

COURSE OF STUDY Law - Legal Sciences of Immigration, Human Rights and Interculturality

ACADEMIC YEAR 2024/2025

ACADEMIC SUBJECT Comparative Climate Change Law and Litigation (Diritto comparato del Diritto e del Contenzioso sul Cambiamento climatico)

General information	
Year of the course	<ul style="list-style-type: none"> - 5th year, as a complementary discipline, for the Master's Degree program in Law - From the 1st year of the program, as a discipline chosen by the student, for the Bachelor's Degree program in Legal Sciences for Immigration, Human Rights and Interculturality
Academic calendar (starting and ending date)	I semester (10th of September 2024 – 3rd of December 2024)
Credits (CFU/ETCS):	6 CFU
SSD	Comparative Public Law – GIUR-11/B
Language	English
Mode of attendance	Voluntary, although recommended

Professor/ Lecturer	
Name and Surname	Giuseppe Naglieri
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Telephone	—
Department and address	Jonic Department – Law seat – Via Duomo 259, 70123 Taranto
Virtual room	Microsoft Teams – code s1z84wz
Office Hours (and modalities: e.g., by appointment, on line, etc.)	<p>In the first semester, after classes: Tuesdays and Wednesdays from 12 to 14. In the second semester: Tuesdays from 10 to 12. It is however recommended to pre-arrange the meeting by contacting the professor at: giuseppe.naglieri@uniba.it</p>

Work schedule			
Hours			
Total	Lectures	Hands-on (laboratory, workshops, working groups, seminars, field trips)	Out-of-class study hours/ Self-study hours
150	48		102
CFU/ETCS			
6			

Learning Objectives
<p>The course aims to provide students with a comprehensive overview of the relations between humanity, law and the climate system in the context of the global climate emergency. The progressive awareness of the inescapability of climate change and of the human contribution to its degeneration has contributed, in the last decades, to the birth and evolution of an unprecedented body of law, through which States - the only actors capable of promptly and collectively tackling the effects of climate change - have variously compelled themselves to reduce climate-altering emissions.</p>

	<p>After having introduced the fundamental categories in the discussion about climate and climate emergency, adequately distinguishing them from the categories pertaining to environmental law, the first part of the course will analyze the international, regional and national sources on the issue, with the aim of outlining the content, characters and evolution of the climate obligation incumbent on States, focusing in particular on the peculiarities of the European Union's multilevel climate law and its contribution to international objectives.</p> <p>The second part of the course will focus on issues concerning climate justice, tracing its origins and developments, and distinguishing it from environmental justice and with specific attention to the differentiated responsibilities of states and the asymmetry in access to (and allocation of) resources.</p> <p>A third part will finally be devoted to the central issue of climate litigation, analyzing its models and comparing its legal-procedural elements, objects and effects, in order to offer a polycentric and multilevel framework and classification of this peculiar and central form of legal policy.</p>
Course prerequisites	<p>Knowledge of the basics of constitutional law, with particular reference to forms of state, the system of sources of law, and the relations between domestic law, European Union law and international treaty law, is a prerequisite for the course. The constitutional law exam represents a prerequisite.</p>
Teaching strategies	<p>The course will be taught by means of frontal teaching. However, given the nature of the issues covered by the course, and the need to analyse legal texts and, above all, cases and decisions from numerous different jurisdictions, it will be necessary to opt for a laboratory format.</p> <p>In particular, with the aim of enabling students to acquire a knowledge of the definitions and vocabulary typical of climate science in order to apply them to the study of comparative climate law, a 'climate change glossary' indicated among the course materials will be used in each lesson whenever a lemma proper to climate science is introduced in the analysis of the legislation or the decisions under discussion.</p> <p>This is intended, especially, to convey to students the indispensable interaction between science, the climate system and the law. Particularly in the second part of the course, devoted to climate justice and litigation, the course will adhere even more closely to the laboratory model, providing for a more active involvement of students through in-class presentations, in the form of individual or group work, of previously assigned cases, for which students will be asked to frame the essential elements (claimants, defendants, jurisdiction, sources invoked, liability invoked, legal reasoning of the decision) and to place them in the context of the models of climate litigation previously outlined.</p>
Expected learning outcomes in terms of	
Knowledge and understanding on:	<p>The student will learn the fundamentals of climate science, their implication on the analysis of climate change and the impact of climate change on international law, as well as on regional systems and states, with particular regard to the content of climate obligations that fall upon them.</p> <p>He/she will learn the vocabulary of climate law, distinguishing it from that of environmental law. He/she will understand the stages of the advent and expansion of climate justice, distinguishing it from environmental justice, also appreciating the typical approach of political ecology, paying specific attention to the differentiated responsibilities of states, the asymmetry in access to and allocation of resources, and the historical, economic and structural reasons for these inequalities.</p>

	<p>The student will then understand the central role that, in the inertia or lack of ambition of states and major global economic players, climate litigation has assumed. In this regard, the student will learn the different models of litigation, the variety of claimants and defendants, the multidimensionality of sources and responsibilities asserted, of the arguments and effects. He/she will learn the different definitions and classifications that the doctrine has offered of climate litigation, as well as the potential and critical issues of such a multifaceted instrument in the context of the multi-level governance of climate change.</p>
<p>Applying knowledge and understanding on:</p>	<p>The student shall be fully capable of tracing the international and national legal framework for combating climate change and its historical evolution, of deducing the contents of the climate obligations that fall on States through the integration of international treaty, regional and national sources (with particular regard to the constitutional provisions of each State) by setting them in the legal-constitutional and cultural peculiarities of the systems under analysis. The student shall be able to analyse old and new judgements on climate matters and to place them in the context of the models offered by the doctrine, to identify the peculiarities deriving from the jurisdiction, the legal source invoked and the legal system, to detect the elements of continuity or innovation in relation to previous actions and judicial trends.</p>
<p>Soft skills</p>	<p>Critical and judgement skills</p> <p>Through the integrated approach of face-to-face teaching and laboratory teaching, also in groups, as well as by keeping a firm focus during the course on the historical-geographical, structural and economic elements determining the climate emergency and its differentiated responsibilities among States, the student will be able to critically analyse the current multilevel legal framework of climate change mitigation, the perspectives of climate justice - integrated with the reasons of political ecology - and the constant and growing expansion of the role of litigation in the governance of the climate emergency. In particular, the student shall be able to critically and independently analyse past and future trends in climate litigation on all levels, detecting continuities and innovations in actions and decisions, placing them within existing models or reflecting on how to replace them.</p> <p>The student will thus be able to identify old and new strengths and potentialities of climate litigation, as well as critical issues, predict and measure the national and supranational impact of the most relevant decisions, and its exportability in other contexts.</p> <p>Ability to communicate knowledge</p> <p>The focus, in the first part of the course, on defining the notions and terms peculiar to climate law and the constant use of a dedicated 'climate change glossary', which will be consulted in lectures and by the student individually throughout the course, will enable the student to know and apply the vocabulary of climate science and climate law in all future contexts.</p> <p>The use of the English language during the course will further expand the student's ability to use and communicate notions of climate law and litigation. Furthermore, the direct reading, in lectures or through group work, of the main legal acts concerning climate law and the relevant cases and decisions indispensable in the discussion of climate litigation will enable students to refer to decisions and legal systems very different from their own. This will not only enable them to communicate and pass on the knowledge they have learnt to a specialist audience or interlocutor, but also to communicate knowledge, problematic issues and crucial elements of the challenges posed by the climate emergency to the law when interacting with an audience of non-specialists in</p>

	<p>discussions on the state of climate change, climate emergency policies and governance.</p> <p>Ability to pursue the study independently throughout life The course aims to provide students with the tools and categories of comparative law applied to the challenges of climate change, so that by the end of the course the student will have developed the ability to apply categories and method to further and more topical questions concerning the relations between law and climate change that may arise in the course of his or her studies or professional activity. In particular, he/she will be able to analyse the evolution of supranational, EU and national law on climate change mitigation and adaptation, further and more recent decisions issued in any part of the world that have an impact on the governance of climate change, to place them in the context of past and future models and trends, to identify their effects on a national and international scale, to detect their continuity or discontinuity with previous decisions and their possible exportability to other legal systems.</p>
Syllabus	<p>Part One</p> <ol style="list-style-type: none"> 1. Defining and distinguishing the categories of climate science and climate law 2. Climate science before law: the climate system and its interactions with law 3. From the climate crisis to the climate emergency: a compilation of consequences 4. International climate obligations since the UNFCCC and its implementation instruments until the Paris Agreement 5. The international and regional human rights systems and climate obligations 6. Protection obligations and sources of climate obligations at the state level 7. Climate obligations and private actors <p>Part Two</p> <ol style="list-style-type: none"> 1. The Rise and Affirmation of Environmental Justice 2. Environmental justice and political ecology 3. The rise of climate justice 4. Climate justice and climate litigation: definitions and distinctions 5. Comparative law in the face of climate litigation: first define or first classify? Models and proposals for classification 6. The subjects of climate litigation: plaintiffs and defendants. Civil society, NGOs, the younger generation, public authorities, companies. 7. The courts of climate litigation: from local to global 8. Following: climate litigation in the global south 9. The arguments, parameters and sources of climate litigation 10. Follows: Climate litigation and human rights. An authentic Rights turn? 11. Climate Litigation, Constitutions and Constitutional Justice 12. Climate litigation and the role of science: the problem of the burden of proof 13. Litigation as a new model of global democratic climate governance?
Content knowledge	
Texts and readings	K.S. COPLAN, S.D. GREEN, K.F. KUH, S. NARULA, K.R. RÁBAGO, R. VALOVA (Eds.) <i>Climate change law. An Introduction</i> , Edward Elgar, Northampton, 2021 (227 pp).
Notes, additional materials	For constant consultation during the course: G. LATINI, T. ORUSA, M. BAGLIANI (a cura di), <i>Lessico e Nuvole: le parole del cambiamento climatico</i> , Agorà Scienza, Università degli Studi di Torino, 2019 (167 pp).

	Also to be consulted in depth: M. CARDUCCI, <i>I caratteri differenziali della giustizia climatica</i> , in <i>DPCE Online</i> , 2, 2020; M. CARDUCCI, <i>Cambiamento climatico (diritto costituzionale)</i> , in <i>Digesto delle Discipline Pubblicistiche</i> , UTET, 2021.
Repository	The course material will remain available at all times and in permanent form on dedicated folders in the teacher's Teams channel, which can be reached via the code: s1z84wz

Assessment	
Assessment methods	Learning will be tested and assessed by means of an oral interview, with a final grade expressed in thirtieths, or, for students taking the exam without a grade, with a passing grade. The purpose of the interview is to test the understanding of the evolution of the composite legal framework for combating climate change, its historical evolution and the knowledge concerning climate litigation, its origins, potentialities and criticalities, the models and classifications offered by the doctrine, also referring to the most recent cases. The interview, conducted with a dialogic spirit, is intended to test, in addition to the technical and modelist notions necessary for a comparative reflection on climate law and litigation, the student's reasoning, with the aim of tracing recent trends in the climate law system and in the most significant litigation cases. In particular, the oral exam will be composed of three questions: a first general overview question posed by the professor, the presentation of a case chosen by the student, who should be able to first discuss the issue specifically and then broaden his or her reflection to the models and classifications of litigation, with references to other cases and systems, capturing their differences and similarities, and finally a third question from the professor concerning a different issue, regarding climate litigation.
Assessment criteria	<p>Knowledge and comprehension skills The student shall be able to set out discursively and systematically the theoretical knowledge acquired</p> <p>Applied knowledge and understanding The student shall be able to systematically discuss the climate regulatory system and examine the cases chosen in the discussion on litigation and any other cases presented with a systematic approach and by critically applying the categories learnt</p> <p>Autonomy of judgement The student shall show the ability to independently identify and frame the connections between the sources of the climate regulatory system, cases submitted and litigation models, as well as to prefigure and contextualise lines of continuity and divergence and trends regarding litigation.</p> <p>Communication skills The student shall demonstrate the ability to present knowledge acquired clearly, systematically persuasively and with the necessary linguistic-technical background, as well as to illustrate with rigour and critical method the evolving trends in the climate regulatory system and in climate litigation, to have acquired the proper vocabulary of the comparative method, and to apply it during the oral interview.</p> <p>Learning ability The student must show that he/she has acquired a level of knowledge of the topics subject of the course, capable of organising autonomously and</p>

	discursively, also by means of thematic connections with a critical spirit and command of the technical vocabulary.
Final exam and grading criteria	<p>The exam is designed to test the student's ability to explain the elements and phenomena of the climate regulatory system and climate litigation and to critically analyse them.</p> <p>The final assessment will take the form of a numerical mark or a passing grade depending on each student's plan.</p> <p>The final grade is awarded in thirtieths. The exam with a mark is deemed to have been passed when the mark is greater than or equal to 18. In order to achieve a high mark, the student must have developed autonomy of judgement and adequate capacity for argumentation and exposition.</p> <p>Honours are awarded if the student demonstrates an outstanding argumentative and critical capacity and is able to grasp systemic and evolutionary considerations concerning the state and evolution of the climate change legal regulation and litigation, as well as discuss future prospects of litigation, referring to the correct experiences and to the relevant legal-procedural elements.</p>
Further information	<p>Dissertations are assigned after an interview aimed at agreeing on a research topic with the student. Requests must be made no less than six months before the discussion. Knowledge of English is required.</p> <p>The discipline is a recognisable learning activity to be included in the Learning Agreement of outgoing students admitted to spend a study period abroad as part of their participation in the Erasmus+ Student Mobility Programme.</p> <p>For incoming students admitted to spend a period of study abroad as part of their participation in the Erasmus+ Student Mobility Programme, supplementary material in English will be made available if necessary.</p>