

# **Climate Change as a Challenge for Constitutional Law and Constitutional Courts**

Congress hosted by the Federal Constitutional Court for the Presidents of the Constitutional Courts of Europe

Berlin, 4/5 May 2023

## **Introductory Remarks**

### **Second Working Session, 5 May 2023**

„Constitutional responsibility: causality, duties of protection, freedoms“

## **Outline**

*Verena Madner*, Vice-President of the Austrian Constitutional Court

### **Introduction**

Constitutional Courts and the „rights turn“ in climate litigation

Here: Focus on “vertical”, fundamental-rights based claims

Backdrop: Cases pending before the Austrian Constitutional Court

### **Revisiting the Order on Climate Change by the German Constitutional Court**

Admissibility criteria with regard to the large number of people affected

Climate neutrality as a constitutional obligation

Intertemporal guarantees of freedom

Rights against state interference and state duties to protect fundamental rights—  
separate dimensions with varying level of scrutiny?

### **Selected questions with regard to state duties to protect**

Climate planning acts vs specific climate protection measures

“at least not presently”: the duty of protection and future developments in climate change; courts and scientific evidence; courts and concern for climate justice

Vulnerable individuals and intertemporal dimensions of fundamental rights

### **Conclusion and Outlook**