

Answers by SE

I Qualitative questions

1. How has judicial decision-making on climate change issues evolved in your country over the last decade?

Climate related issues focusing on the use of renewable energy and wise management of natural resources have been more commonly addressed in cases concerning permits for environmentally hazardous activities in recent years. Climate litigation in a strict sense is still unheard of in Swedish courts. According to the Environmental Code the code shall always be applied in a way that promotes sustainable development and the national environmental objectives, of which "Reduced Climate Impact" is one. These aspects are nowadays referred to more often.

2. Before which type of courts is this type of litigation brought and by which type of plaintiffs?

To this date no pure "climate cases" have been brought to Swedish courts. Aurora (a youth ENGO focusing on how to force the state to act powerfully against climate change) is currently preparing a law suit against the Swedish government. Their aim being to explore the state's legal obligation to act in order to mitigate the consequences of climate crisis and to establish a connection between climate issues and human rights. The closer contents of the coming law suit remains to be seen.

In a recent case concerning extraction of natural gas, the permit application was denied on climate based grounds by the Land and Environment Court in Nacka. The court took off from the purpose of the Environmental Code which is to promote sustainable development and which recognizes a responsibility for wise management of natural resources. The court also applied the national environmental objective "Reduced climate impact" adopted by the Swedish Parliament. In its judgement the court concluded that a permit for extraction of natural gas would in fact mean a permit for discharge of greenhouse gases. As a permit would be in conflict with the purpose of the Environmental Code and the environmental objective to reduce climate impact, the activity of extracting natural gas could not be permitted. At this point it remains to be seen whether this judgement will be appealed or not.

3. What are the opportunities to this type of litigation in your country?

Climate issues may be brought up within any permit procedure in a land and environment court. It is also possible for a private individual and ENGOs, as well as in the form of class action, to bring action against a person who pursues or has pursued an environmentally hazardous activity without permission, for prohibition of further activity or for the taking of protective measures or other precautions. A case regarding the states responsibility to live up to the Paris agreement and/or the European Convention of Human Rights would have to be sued as an ordinary civil case in a general court.

4. What are the challenges to this type of litigation in your country?

That remains to be seen.

5. What is the average length of proceedings (including on appeal and cassation)?

A permit procedure (environmentally hazardous activities) as well as cases concerning prohibition och damages will take approximately 12 months in a land and environment court. Large and

complicated cases may take a lot longer. The judgement by the court may then be appealed, which could easily add another year-year and a half to the proceedings.

6. Which type of remedies are being ordered by the courts? What are the arguments for not ordering such remedies?

No cases related strictly to climate issues have been tried in Sweden. A prohibition case may naturally lead to the issuing of a prohibition of further activities or some kind of protective measures. Within a permit case a permit may be denied or the court may address climate related issues by imposing conditions regarding e.g. the use of raw materials and energy.

7. Do the courts have powers to ensure and follow-up the enforcement of judgements in climate cases? Are there specific difficulties in this regard?

Courts do not deal with enforcement. As climate cases have not occurred, no specific difficulties have yet been identified.

8. What are the most useful norms, legal principles or practices available to judges to ensure effective climate action by governments and businesses?

As no climate cases have been tried we do not have any experience in these matters. Any answer to this question would be purely theoretical.

I **II. Case identification and data collection**

COMMENT: We don't have any cases to add.

There are two connected databases tracking climate litigation across the world:

- Climate Change Laws of the World maintained by the Grantham Research Institute at the London School of Economics - covers national-level climate legislation and policies globally, and climate litigation outside the US; and
- Climate Change Litigation, maintained by the Sabin Center at Columbia University - contains climate litigation in the US and outside the US.

In this survey, we would appreciate if you could *please identify climate litigation cases from your country that might be currently missing from these databases.*

To fall within the scope of the databases, cases must satisfy two key criteria:

- i (i) Cases must generally be brought before judicial bodies (though in some exemplary instances matters brought before administrative or investigatory bodies are also included)
- ii (ii) Climate change law, policy, or science must be a material issue of law or fact in the case. Cases that make only a passing reference to climate change, but do not address climate-relevant laws, policies, or actions in a meaningful way are not included.

If there are any cases missing, please provide information following this general format:

XX (Side A) v. YY (Side B)

Case number (if available)

Names of the plaintiffs and defendants, including the type (governments, corporations and/or individuals)

Filing Date

Status (whether the case is pending or decided)

Jurisdiction (court or tribunal before which the case was filed)

Principal Laws (the primary laws invoked in the case)

Summary (relevant dates, parties, court; the legal reasoning from plaintiffs, defendants, or for court decisions; what is specifically being asked for; what the remedies are; whether the decision is being appealed; whether the decision has been implemented)