

Avosetta Questionnaire: Climate Litigation in Italy

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[1] State of play at national level:

In your particular Member State, have cases been decided by the national courts, and / or are there cases pending before the courts, that aim to deliver better climate protection?

Are there “horizontal” cases between private parties and / or “vertical” ones between private parties and public authorities – or both? If yes, briefly characterise them.

Actions challenging public authorities could be aimed: (1) at high level target setting for greenhouse gas emission (GHG) reduction; or (2) at the taking of more concrete measures reducing emissions (such as emissions limits for automobiles); or (3) at projects causing emissions as a side effect (such as a new runway or highway).

Briefly indicate who are the claimants; what are the standing requirements; what is the objective of the action, and what is the reasoning on the substance of the case.

[Climate Litigation in Italy]

At the moment, there is only one legal action which is upcoming against the Italian State. The claimants are a group of citizens, organizations, researchers, and social movements who, assisted by a legal team of practitioners and university professors, have decided to prepare a lawsuit against the Italian Government asking for more ambitious climate change actions, and to hold it responsible for failure to implement proper mitigation policies with consequent violations of certain fundamental human rights. An ad-hoc website has been created (<https://giudiziouniversale.eu/>) to create support for and disseminate the initiative.

Although there is still little information about the precise contents underlying this lawsuit, which is going to be launched in the imminent future, from the details available it appears to follow the Urgenda legal strategy. Accordingly, the action will seemingly be in the form of a civil lawsuit aimed at establishing the liability of the Italian State for negligence in reducing GHG’s emissions and its failure to properly take measures to mitigate climate change.

The ultimate purpose of the legal action is therefore, not to have specific legislative or administrative acts quashed, nor to receive compensation for damages, but rather to request the State to adopt more stringent climate mitigation measures.¹ The claimants are also pleading for the respect of certain fundamental rights, from the right to be informed on the

¹ See, for a preliminary analysis and more details on this upcoming decision, the article by Riccardo Luporini, ‘The “Last Judgement”: Early Reflections on Upcoming Climate Litigation in Italy’, in (2021) Questions of International Law, available at http://www.qil-qdi.org/the-last-judgment-early-reflections-on-upcoming-climate-litigation-in-italy/#_ftnref6

scientific basis on which government decisions are grounded, as well as for the recognition of the 'human right to a safe climate', namely the right that government's actions and policies are such as to guarantee a safe operating space for the control and stability of climate change. In that respect, the legal basis for this action would potentially be the obligations imposed on the Italian state by the Constitution and by international agreements and national legislation.

To the best of our knowledge, for the time being, no other (pending or already decided) climate litigation case exists in Italy.

[2] Interconnections between developments at national and supranational level:

Where relevant, please connect the national experience to date with developments in climate litigation at the supranational level (e.g. proceedings before the CJEU and the ECtHR).

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