



**Ius Commune Conference Maastricht,  
25-26 November 2021**

**Call for Papers Workshop on  
Liability and Insurance**

*Liability Law and Climate Change*





## Call for Papers

Ius Commune Workshop on Liability and Insurance 2021: *Liability Law and Climate Change*

Maastricht, Friday, 26 November 2021

A few recent court decisions and some pending litigation demonstrate that the fight against climate change has opened a new front in the field of private law, with private parties and associations seeking recourse against companies and governments within the framework of liability law.

Some of the most publicized and discussed cases come from the Netherlands and Belgium. On 26 May 2021, in the case of *Milieudéfensie v Shell*, the District Court in The Hague ordered Royal Dutch Shell to reduce its CO<sub>2</sub> emissions by at least 45% at the end of 2030 as compared to 2019 levels. This was the first time worldwide that a court ordered a major oil company to reduce its CO<sub>2</sub> emissions. But it was not the first time Dutch courts made bold steps in the fight against climate change. Two years prior, in the highly publicized *Urgenda* case, the Supreme Court of the Netherlands upheld a claim brought by the Urgenda Foundation and a group of (around 900) citizens against the Dutch State by ordering the State to reduce its greenhouse gas emissions by at least 25 per cent below 1990 levels by the end of 2020. In Belgium, in the *Klimaatzaak* case, the Brussels court of first instance held that the Belgian government had breached its duty of care by failing to take more serious measures to prevent the harmful effects of climate change, but declined to issue any specific order due to concerns about separation of powers.

It is important to note, however, that similar developments are brewing in other European jurisdictions and in other parts of the world as well. In the same year that the first instance decision in the *Urgenda* was published (2015), a similar decision was reached by an appellate court in Pakistan—the case of *Leghari v. Federation of Pakistan*, and at least one case similar to *Milieudéfensie v Shell* is pending in France at the time of writing this abstract (involving thirteen collectives and four associations established for the protection of human rights who brought a claim against the French oil company Total).

Employing private law mechanisms in the fight against climate change comes, however, with many challenges and legal conundrums. Is liability law, with its logic of corrective justice and its specific vocabulary of duty of care, breach, damage, causation, and so on, an appropriate avenue for regulating climate change? How does liability law integrate international commitments and human rights obligations into its specific legal arguments and legal reasoning? Is the general fault-based standard for liability employed so far by courts

appropriate for climate change litigation? What are the legal frameworks and what are the legal obstacles that private parties face when engaging in climate change litigation? What are the right remedies for combatting climate change, and is a change of paradigm toward prevention and non-monetary relief needed (and perhaps also more appropriate)? And how effective are court orders in the fight against climate change anyway?

Doctrinal, comparative, legal-theoretical, and interdisciplinary accounts (including but not limited to law & economics, law & philosophy, legal sociology, etc) are welcome. The goal of the workshop is to reflect on the possibilities for expanding, modifying, and redesigning private law doctrines or principles (and their theoretical justifications) that arise in the context of climate change litigation, as well as on the limitations and hurdles that private law brings to the fight against climate change.

Interested researchers are cordially invited to submit an abstract of a paper related to any one of the questions mentioned above. Abstracts (max. 400 words) should be sent to [daniel.on@maastrichtuniversity.nl](mailto:daniel.on@maastrichtuniversity.nl) and [t.r.bleeker@vu.nl](mailto:t.r.bleeker@vu.nl) no later than 13.08.2021. All contributions and presentations should be in English. Co-authored papers will also be considered. Preference will be given to early-career researchers when facing submissions of similar quality, and we wholeheartedly encourage young researchers to apply. Please also indicate your availability (online/ in person) in your submission.