



**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

Info and Registration by 26 June 2023 at: newclimatejustice@gmail.com

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 and 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,

please register by 26 June 2023 at

newclimatejustice@gmail.com

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