



**University  
of Ferrara**



School of Law

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



**ELI**

EUROPEAN  
LAW  
INSTITUTE

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ENVIRONMENTAL  
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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**

*Massimiliano Mazzanti (University of Ferrara)*

*Aneta Wiewiórowska-Domagalska (University of Osnabrück / ELI Executive Committee)*

**09:30 Scope and Aims of the Conference**

*Alberto De Franceschi (University of Ferrara / Katholieke Universiteit Leuven)*

*Henrik Andersen (Copenhagen Business School)*

**09:50 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. 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)*

**12:30 Discussion**

**13:00 Lunch**

## **14:30 III. Enforcement of Climate Related Issues**

Chair: *Maria Rosaria Maugeri (University of Catania / Italian High School of Judiciary)*

### **Criminal Law Issues**

*Pasquale Fimiani (Advocate General of the Corte di Cassazione, Rome)*

### **New Challenges for Administrative Judges**

*Matthias Keller (Aachen Administrative Court)*

### **Climate Justice – Polish perspective. Internal and external challenges**

*Grzegorz Wąsiewski (BSJP Law Firm, Warsaw)*

**15:30 Discussion**

**16:00 Coffee Break**

## **16:30 IV. Building Sustainability in the Supply Chains**

Chair: *Hugo-Maria Schally (European Commission, DG Environment) invited*

### **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)*

**17:30 Discussion**

**18:00 Concluding Remarks**

*Henrik Andersen (Copenhagen Business School)*

*Alberto De Franceschi (University of Ferrara / Katholieke Universiteit Leuven)*

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Should you wish to attend,

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

Info and Registration:

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