

GIUDIZIO UNIVERSALE

THE LAST JUDGMENT - CLIMATE CASE

THE WRIT OF SUMMONS EXPLAINED TO CITIZENS

Disclaimer: This non-exhaustive summary has been prepared by the Giudizio Universale campaign for purely informative purposes; it merely reviews a selective list of the main elements that appear in the writ of summons in the *Giudizio Universale* case. The only text that is authentic in the description and definition of the factual and legal elements, as well as the claims of the plaintiffs, is therefore exclusively the original summons, as filed with the Civil Court of Rome. For an additional legal analysis, please also refer to the [Summary of the legal action](#), edited by the legal team of the case.

1. Awareness of the climate emergency by the Italian state

- The Italian State is fully aware of the seriousness of the climate emergency and the urgency of a drastic reduction in GHG emissions. From the extremely dangerous situation resulting from global warming to the fragility and vulnerability of the Italian territory, the challenges posed by the climate emergency represent an incontrovertible reality, recognised and documented by the Italian State. The representatives of the State, especially in recent years, have in fact regularly made and officialised various declarations and explicit acknowledgements of the seriousness and urgency of the planetary and national climate emergency.
- These declarations and explicit acknowledgements are attributable to the President of the Republic, the Government and the Ministers, as well as the Chambers of the Italian Parliament. They are acts of a different nature and scope, united by the fact that they contain manifestations of science or the production of "**environmental information**", within the meaning of **Article 2(3)** of the **Aarhus Convention**.

2. Insufficient climate action by the Italian state

- Awareness of the climate emergency is not reflected in the climate measures taken by the Italian government. So far, Italy has made particularly limited progress in reducing its emissions. After a continuous and gradual increase, Italy's total greenhouse gas (GHG) emissions peaked in 2005 and have been declining slowly since then (with a reduction of about 17% from 1990 levels in 2018). However, this reduction does not reflect the result of ambitious climate actions. In fact, it mainly and significantly reflects the period of economic crisis that has affected the country over the last fifteen years, characterised by three successive recessions between 2008 and 2014.
- Under the current scenario of Italian actions, emissions in 2030 are expected to be 26% below 1990 levels. According to the government's projections, Italy will not meet its modest overall emissions reduction target of 29% by 2030 compared to 1990 levels (37% compared to 2005 levels) if no additional measures are taken. By way of example, the transport and building sectors in Italy have performed relatively poorly in terms of emission reductions in recent decades, with 2018 emissions

in both sectors above 1990 levels. The commercial buildings sector, in particular, has seen a significant increase in natural gas consumption since 1990 (Source: Climate Analytics).

- The additional policies planned by the Italian government, as set out in the National Integrated Energy and Climate Plan (PNIEC), are expected to lead to a reduction in emissions in 2030 of just 36% below 1990 levels. **This reduction is incompatible with the 'fair share' of emissions reductions that Italy is required to implement in order to meet the 1.5°C target of the Paris Agreement.**

3. The sources of the climate obligation

- The climate obligations that the State is required to observe and implement emerge, among others, mainly from the following three sources: **UNFCCC and Paris Agreement, EU Regulations nos. 2018/842, 2018/1999, 2020/852, 2021/241**. Italy has first of all signed all the international agreements and instruments related to the fight against climate change, including: the UNFCCC, the Paris Agreement, the contents of the various IPCC *Reports*, as well as the 17 UN SDGs for 2030 (the 'sustainable development goals', including the thirteenth on climate change). The State, consequently, has bound itself to fulfil a whole series of obligations and to do so in good faith, both towards other States, as prescribed by the **Convention on the Law of Treaties** and the European **principle of loyal cooperation (art. 4 n.3 TEU)**, and towards its own citizens, as required by articles 1375 and 1175 of the Civil Code. In particular, the UNFCCC attributes to individual States the substantial function of **protecting and preserving the climate system**.
- Moreover, having subscribed and adhered to all **the IPCC Reports**, the Italian State also recognises the duty to conform its action to the scientific methods used by the IPCC, in accordance, *inter alia*, with the UNFCCC itself and the Paris Agreement, as well as with the acquisitions of the Constitutional Court on scientific knowledge as limits to political discretion. Science, with its acquisitions and results, binds public discretion, including that of the State, as can be deduced from the **SNPA law (no. 132/2016), Article 3, no. 1, letter c**, which states that the scientific data and information of the scientific institutions "*constitute an official and binding reference for the activities falling within the competence of public administrations*". This regulatory constraint also complies with the Constitution (in particular by virtue of the constitutional jurisprudence, the contents of which are summarised by the doctrinal formula of the "**scientific reserve**", whereby the acquisitions of science and its institutions constitute **limits to political discretion**), **Article 191 TFEU** and the **ECHR** (the jurisprudence of the European Court of Human Rights recognises the need for the measures adopted by States "*to be kept under control taking into account in particular scientific and social developments*").

4. Infringed rights

- The link between the climate emergency, human rights and effective judicial protection against the State is incontrovertible. **The climate emergency**, denounced by the scientific community and declared by the European Parliament, as well as by the Italian branches of Parliament, **limits and define the State's discretion**.
- The **link between the impacts of climate change** and the enjoyment of **human rights has been repeatedly** stressed and reaffirmed in recent years by a series of judicial precedents (such as *Neubauer et al. v. Germany*, *Urgenda v. The Netherlands*) and by countless **Reports and Declarations** of international institutions, of which **Italy is also part** (such as the *Joint Statement*

on *Human Rights and Climate Change* of the Human Rights Commissioner). Climate impacts threaten the most fundamental rights of the human person: the right to life, food, water, health, a healthy environment, adequate housing and property, self-determination in the use of natural resources, present and future, survival in living standards and human development.

- The Italian State is obliged to protect the human **right to a stable and safe climate**, held by every human being, which is crucial and necessary for the enjoyment of all other fundamental rights "*for the benefit of the present and future generations*". In order to protect the effective enjoyment of this right, States are obliged to address the current climate emergency situation in order to safeguard and preserve - in time - the functionality of the climate system and its thermodynamic stability, boldly aiming at mitigation efforts.
- The human right to a stable and safe climate also interfaces with the catalogue of principles and contents of **Article 6 of the Treaty of the European Union (TEU)**, a source directly applicable in the Italian legal system. One need only think of the "essential content" of fundamental rights, as set out in **Article 52** of the Nice-Strasbourg Charter. In addition, there are the provisions of the **ECHR**: the State is obliged to honour the positive obligations deriving from the Convention in countering the current climate emergency, in particular **Art. 2** (right to life) and **Art. 8** (respect for private and family life); as well as **Art. 14 ECHR** (prohibition of discrimination) in conjunction with the aforementioned articles, as interpreted by the European Court of Human Rights. Ultimately, delaying the reduction of emissions is a violation that will discriminate against the younger generations in particular, who will be forced to bear the cost and adverse consequences of such inaction.

5. State responsibility

- The factual circumstances and legal elements outlined above show the continuing failure of the State to pursue the objective of climate stability: by virtue of the link between climate change and the fundamental rights of the human person, they give rise to the non-contractual liability of the **Italian State** under **Article 2043 of the Civil Code**, in light of the constitutionally-oriented interpretation of the provision (and the general *neminem laedere* clause contained therein).
- The responsibility of the State can also be additionally identified according to other articles of the Civil Code. *Inter alia*, the State is the holder of the functional prerogatives to control and eliminate any increase in emissions and to influence human conduct within its territory: **Italy, as a party to the UNFCCC, is legally bound to protect the climate system "for the present and future generations"** and is therefore to be considered **the guardian** of the climate system, i.e. its own territory (by virtue of **Article 2051 of the Civil Code**).
- The inadequacy and insufficiency of the State's conduct in combating climate change infringes, *inter alia*, the duty of social solidarity: hence the need to address the conduct of the Italian State in order to remove its unlawfulness and to put an end to its harmful effects. **It follows that the State must be ordered to take appropriate measures to eliminate the causes of the damage to climate stability**, while preventing their recurrence.

6. Remedies and reliefs

- The objective of the case is to ask the Civil Court for a ruling condemning the State to take the necessary steps to reduce greenhouse gas emissions in order to achieve, on the basis of the best available science, climate stabilisation and guarantee the effective protection of human rights for

present and future generations (in accordance with the constitutional duty of solidarity and the international duty of fairness among States).

- The main specific requests made by the claimants to the court are the following:
 - a. **Declare that the Italian State is responsible for the dangerous situation resulting from its inaction in combating the climate emergency;**
 - b. **Order the State to reduce greenhouse gas emissions by 92% by 2030 compared to 1990 levels.**
- This percentage is obtained taking into account Italy's historical responsibilities in GHG emissions and current technological and financial capabilities, in accordance with the principles of equity and common but differentiated responsibilities that characterise climate law. These principles are fundamental in the calculation of the *'fair share'* that each State is required to pursue in order to fairly contribute to achieve the long-term temperature goal of the Paris Agreement.