**Other International Cases**

Youth Suing Government

# CENTRAL CASES

# **Urgenda Foundation v. Kingdom of the Netherlands (2013)**

In one of the most successful and inspiring strategic climate litigations to date, the Urgenda Foundation took the Dutch government to court on behalf of nearly 900 Dutch citizens, claiming that the government breached its duty of care by failing to set sufficient emission reduction targets.[[1]](#footnote-1) The first instance court ruled in 2015 that the government had failed to uphold its duty of care and should devise a plan to achieve reductions in greenhouse gases (“GHGs”) of at least 25% by 2020 compared to 1990 levels. The government appealed the judgment in September 2015, despite the fact that it agreed to work with Urgenda to reduce the country’s overall emissions.[[2]](#footnote-2) In October 2018, the Hague Court of Appeal [confirmed](https://www.rechtspraak.nl/Organisatie-en-contact/Organisatie/Gerechtshoven/Gerechtshof-Den-Haag/Nieuws/Paginas/State-must-achieve-higher-reduction-in-greenhouse-gas-emissions-in-short-term.aspx) this groundbreaking decision issued in 2015, meaning that the Dutch government must increase its climate ambition and reduce emissions to protect the rights of its citizens.[[3]](#footnote-3) On 16 November 2018,  the government announced its intention to appeal the Hague Court of Appeal’s judgment.[[4]](#footnote-4)

# **Juliana et al. v. U.S. (2015)**

Back in 2015, 21 young people and a climate scientist, as self-named guardian of future generations, sued the U.S. federal government and president for violating their constitutional rights to life, liberty and equal protection as well as their public trust rights to vital natural resources. American environmental non-profits Our Children’s Trust (OCT) and Earth Guardians supported the lawsuit, which claims that the government’s failure to act is a direct and purposeful infringement on the rights of the young plaintiffs.[[5]](#footnote-5) In 2016, Justice Ann Aiken of the District Court of Oregon allowed the case, stating that “Federal courts too often have been cautious and overly deferential in the arena of environmental law, and the world has suffered for it.”[[6]](#footnote-6) Both the Obama and Trump administrations have sought to block the suit, and though the case has been cleared to advance by the Supreme Court, part of a stay requested by the Trump administration was granted on 8 November 2018. However, trial preparations are still going on. This landmark case is rapidly developing; visit Our Children’s Trust [website](https://www.ourchildrenstrust.org/us/federal-lawsuit/) for the latest updates.[[7]](#footnote-7)

**NOTE:** OCT has also brought at least eight state-level lawsuits (all led by youth plaintiffs)[[8]](#footnote-8) and supports climate change lawsuits by young people in almost every U.S. state[[9]](#footnote-9) and at least 12 countries around the world.[[10]](#footnote-10)

# OTHER RELEVANT CASES

# **Klimaatzaak v. Kingdom of Belgium (2015)**

Inspired by the Urgenda victory, a group of Belgian citizens brought their own Klimaatzaak, which means “climate case”. They are suing both Belgium’s regional and federal governments for failing to reduce greenhouse gas emissions to 40% below 1990 levels by 2020 and 87.5% below 1990 levels by 2050.[[11]](#footnote-11) The case has over 9,000 citizens listed as co-plaintiffs. After three years of delays due to procedural and language challenges, as of 20 April 2018, the highest court rejected the government’s language challenge: the plaintiffs were allowed to move forward with a written exchange of arguments, which will take place until the end of 2019.[[12]](#footnote-12)

# **Greenpeace Nordic and Nature and Youth v. Norway (The People vs. Arctic Oil) (2016)**

Greenpeace Nordic and Norwegian youth group Nature and Youth sued the Norwegian government for granting new oil and gas exploration licenses in the Barents Sea, arguing that the government breached the Constitution’s right to a healthy environment, and thus to a stable climate, for present and future generations.[[13]](#footnote-13) The lawsuit focused on licenses the government granted after it signed and ratified the Paris Agreement. In January 2018, the Oslo District Court recognized that there is a constitutional right to a healthy environment, but found that the government did not violate any of the relevant rights in making the licensing decision. Greenpeace and Nature and Youth appealed the decision in February 2018 and the appeal will be heard at the Court of appeal at the end of 2019.[[14]](#footnote-14)

# **Klimaseniorinnen v Switzerland(Senior Swiss Women for Climate Protection) (2016)**

In a first case of its kind in Switzerland, an initial group of almost 500 elderly women (now over 1,000) sued the Swiss government over its alleged failure to take adequate measures to combat climate change.[[15]](#footnote-15) They claim that the Swiss authorities are failing to fulfill their duty to protect them from climate change as required by the Swiss Constitution and by the European Convention on Human Rights. As older women, they are particularly vulnerable to climate change impacts, especially due to the increase in heatwaves. On 25 April, 2017, the Swiss Federal Department of the Environment, Transport, Energy and Communications (DETEC) denied the Senior Women’s request. The Klimaseniorinnen appealed at the Federal Administrative Court on 26 May 2017, the case is still pending at the time of writing.

# **Friends of the Irish Environment CLG v Ireland (Climate Case Ireland) (2017)**

In line with other efforts above, Friends of the Irish Environment is suing the Irish government for its climate inaction. They allege that the government’s approval of the National Mitigation Plan (2017) is a violation of their constitutional and human rights and insufficient to achieve the Paris Agreement goals.[[16]](#footnote-16) The UN Special Rapporteur on the Right to a Healthy Environment, David Boyd, submitted an expert statement on human rights obligations related to climate change (with a particular focus on the right to life) in support of the case, stating that the Irish government has “clear, positive, and enforceable obligations to protect against the infringement of human rights by climate change. It must reduce emissions as rapidly as possible, applying the maximum available resources”.[[17]](#footnote-17)

# **Sarah Thomson v Minister of Climate Change (New Zealand) (2015)**

Law student Sarah Thompson filed a lawsuit in 2015 against the Minister of Climate Change Issues, claiming that the Minister had failed to review its climate targets after the UN's Intergovernmental Panel on Climate Change (IPCC) released its Fifth Assessment Report in 2013. She also alleged that the government’s greenhouse gas targets were "unreasonable and irrational" given the seriousness of climate change.[[18]](#footnote-18) On 2 November 2017, the court found that the former minister should have carried out a review of the reduction targets based on the latest available science, in that case the Fifth Assessment Report of the IPCC. Before the decision from the court, an election in 2017 saw a new government which campaigned on eliminating all greenhouse gas emissions by 2050. Although the question was mooted when a new government was elected, the court made a decision of historic interest and reviewed the previous government’s targets. The judgment also noted that the “IPCC reports provide a factual basis on which decisions can be made.”

# **Peña and others v Government of Colombia (2018)**

Twenty-five young people, with the support of [Dejusticia](https://www.dejusticia.org/en/climate-change-colombia-lawsuit/), [sued](https://www.dejusticia.org/wp-content/uploads/2018/01/TutelaCambioClim%C3%A1tico.pdf?x54537&x54537&x54537&x54537) the Colombian government for failing to honor its commitment to tackle climate change.[[19]](#footnote-19) In a historic win in April 2018, Colombia’s Supreme Court of Justice [found](https://www.dejusticia.org/wp-content/uploads/2018/01/Fallo-Corte-Suprema-de-Justicia-Litigio-Cambio-Clim%C3%A1tico.pdf?x54537) the Colombian government liable for not halting the increasing deforestation of the Amazon forest, thereby increasing the average temperature in the country and threatening young people’s rights to life, health, food, water and a healthy environment.[[20]](#footnote-20) The Supreme Court gave two main orders: to build a short, medium and long-term Action Plan to stop deforestation within a four-month period, and to create an Intergenerational Pact for the Life of the Colombian Amazon within a five-month period. The decision is also groundbreaking because it recognized that the Amazon Basin is “a subject of rights”. This is the first climate case where a river basin is recognized as a legitimate rightholder whose interest can be represented in a court of law.

# USEFUL RESOURCES

* **The Sabin Center at Columbia Law School** tracks US and international climate change litigations at <http://climatecasechart.com>
* **Track 0** is a non-profit tracking countries’ compliance with climate change goals. See more at <http://track0.org/about/track-0s-mission>
* The London School of Economics’ **Grantham Research Institute on Climate Change** and the Environment, in collaboration with the Sabin Center, tracks global climate change legislation and litigation at <http://www.lse.ac.uk/GranthamInstitute/climate-change-laws-of-the-world>

1. *Urgenda Foundation v Netherlands* [2015] District Court of the Hague. Online: <[http://www.lse.ac.uk/GranthamInstitute/litigation/urgenda-foundation-v-kingdom-of-the-netherlands-district-court-of-the-hague-2015](http://www.lse.ac.uk/GranthamInstitute/litigation/urgenda-foundation-v-kingdom-of-the-netherlands-district-court-of-the-hague-2015/)> [↑](#footnote-ref-1)
2. *Id.*  [↑](#footnote-ref-2)
3. ##  *The state of the Netherlands v Urgenda Foundation*, [2018] ECLI:NL:GHDHA:2018:2610

C/09/456689/ HA ZA 13-1396 (“2018 decision”) [↑](#footnote-ref-3)
4. *Urgenda, “16 November 2018 - Dutch government fights obligations to act on climate change”, https://www.urgenda.nl/en/themas/climate-case/* [↑](#footnote-ref-4)
5. In their complaint, the Plaintiff’s lawyers write that “[The defendants] have known of the unusually dangerous risks of harm to human life, liberty, and property that would be caused by continued fossil fuel burning [...] [and] have willfully ignored this impending harm. By their exercise of sovereign authority over our country’s atmosphere and fossil fuel resources, they permitted, encouraged, and otherwise enabled continued exploitation, production, and combustion of fossil fuels, and so, by and through their aggregate actions and omissions, Defendants deliberately allowed atmospheric CO2 concentrations to escalate to levels unprecedented in human history, resulting in a dangerous destabilizing climate system for our country and these Plaintiffs.” For the full statement, see: <https://static1.squarespace.com/static/571d109b04426270152febe0/t/57a35ac5ebbd1ac03847eece/1470323398409/YouthAmendedComplaintAgainstUS.pdf> at page 52. [↑](#footnote-ref-5)
6. *Juliana et al. v United States of America et al*. [2016] F Supp (Fed Cir OR). Online: <[https://static1.squarespace.com/static/571d109b04426270152febe0/t/5824e85e6a49638292ddd1c9/1478813795912/Order+MTD.Aiken.pdf](https://static1.squarespace.com/static/571d109b04426270152febe0/t/5824e85e6a49638292ddd1c9/1478813795912/Order%2BMTD.Aiken.pdf)> [↑](#footnote-ref-6)
7. Umair Irfan, “A major climate change lawsuit is on hold. Again.” Vox News (November 8 2018) <<https://www.vox.com/2018/11/2/18029146/climate-change-lawsuit-children-scotus-supreme-court-juliana>> [↑](#footnote-ref-7)
8. Our Children’s Trust, “Pending State Actions”, <<https://www.ourchildrenstrust.org/pending-state-actions>> [↑](#footnote-ref-8)
9. Our Children’s Trust, “Other Proceedings in all 50 States”, <[https://www.ourchildrenstrust.org/other-proceedings-in-all-50-states](https://www.ourchildrenstrust.org/other-proceedings-in-all-50-states/)> [↑](#footnote-ref-9)
10. Our Children’s Trust, « Global Legal Actions », <[https://www.ourchildrenstrust.org/global-legal-actions](https://www.ourchildrenstrust.org/global-legal-actions/)> [↑](#footnote-ref-10)
11. L’Affaire Climat, <https://affaire-climat.be/> [↑](#footnote-ref-11)
12. L’Affaire Climat, https://affaire-climat.be/fr/the-case [↑](#footnote-ref-12)
13. *The People vs. Artic Oil*, <https://www.peoplevsoil.org/en/peoplevsarcticoil/> [↑](#footnote-ref-13)
14. « Greenpeace and Nature and Youth take the Norwegian Government to the Supreme Court », Greenpeace International (February 5 2018) <<https://www.greenpeace.org/international/press-release/14527/greenpeace-and-nature-and-youth-take-the-norwegian-government-to-the-supreme-court>> [↑](#footnote-ref-14)
15. “Grandmothers sue Switzerland in climate complaint”, Swissinfo.ch (October 25 2016) <<https://www.swissinfo.ch/eng/global-warming_grandmothers-sue-switzerland-in-climate-complaint/42544428>> [↑](#footnote-ref-15)
16. Aodhan O'Faolain, “Government’s plan to combat climate change flawed, High Court told”, The Irish Times (October 23 2017) <<https://www.irishtimes.com/news/crime-and-law/courts/high-court/government-s-plan-to-combat-climate-change-flawed-high-court-told-1.3266389>> [↑](#footnote-ref-16)
17. UN Special Rapporteur on Human Rights and Environment, (25 October 2018) “Statement on the human rights obligations related to climate change, with a particular focus on the right to life”, <https://www.ohchr.org/Documents/Issues/Environment/FriendsIrishEnvironment25Oct2018.pdf> [↑](#footnote-ref-17)
18. Jamie Morton, “Climate case: The student vs the minister”, The New Zealand Herald (May 24 2017) <https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11862450> [↑](#footnote-ref-18)
19. Camila Bustos, “Why we are demanding the Colombian government halt deforestation”, Thomson Reuters Foundation News (January 31 2018) <[http://news.trust.org/item/20180131154445-v7m2l](http://news.trust.org/item/20180131154445-v7m2l/)> [↑](#footnote-ref-19)
20. Dejusticia: law, justice, society. “In historic ruling, Colombian Court protects youth suing the national government for failing to curb deforestation” 5 April 2018, available at <https://www.dejusticia.org/en/en-fallo-historico-corte-suprema-concede-tutela-de-cambio-climatico-y-generaciones-futuras/> [↑](#footnote-ref-20)