



Spring Semester 2023

Climate Change Law: Syllabus

Professor Dr Johannes Reich, LL.M. (Yale)

I. General Information

- **Time:** Friday, **08:15**-09:45 (weekly)
- **Room:** [RAI-J-031](#) (Rämistrasse 74, 8001 Zurich)
- **Mode of teaching:** classroom (no podcasts or livestream)
- **Content and purpose of the course:** Anthropogenic climate change is arguably the most severe challenge facing humanity. This course is devoted to the emerging field of “Climate Change Law”. It aims at identifying unifying characteristics and principles of Climate Change Law and provides for an introduction into the geophysical basis of human-induced climate change. This introduction will be provided by Professor Dr. [Reto Knutti](#), Center for Climate Systems Modeling (C2SM), Swiss Federal Institute of Technology (ETH Zurich). The course seeks to situate the “Climate Change Law” with its cross-cutting character in both international law and domestic (environmental) law. Students will gain insights into the relation between Climate Change Law and General International Law as well as International Environmental Law and acquire knowledge on the history of the emergence of the international regime to mitigate and adapt to climate change. The course will provide for a profound understanding of the complex treaty-based regime of Climate Change Law spanning from the United Nations Framework Convention on Climate Change (UNFCCC) to the Paris Agreement on Climate Change and discuss the implementation thereof both at the domestic level (Switzerland) and in the European Union. Students will get familiar with the potential and challenges of climate change litigation and the role private actors such as corporations and social movements can play in the combat against global warming.
- **Course Material:** All course material will be uploaded on OLAT. No books need to be bought or papers copied. For reasons of copyrights, course material must be used exclusively for the course (such as preparation of classes, attending classes, exam preparation). Please register for the course [‘Climate Change Law’ on OLAT](#) in order to download the reading materials and to gain access to the forum. A list of the weekly reading materials will be published on the following pages for the lessons 3 to 13. Possible adjustments are reserved. Please also make sure to register (book) for the course with the Faculty. Registering via OLAT is not sufficient in order to gain the Credits and/or to attend the exam.
- **Class Participation:** This lecture is based on class discussions. Students are expected to come to class prepared and to participate actively in class. Participation may count towards the grade (in particular when rounding up or down the exam grade).
- **Exam:** The examination is scheduled as an oral examination. Depending on the size of the class, a written examination may be considered. The date for the examination will be announced in due course.
- **Communication:** If you have any questions, please do not hesitate to contact Professor Reich before or after class or write an email to lst.reich@rwi.uzh.ch.



II. Syllabus and reading materials*

No	Date	Topic	Reading materials
1	24 February 2023	<p>Characteristics and Principles of Climate Change Law</p> <ul style="list-style-type: none"> • General information on the course “Climate Change Law” and Introduction • “Climate Change Law” – a new “Law of the Horse”? • Mapping the field: characteristics and principles of Climate Change Law • Characteristics of Climate Change Law • Principles of Climate Change Law 	<ul style="list-style-type: none"> – G. Hardin, “The Tragedy of the Commons”, Science 1968, Vol. 162, pp. 1243-1248. – F.H. Easterbrook, “The Law of the Horse”, University of Chicago Legal Forum 1996, Vol. 207, pp. 207-217 (read only pp. 207-208) – M. Faure, Economics, in: L. Rajamani/J. Peels (eds.); Oxford Handbook of International Environmental Law, 2. ed., Oxford 2021, pp. 169-182 – Th. Dietz/E. Ostrom/P.C. Stern, “The Struggle to Govern the Commons”, Science 2003, Vol. 302, pp. 1907-1912
2	3 March 2023 Different room and time! Room: KOL-E-21 Time: 12:15 – 13:45	<p>Geophysical basis of human-induced climate change</p> <ul style="list-style-type: none"> • Speaker: Professor Dr Reto Knutti, Center for Climate Systems Modeling (C2SM), Swiss Federal Institute of Technology (ETH Zurich) • scientific evidence • causation and attribution • science, politics, communication, and fake news 	<ul style="list-style-type: none"> – A.E. Dessler/E.A. Parson, The Science and Politics of Global Climate Change, 3. ed., Cambridge 2020, pp. 65-112
3	10 March 2023	<p>Climate Change Law as part of International Environmental Law</p> <ul style="list-style-type: none"> • Economic analysis of climate change • Sources of General International Law • Main subject matters of international environmental law 	<ul style="list-style-type: none"> – N.S. Ghaleigh, Economics and International Climate Change Law, in: C.P. Carlarne,/K.R. Gray/R. Tarasofsky (eds.); The Oxford Handbook of International Climate Change Law, Oxford 2016, pp. 72-94 – E. Towfigh, The economic paradigm, in: E. Towfigh/N. Petersen (eds.), Economic Methods for Lawyers, Cheltenham/Massachusetts 2015, pp. 18-31

* The program is subject to change at short notice as announced in the lecture.



No	Date	Topic	Reading materials
4	17 March 2023	Emergence of International Climate Change Law <ul style="list-style-type: none"> Principles of International Environmental Law Politics and history path to the United Nations Framework Convention on Climate Change (UNFCCC) climate change and human rights law 	<ul style="list-style-type: none"> B. Mayer, The International Law on Climate Change, Cambridge 2018, pp. 12-17, 33-38; 66-78 P.J. Sands/I. Millar, “Climate, International Protection”, MPEPIL 2011, N 1-23
5	24 March 2023	Treaties-based regime: Institutions and Protocols <ul style="list-style-type: none"> Intergovernmental Panel on Climate Change (IPCC) Conferences of the Parties (COP) Kyoto Protocol Doha Amendment 	<ul style="list-style-type: none"> B. Mayer, The International Law on Climate Change, Cambridge 2018, pp. 39-45; 132-139 D. Bodansky/J. Brunnée/L. Rajamani, International Climate Change Law, Oxford 2017, pp. 105-117
6	31 March 2023	Paris Agreement on Climate Change (I) <ul style="list-style-type: none"> International relations and politics History of the negotiations Goals and preamble Targets human rights 	Readings for lectures 6 and 7: <ul style="list-style-type: none"> D. Bodansky/J. Brunnée/L. Rajamani, International Climate Change Law, Oxford 2017, pp. 209-257; 296-313 UNEP Report, “Climate Change and Human Rights” (2015) p. 1-10
7	21 April 2023	Paris Agreement on Climate Change (II) <ul style="list-style-type: none"> Characteristics nationally determined contributions (NDCs) ambition cycle 	<ul style="list-style-type: none"> R. Knutti/J. Rogelj/J. Sedláček et al., A scientific critique of the two-degree climate change target, Nature Geoscience 2016, Vol. 9, pp. 13-17



No	Date	Topic	Reading materials
8	28 April 2023	Domestic Climate Change Law: Switzerland (I) <ul style="list-style-type: none"> Switzerland and International Law institutions, direct democracy Environmental Law in general National Determined Contributions Federal Powers 	<ul style="list-style-type: none"> J. Casado-Asensio/R. Steurer, Mitigating climate change in a federal country committed to the Kyoto Protocol: how Swiss federalism further complicated an already complex challenge, <i>Policy Science</i> 2016, Vol. 46, pp. 257–279 <p>Readings for lecture 8 and 9:</p> <ul style="list-style-type: none"> J. Reich, Federalism and Mitigating Climate Change: The Merits of Flexibility, Experimentalism and Dissonance, <i>Transnational Environmental Law</i> 2021, Vol 10:2, pp. 263–291
9	5 May 2023	Domestic Climate Change Law: Switzerland (II) <ul style="list-style-type: none"> Federal Act on the Reduction of CO2 Emissions Energy Law Negative emissions 	<ul style="list-style-type: none"> A.E. Dessler/E.A. Parson, <i>The Science and Politics of Global Climate Change</i>, 3. ed., Cambridge 2020, pp. 137–146
10	12 May 2023	European Union Climate Change Law: Introduction <ul style="list-style-type: none"> Allocation of powers Negotiations Implementation Governance and adjudication 	<ul style="list-style-type: none"> F. Stangl/R. Mauger, EU Climate Policy, in: E. Woerdman/M. Roggenkamp/ M. Holwerda (eds.), <i>Essential EU Climate Law</i>, 2. edn., Cheltenham 2021, pp. 23–37 E. Woerdman, EU Emission Trading System, in: E. Woerdman/M. Roggenkamp/ M. Holwerda (eds.), <i>Essential EU Climate Law</i>, 2. edn., Cheltenham 2021, pp. 44–73
11	19 May 2023	Climate Change Litigation: Theory <ul style="list-style-type: none"> Adjudication and the role of courts Standing and other challenges Categories 	<ul style="list-style-type: none"> J. Peel/H. Osofsky, <i>Climate Change Litigation</i>, Cambridge 2015, pp. 5–16 J. Setzer/C. Higham, Global Trends in Climate Change Litigation: 2021 Snapshot, Grantham Research Institute on Climate Change and the Environment and Centre for Climate Change Economics and Policy, London School of Economics and Political Science, London 2021 J. Peel, Issues in Climate Change Litigation, <i>Carbon and Climate Law Review</i> 2011, pp. 15–24



			<ul style="list-style-type: none"> - M. Payandeh, The Role of Courts in Climate Protection and the Separation of Powers, in: W. Kahl/M.P. Weller, Climate Change Litigation, Munich 2021, pp. 62-80
No	Date	Topic	Reading materials
12	26 May 2023 Different room! Room: KOL-F-101	Climate Change Litigation: Cases <ul style="list-style-type: none"> • Milieudéfense v. Royal Dutch Shell • German Federal Constitutional Court, speaker: Professor Dr Helmut Aust, Professor for Public and International Law (Freie Universität Berlin) • Swiss Federal Court: KlimaSeniorinnen 	<ul style="list-style-type: none"> - Translation of the Swiss Senior Women for Climate Protection v. Swiss Federal Council et al. decision - Translation of the Milieudéfense v. Royal Dutch Shell decision - J. Reich/F Hausammann/N Boss, Climate Change Litigation Before the ECtHR, Verfassungsblog 16 May 2022 - B. Mayer, The Duty of Care for Fossil-Fuel Producers for Climate Change Mitigation, TEL 2022, pp. 1-12 - C. Macchi/J. van Zeben, Business and Human Rights Implications of Climate Change Litigation: Milieudéfense et al. v Royal Dutch Shell. RECIEL 2021; 30(3): 409-415 - H. Aust, Climate Protection Act Case, Order of the First Senate, American Journal of International Law 2022, Vol. 116, Nr. 1, pp. 150-57 - K. Yoshida/J. Setzer, The Trends and Challenges of Climate Change Litigation and Human Rights. EHRLR 2020; 2: 140-152
13	2 June 2023	Private actors: social movements and corporations <ul style="list-style-type: none"> • Social movements • Carbon majors • Corporate social responsibility 	<ul style="list-style-type: none"> - CDP Carbon Majors Report (2017) - D.S. Olawuyi, 'Corporate Accountability for the Natural Environment and Climate Change' in: Ilias Bantekas & Michael Ashley Stein (eds.), Business & Human Rights Law, Cambridge 2021, pp. 234-259 - M. Scopelliti, Non-Governmental Actors in International Climate Change Law, 1. ed., London 2021, pp. 7-29, 29-49