



**University
of Ferrara**



School of Law

**Emmett Institute on Climate
Change & the Environment**



ELI

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Climate Justice – New Challenges for Law and Judges

7 July 2022

University of Ferrara

Department of Law, Aula Magna

Corso Ercole I d'Este 37, Ferrara

Scientific Committee:

Henrik Andersen, William Boyd, Alberto De Franceschi

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, ie 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, 7 July 2022

University of Ferrara, Department of Law, Aula Magna, Corso Ercole I d'Este, 37

08:00 Registration

09:00 Welcome addresses

Serena Forlati (University of Ferrara, Dean of the Law Department)

Massimiliano Mazzanti (University of Ferrara)

09:10 Scope and Aims of the Conference

Alberto De Franceschi (University of Ferrara)

Henrik Andersen (Copenhagen Business School)

09:30 I. Tort Liability for Climate Harms

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

A Tort Duty of Care to Avert Climate Change?

Gerhard Wagner (Humboldt University, Berlin)

Climate Protection and Corporate Governance

Marc-Philippe Weller (Heidelberg University)

10:30 Discussion

11:00 Coffee Break

11:30 II. Building Sustainability in the Supply Chains

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

Privilege, License, and Consent: Principles for Supply Chain Governance and Market Access in a time of Climate Disruption

William Boyd (University of California, Los Angeles)

An EU Approach to Sustainable Supply Chains

Evelyne Terryn (Katholieke Universiteit Leuven)

Climate Justice in the Supply Chain through Adapted Interpretation of WTO Rules

Rolf Weber (University of Zurich)

12:30 Discussion

13:00 Lunch

14:30 III. Enforcement of Climate Related Issues

Chair: *Eva-Maria Kieninger (University of Würzburg)*

Enforcement of Climate Related Issues: Current Challenges

Tim Eicke (European Court of Human Rights, Strasbourg)

The Dutch Approach in Climate Cases

Larisa Alwin (The Hague Court) and Stijn Franken (NautaDutilh Law Firm, Amsterdam)

Systemic Mitigation Cases: The Responsibility of the States

Filippo Fantozzi (Urgenda Foundation – Climate Litigation Network)

15:30 Discussion

16:00 Coffee Break

16:30 IV. Enforcement of Climate Related Issues

Chair: *Maria Rosaria Maugeri (University of Catania)*

Criminal Law Issues

Pasquale Fimiani (Italian Supreme Court, Rome)

New Challenges for Administrative Judges

Matthias Keller (Aachen Administrative Court)

The Effectiveness of Temporary Measures in Climate Cases

Grzegorz Wąsiewski (BSJP Law Firm, Warsaw)

17:30 Discussion

18:00 Concluding Remarks

Henrik Andersen (Copenhagen Business School)

Alberto De Franceschi (University of Ferrara)

Should you wish to attend,

it is necessary to register in advance, by 27 June 2022.

Info and Registration:

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