly laws they oppose.

"Litigation cuts both ways," Higham said.

"Those that benefit from the status quo will do what they can to preserve their benefits, and that will include going to court," added Burger.

Additionally, activists can find themselves in the crosshairs of suits linked to disruptive protests, though "judges have generally taken the climate crisis" as well as the role of civil disobedience "into consideration in sentencing", according to a report from the UN Environment Programme.

Companies targeted

In addition to governments, companies themselves can also be the target of lawsuits, with litigants pressing for both compensation and a change in corporate behavior.

In another historic Dutch decision, Shell was ordered in 2021 to reduce its CO₂ emissions by 45 percent by 2023, a decision the oil major is appealing.

A new strategy employed by climate change activists is to target "greenwashing", accusing companies or organizations of deceptive practices that conceal their true environmental footprint.

FIFA is among those that have been accused of the practice.

Stronger data

Scientists are increasingly able to establish the links between climate change and individual extreme weather events, as well as the role of specific high-emitting industries, from oil extraction to mining to cement production, in climate change—data that is often used in lawsuits.

A county in the northwestern US state of Oregon filed suit in June against several international oil majors, seeking \$51 billion in damages

after a deadly "heat dome" blanketed the northwest of the country in 2021.

Human rights

Human rights also take center stage in some cases, often concerning people's rights to health and well-being or to a clean environment.

These sorts of arguments are often made in cases before international tribunals, like the ECHR.

Non-binding, but influential

Even when decisions are non-binding, they can influence government attitudes and policies worldwide.

Activists are currently awaiting advisory opinions from the International Court of Justice and the International Tribunal for the Law of the Sea on the obligations of individual states in climate matters.

"Although such opinions are non-binding, they have great potential to shape the future development of climate change law," according to the Grantham Research Institute.

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