



*Press Release*

## **Climate: litigation against the Italy reaches the Court of Appeal**

*Appeal against the first instance decision of the climate litigation against the Italian State filed. Attached to the appeal is a new scientific report commissioned by the first plaintiff A Sud. According to the scientists, 'Italy has already exhausted its carbon budget'.*

*The legal action [A Sud and others V. Italy](#), also known as *Giudizio Universale*, the first climate litigation in Italy was launched in 2021 by the ecologist organisation A Sud together with around 200 plaintiffs including associations and individuals, including minors.*

**Rome** - After a disappointing first instance ruling that bucked the trend in other European countries, the claimants are returning to court strengthened by the outcome of further important litigations that went to verdict outside Italy. This time to discuss and decide on the judgement of inadmissibility for "absolute lack of jurisdiction" of the first instance judge will be the Court of Appeal of the Civil Court of Rome.

*"Contrary to what has been ruled by several European Courts, the Court of Rome upheld the non-existence of the claimants' right to seek protection from the consequences of the climate emergency and the unquestionability of the Italian State's choices in this area, in the name of the separation of powers," commented the **legal team** on the sidelines of the filing of the appeal.*

*"A sentence that we welcomed with great disappointment and that seems even more paradoxical to us today, in a worrying panorama of increasing criminalisation of environmental activism," added **Lucie Greyl, coordinator of the Giudizio Universale Campaign**. "Those who govern have made the courts places where to try those who defend the environment and not those who destroy it. But the victories in other countries of other groups who even after many years of struggle have managed to have their demands recognised tell us that we are on the right path. And we will continue to tread it with determination, looking with confidence to the appeal court".*

### **The role of recent Strasbourg Court rulings on climate issues**

The chances of the first instance ruling being overturned on appeal are in fact strengthened by the recent outcome of a number of disputes filed outside national borders, whose rulings are destined to become case law. Prominent among them are the judgments of the **European Court**

**of Human Rights** in the cases **Klima Seniorinnen et al. V. Switzerland** and **Duarte Agostinho and others V. Portugal and 32 other countries**.

In the first case, the Court condemned the Helvetic country for its failure to take climate measures, effectively recognising the relationship between climate protection and the protection of human rights.

In the second case, the judges also declared the action inadmissible for failure to pursue domestic remedies, thus deferring to national courts the task of ruling on the adequacy of climate policies and the human rights impacts of non-action. The declaration of inadmissibility should therefore be interpreted as a **devolution of the relevant cases to the national courts**.

*"The European Court has in fact refuted the arguments put forward by the Court of Rome. We are therefore confident that the Court of Appeal can reform it, establishing the principle that citizens and civil society can turn to a judge to assert their rights threatened by climate change, to which the Italian State also contributes due to the inadequacy of the measures adopted,"* concluded the **legal team**, composed of civil lawyer **Luca Saltalamacchia** and climate law professor **Michele Carducci**, joined by the lawyer and public law professor **Antonello Ciervo**, in a *pro bono* capacity.

A new scientific report on the Italian carbon budget is attached to the appeal

Attached to the appeal was a new scientific report '[Estimates of fair share carbon budgets for Italy](#)' commissioned by A Sud to three internationally renowned climate scientists: Setu Pelz, Yann Robiou du Pont and Zebedee Nicholls. The research analyses Italy's *carbon budget*, comparing it to the global warming limit of 1.5°C. The team of scientists used the equity-based methodological approaches used by the **ESABCC** - the European Scientific Advisory Committee on Climate Change, which published the [ESABCC Report](#) in June 2023 that is used as the basis for the European Commission's recommendation of the EU's emission reduction target for 2040, which is in the process of being formally adopted.

A specific country's **carbon budget** is the maximum amount of net cumulative anthropogenic CO<sub>2</sub> emissions that the country in question can still emit into the atmosphere **without compromising** the goal of limiting global warming to a given level (in the case of this report, 1.5°C at the end of the century). This calculation considers several elements, including historical emission liabilities.

The data that emerges from the report is unambiguous: according to all the methodologies used, from the most to the least permissive, the scientists confirm that **Italy has already exhausted its carbon budget** (depending on the methodology, the date varies from 2017 to 2023 as the reference year for the exhaustion of the share of national emissions compatible with the Paris targets).

## Comments from the European Network

Among the reactions received for the launch of the appeal, that of Sarah Mead, Co-Director of **CLN, the Climate Litigation Network** born from the Urgenda Foundation, which provides support and advice to other experiences of strategic climate litigations brought in other countries: *"Italian judges will have the opportunity to reverse the first-degree ruling, taking heed of the urgent demands of the people in Italy that are being exposed to extreme climate events. Beyond solidarity*

*and relief efforts, there is a matter of responsibility that the court must engage with. The victory of the Swiss senior women in the \*Klimaseniorinnen\* case before the European Court of Human Rights - which is binding on Italy - shows us that governments have a legal duty to protect their citizens from the adverse effects of climate change”.*

A message of support and encouragement came from Anne Mahrer, an activist with the Swiss NGO **Klima Seniorinnen**: *'The Swiss Elders for Climate Switzerland wholeheartedly support the Italian legal action. We are delighted that the historic ruling of 9 April 2024 by the European Court of Human Rights has contributed to an important step forward for fundamental rights and climate protection. Our ruling sets a precedent that affects all 46 Council of Europe countries, including Italy: it enshrines the right to effective state protection against the serious adverse effects of climate change on life, health, wellbeing and quality of life and confirms the right to a fair trial (Articles 8 and 6 ECHR), underlining the key role played by national courts in climate change disputes. It is therefore their responsibility to ensure compliance with their obligations under the Convention. This decision reminds us of the urgent need for action. It offers hope for future generations. Because climate protection is a human right and we have the right and the duty to defend it also in the courts!'*

## Next steps

Unless postponed, the **first hearing of** the appeal has been set for 29 January.

Despite the urgency to act, the legal action therefore has long months of procedures ahead of it. A further paradox, considering that global warming continues to gallop on without waiting for anyone.

## Info and interviews:

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