



University  
of Ferrara



# Climate Justice – New Challenges for Law and Judges

6 July 2023

Katholieke Universiteit Leuven and Online

Law Faculty

Tiensestraat 41, Leuven

Scientific Committee:

Henrik Andersen, William Boyd, Alberto De Franceschi, Evelyne Terryn

## **Background**

*More action is necessary and urgent concerning climate change. While specific legal rules exist, like the rules in the Paris Agreement, they might not be sufficient; moreover, their implementation by judges seems often questionable from a rule of law perspective.*

*Climate change problems are of cross-border nature, and the courts must address extra-territorial issues as well as questions related to both private international law and public international law. Furthermore, the courts must deal with a multilevel system of law, i.e. national, EU, and international law. In addition, the interface and overlap between specific international and EU climate change law, national and international public law, national and international private law, and criminal law, pose crucial methodological challenges for courts. They must find a balance between these different fields and levels of law.*

*The risk we are already experiencing is that different methodological approaches can result in legal uncertainty to the detriment of citizens' legitimate expectations under the rule of law. The question is whether courts can find common ground for improved judicial cooperation in their methodological approaches to climate change problems in order to ensure improved legal certainty at European level. Similarly, while legislators may have ideas for new statutory rules for individuals, private entities and public administration, they need to understand what problems might exist and arise at the level of implementation, especially by courts.*

## **Aim**

*This conference serves as the first meeting of the ELI project on "Climate Justice – New Challenges for Law and Judges", which aims to explore new challenges for judges relating to climate justice and to develop Principles on the most pressing issues including: extra-contractual liability remedies, access to justice (who may have the right to stand and subject to what requirements?), and how should judges should balance the interests of individuals, both those under climate threat and those who benefit from traditional constitutional rights (e.g. the right of ownership). The Principles that will be drafted will be in respect of the liability of: (a) States; (b) companies with special operating licenses; and (c) companies without special operating licenses.*

## **Outcome**

*The project aims to develop Principles for Climate Justice that are workable in practice. The goal is to provide an overview of different sources of law that courts, in particular national courts in Europe and the Court of Justice of the European Union, may apply in questions relating to climate justice with particular focus on liability of States and companies in internal and transboundary situations.*

*The Principles will cover the following areas:*

- *Locus Standi;*
- *The role of international climate change law in domestic legal systems and in the EU legal system;*
- *Human rights, national and international public law;*
- *Extra-contractual liability;*
- *Private international law;*
- *The role of courts and potential democracy deficits.*

**Thursday, 6 July 2023**

**Katholieke Universiteit Leuven, Law Faculty, Tiensestraat 41, Leuven**

**08:30 Registration**

**09:00 Welcome addresses**

*Evelyne Terryn (Katholieke Universiteit Leuven)*

**09:15 Scope and Aims of the Conference**

*Henrik Andersen (Copenhagen Business School)*

*Alberto De Franceschi (University of Ferrara)*

**09:30 I. Climate Actions and Tort Liability**

Chair: *William Boyd (University of California, Los Angeles)*

**The European Green Deal as a Safeguard for Continued Environmental and Climate Action beyond 2024**

*Hugo Maria Schally (European Commission)*

**The Climate Duty of Care**

*Gerhard Wagner (Humboldt University, Berlin)*

**Climate justice: from causation to contribution**

*Stijn Franken (NautaDutilh N.V., Amsterdam)*

**The impact of the revised OECD MNE Guidelines (RBC) on Climate Justice**

*Rolf Weber (University of Zurich)*

**10:30 Discussion**

**11:00 Coffee Break**

**11:15 II. Enforcement of Climate Related Issues**

Chair: *Marc-Philippe Weller (University of Heidelberg)*

**Jurisdiction and cross-border enforcement of civil law claims against third state carbon majors**

*Eva-Maria Kieninger (University of Würzburg)*

**Climate Litigation in Europe: Trends and New Frontiers**

*Filippo Fantozzi (Urgenda Foundation)*

**Climate Litigation: The Brazilian experience**

*Gabriel Wedy (Brazilian Federal Court)*

**12:30 Discussion**

**13:00 Lunch**

**14:00 III. Enforcement of Climate Related Issues**

Chair: *Tim Eicke (European Court of Human Rights)*

**The role of the Paris Agreement in interpreting human rights treaties**

*Christina Voigt (University of Oslo)*

**Climate Justice, Public Law, Environmental Rights – A View through the Lens of a German Administrative Law Judge**

*Matthias Keller (Court of Aachen, European Association of Administrative Judges)*

**Criminal Law Issues**

*Pasquale Fimiani (Advocate General of the Italian Supreme Court, Rome)*

**15:00 Discussion**

**15:30 Coffee Break**

**16:00 IV. Reshaping Contracts for Climate Justice**

Chair: *Aneta Wiewiórowska (University of Osnabrück)*

**Climate Justice and Public Procurement Law**

*Grzegorz Wasiewski (BNT Attorneys, Warsaw)*

**Climate Change and Sustainability Clauses in Private Contracts**

*Priscila Pereira de Andrade (UNIDROIT)*

**Rethinking Consumer Interest in Sustainable Contracting**

*Mateusz Grochowski (Max Planck Institute for Comparative and International Private Law,  
Hamburg)*

**17:00 Discussion**

**17:30 Concluding Remarks**

*Henrik Andersen (Copenhagen Business School)*

*Alberto De Franceschi (University of Ferrara)*

\*\*\*

Should you wish to attend,

it is necessary to register by 26 June 2023 at

[newclimatejustice@gmail.com](mailto:newclimatejustice@gmail.com)

In cooperation with:



ELI

EUROPEAN  
LAW  
INSTITUTE

---

ENVIRONMENTAL  
LAW SIG