

Following the recent wave of exits from the highly controversial Energy Charter Treaty, the 5 young climate victims are withdrawing their complaint with the ECHR

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In June 2022, five young people affected by climate disasters filed a [lawsuit](#) with the European Court of Human Rights (ECHR) against 12 European states (Austria, Belgium, Cyprus, Denmark, France, Germany, Greece, Luxembourg, Netherlands, Sweden, Switzerland and the United Kingdom) for allowing the Energy Charter Treaty (ECT) to hinder their transition away from fossil fuels. The complaint, which has not yet been examined by the ECHR, has already had a big impact by highlighting the detrimental effects of the ECT and the mobilization against it, prompting decision-makers to act.

Ten countries (out of which 5 - France, Germany, Luxembourg, the Netherlands and the UK - targeted in the complaint) have officially notified their withdrawal from the ECT and others have announced their intention to withdraw. In light of the [progress achieved](#), the plaintiffs have decided to withdraw their complaint. Nevertheless they reserve the right to take new legal action against states that do not withdraw from the ECT or other climate-damaging investment protection treaties.

About the lawsuit

Five young people hit by climate disasters had filed in June 2022 a lawsuit with the European Court of Human Rights (ECHR) against 12 European states for allowing a highly controversial treaty to impede their transition away from fossil fuels. The treaty, known as the Energy Charter Treaty (ECT), which protects foreign investments in fossil fuels by means of private arbitration, is widely regarded, including by the [IPCC](#), as a major obstacle to climate mitigation action threatening the future of generations to come.

The case was based on an ambitious reading of the European Convention on Human Rights, enshrining a positive obligation for states to fight climate change. This interpretation was validated by the European Court of Human Rights in its recent decision on the Swiss GrandMa case, the first climate litigation. Substantively, this decision is very positive as the ECHR establishes a direct link between human rights and climate change.

Where do we stand ?

This complaint has not yet been examined by the ECHR. However, it has already had a tangible impact by shedding the light on the detrimental impacts of the ECT and the mobilization against it and encouraging decision-makers to take action. This was

notably the case with the French parliamentarians who referred the matter to the [High Council on Climate](#) which found that the ECT, even in its modernized version, is incompatible with the EU's and France's climate commitments.

Thanks to this action and all the other initiatives of the [campaign](#) against the ECT, many victories have already been achieved.

- 10 countries have officially notified their withdrawal from the ECT (France, Germany, Poland, Luxembourg, Slovenia, Portugal, Spain, the United Kingdom, the Netherlands and the EU).

- Others have announced their intention to do so (notably Denmark and Ireland).

- [Switzerland](#), which remains in favor of modernization, indicated in November 2023 that it might consider withdrawing if many states leave the ECT.

As a result, the treaty is very weakened. And we have good reasons to hope that new withdrawals will occur faster, especially for the remaining EU countries, and by the end-of-year the annual ECT conference where the approval of the modernization will be discussed.

Is it over ?

The climate litigation risks have not disappeared entirely, as evidenced by the numerous [cases](#) initiated since 2022. This is why **further steps should be taken :**

- Ensuring that all remaining EU member states (Austria, Belgium, Bulgaria, Cyprus, Croatia, Estonia, Finland, Greece, Latvia, Lithuania, Malta, Czech Republic, Romania, Slovakia, Hungary, Ireland, and Sweden) but also Switzerland, Norway and as many others as possible, withdraw from the ECT

- Asking the withdrawing states to [neutralize among themselves the sunset clause](#) (which provides protection for existing investments for a period of 20 years after the withdrawal date). The European states [announced](#) an agreement among themselves on June 26, but its robustness remains to be tested, and it does not solve the issue beyond the EU; with the UK for instance.

- Asking all countries to revise their investment protection policies to refrain from concluding new agreements and to exit existing agreements that hinder climate action.

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