



British Institute of
International and
Comparative Law

**Climate Change Litigation in Europe:
Comparative & Sectoral Perspectives and the Way Forward**
18-19 February 2022

*Hasselt University, Campus Hasselt
Martelarenlaan 42, 3500 Hasselt, Belgium*

Overview

Climate change litigation has upsurged over the last decade as a global phenomenon encompassing the societal strive for radical changes, the need to establish responsibilities of both private and public organisations in light of the compelling evidence of climate change, and the collective awareness of the major efforts needed to achieve effective and ambitious GHG emission reductions, in line with the best climate science. In this regard, the initial wave of strategic climate change litigation is now leaving room to a more structural phenomenon, which arguably enshrines climate litigation as a transnational climate governance mechanism. In this regard, several underlying trends are being appraised, which nevertheless underpin the always larger bulk of cases being brought before jurisdictions all over Europe, at the domestic and regional level.

This conference will aim to take stock of the current developments in **climate change litigation in Europe**, while addressing in a systematic and comprehensive way the most relevant trends therein. More specifically, the conference will focus both on its comparative perspectives, through some of the most significant domestic experiences, and on its sectoral perspectives: human rights, State responsibility, international trade and investment protection, corporate responsibility and procedural hurdles. Finally, these perspectives will provide the necessary framework to highlight the way forward, taking into consideration the suggestions and proposals provided by practitioners, academic, judges and other experts participating in this discussion.

Structure of the Conference

The conference will take place as a hybrid event (in person and online), organised by Hasselt University and the British Institute of International and Comparative Law (BIICL). The conference will consist of 2 half-days to be held on Friday 18 and Saturday 19 February 2022, from 14:00 to 18:00 (Day 1) and from 9:00 to 13:00 (Day 2), Brussels time (CET).

The event will consist of a plenary session with three panel discussions on the first day, and five parallel workshops and a closing panel discussion on the second day. The workshops will collect presentations on the submitted papers for the conference. The workshops' chairs will present their remarks and the final results of the parallel sessions at the closing panel discussion.

CONFERENCE PROGRAMME

DAY 1 – Friday, 18 February 2021

13.15 – 14.00

Registration of conference participants and coffee

14.00 – 14.15

Welcoming and introductory remarks

Bernard Vanheusden – Rector / Vice Chancellor, Hasselt University

Petra Foubert – Dean, Faculty of Law, Hasselt University

14:15 – 15:00

Keynote dialogue: “Climate Change, Economy and the Courts”

Justice Luc Lavrysen (Constitutional Court of Belgium) and Marten Ovaere (Ghent University and Yale Center for Business and the Environment)

Discussant: Michael Faure (Maastricht University)

15:00 – 15:45

Keynote dialogue: “Climate Change Litigation before European Regional Courts”

Judge Tim Eicke QC (European Court of Human Rights) and Marc Willers QC (Garden Court Chambers)

Discussant: Sanja Bogojević (University of Oxford)

15:45 – 16:15

Coffee Break

16:15 – 17:45

Roundtable: “Climate Change Litigation in Europe: Comparative Perspectives”

Chairs: Matteo Fermeglia (Hasselt University) and Ivano Alogna (British Institute of International and Comparative Law – University Paris 1 Panthéon-Sorbonne)

- *Belgium:* Carole Billiet (Equal Partners)
- *France:* Sébastien Mabile and François de Cambiaire (Seattle Avocats)
- *Germany:* Roda Verheyen (Rechtsanwälte Günther)
- *The Netherlands:* Sarah Mead (Urgenda Foundation)
- *The United Kingdom:* Nigel Pleming QC (39 Essex Chambers)

17:45 – 18:00

Concluding remarks for Day 1

Carole Billiet (Hasselt University)

18:00 – 18:30

Reception

19:30 - 22:00

Conference dinner

DAY 2 – Saturday, 19 February 2021

8.45 – 9.00

Online connection and welcome to Day 2

9:00 – 11:00

Parallel workshops: “Climate Change Litigation in Europe: Sectoral Perspectives”

1. **Human Rights and Climate Change Litigation**

Chair and discussant: Annalisa Savaresi (University of Eastern Finland and University of Stirling)

- Konrad Lachmayer (Sigmund Freud University)
The constitutional context of climate change litigation
- Suryapratim Roy and Alexandru Gociu (Trinity College Dublin)
People v Arctic Oil: Context, trajectory and takeaways
- Giada Giacomini (La Sapienza University Rome)
Human rights-based climate litigation and Indigenous peoples: Critical perspectives and potential venues for redress in Europe
- Jillian Sprenger (Cambridge University)
Climate change as a driver of migration: does Europe have a duty to act?
- Nele Schuldt (Ghent University)
Striving for a common language: Translational hurdles of scientific evidence in environmental and climate change cases before international human rights courts

2. **State Responsibility and Climate Change Litigation**

Chair and discussant: Sarah Mead (Urgenda Foundation)

- Carlotta Garofalo (University of Graz) and Laura Garcia-Portela (University of Fribourg)
From policy relevant to policy prescriptive? Reflections on the normative aspects of climate science and their role in defining the limits of political and economic discretion
- Marijn Van Der Sluis (Maastricht University)
Beyond human rights: Climate change as a constitutional concern in the Netherlands and the EU
- Jannis Krüßmann (University of Bonn)
State obligations to reduce GHG emissions: Using their “carbon emission reduction potential” instead of their “carbon budget” as a yardstick
- Alan Zukowski (University of Wrocław)
Climate-friendly strategic litigation in Poland: In search of a proper socio-legal communication before courts
- Susann Handke (Independent scholar)
Shifting principles of climate cooperation: The German constitutional court’s take on intergenerational justice as an inspiration for the UN climate regime

3. **International Trade & Investment Protection and Climate Change Litigation**

Chair and discussant: Harro van Asselt (University of Eastern Finland)

- Alessandro Monti and Linnéa Nordlander (Copenhagen University)
Human rights in climate-related investment arbitration: Enhancing regulatory space for climate action?
- Ewa Tokarewicz (Jagiellonian University)
When ISDS serves neither party: The procedural chill in pending climate-change arbitration proceedings
- Chiara Macchi (Wageningen University) and Anil Yilmaz (University of Essex)
Climate change, due diligence and investment treaties: Re-defining investor rights in the light of the climate crisis
- Qingxiu Bu (University of Sussex)
The game theoretical impact on china in the context of the EU's border carbon adjustments

4. **Procedural Rights and Climate Change Litigation**

Chair and discussant: Marjan Peeters (Maastricht University)

- Geert van Calster (KU Leuven)
Private international law as an obstacle – and opportunity, for climate justice litigation
- Joschka Schlake (University of Bremen)
Can EU climate protection laws be tested on their compatibility with fundamental rights? Reflections on a “complete system of remedies”
- Rhonson Salim (Aston University)
Collective redress and climate change litigation in the EU: A promising future for access to justice or more of the same?
- Ander Maglica (University of Milan)
Class actions as a valid tool for climate change litigation in Europe?
- Dorien Coppens (Maastricht University)
Democratic values in the financial dimension of the European Green Deal: Harnessing public participation in the EU Taxonomy Regulation

5. **Corporate Responsibility and Climate Change Litigation**

Chair and discussant: Jaap Spier (Cambridge University and Stellenbosch University)

- Maria Antonia Tigre (Sabin Center for Climate Change Law, Columbia Law School)
From public to private climate litigation: How can Urgenda-type cases inform the growing responsibility of private companies to mitigate climate change?
- Hendrik Schoukens (Ghent University)
Climate change, project review and EIA: An unlikely cocktail to safeguard carbon budgets and challenge unsustainable lock-ins?
- Marta Zamorska (University of Lausanne)
The liability of financial institutions for climate change
- Xenia Karametaxas (University of Zurich)
The voice of the voiceless: A comparative analysis of the role of pension fund beneficiaries in climate change litigation

11:00 – 11:30

Coffee Break

11:30 – 13:00

Closing panel discussion: “Climate Change Litigation in Europe: The Way Forward”

Chairs: Justice Luc Lavrysen (Constitutional Court of Belgium) and Carole Billiet (Hasselt University)

Presentations by workshops’ chairs and Q&A

- Annalisa Savaresi (University of Eastern Finland and University of Stirling)
- Sarah Mead (Urgenda Foundation)
- Harro van Asselt (University of Eastern Finland)
- Marjan Peeters (Maastricht University)
- Jaap Spier (Cambridge University and Stellenbosch University)

13.00 – 14.00

Light lunch and closing reception

14.00 – 16.30

Social programme – Group visit to the [Jenevermuseum Hasselt](#)

ORGANISING COMMITTEE

Carole Billiet, Professor of Environmental Law, Head of the Environmental Law Unit, Hasselt University

Matteo Fermeglia, Assistant Professor of International and European Environmental Law, Post-Doctoral Assistant, Hasselt University

Ivano Alogna, Arthur Watts Research Fellow in Environmental and Climate Change Law, British Institute of International and Comparative Law, and University of Paris 1 Panthéon-Sorbonne

Alina Holzhausen, Research Assistant in Environmental and Climate Change Law, British Institute of International and Comparative Law, and University of Aberdeen

For any questions, please contact the organising committee at: climatelitigation@biicl.org