

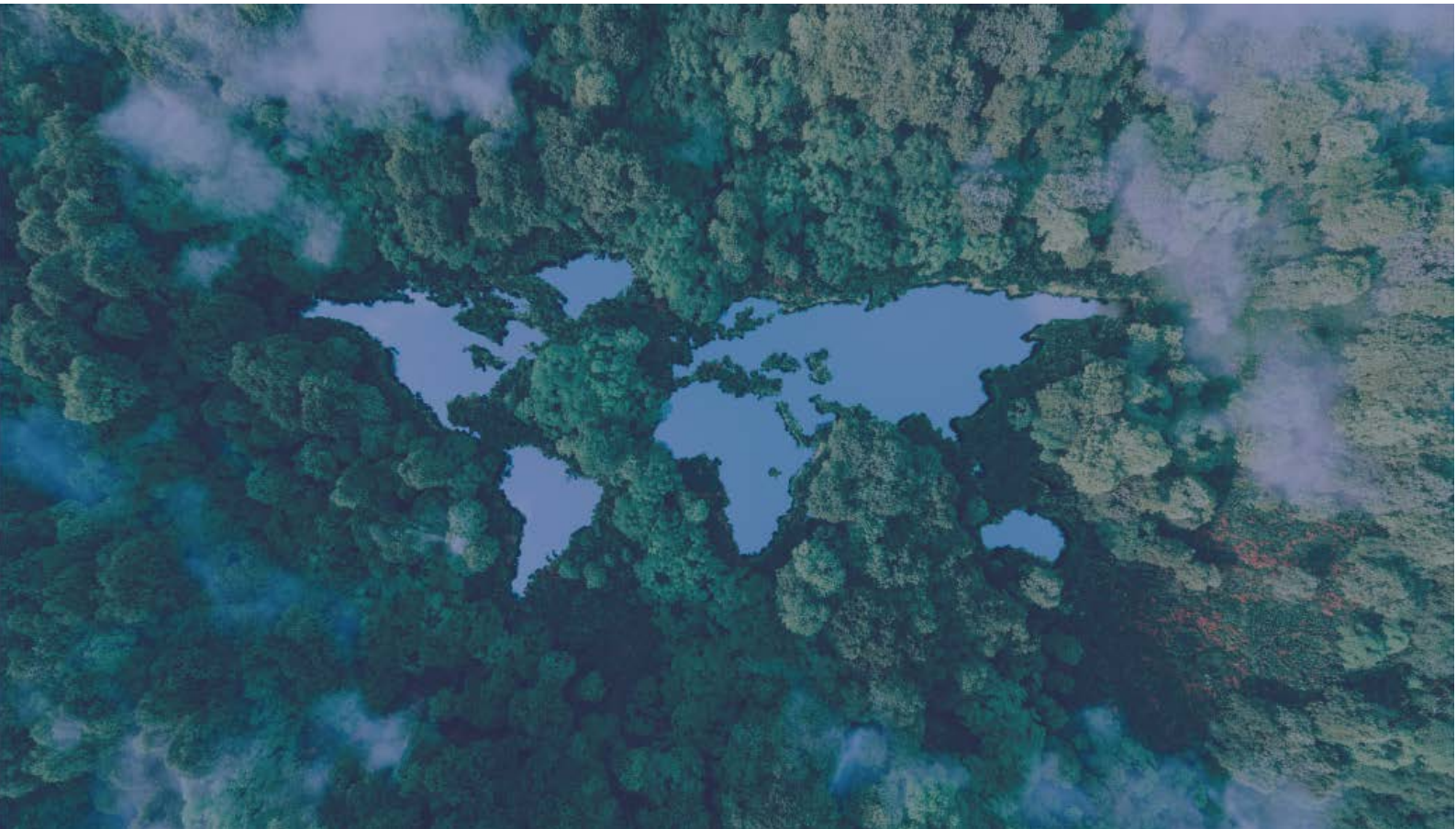


**British Institute of  
International and  
Comparative Law**

# Global Perspectives on Corporate Climate Legal Tactics: Poland National Conference

22 May 2024 | Event Report

Marta Zamorska





**British Institute of  
International and  
Comparative Law**

## **Mission Statement**

The British Institute of International and Comparative Law exists to advance the understanding of international and comparative law, and to promote the rule of law in international affairs.

## **Vision**

To be a leading research institute of international and comparative law and to promote its practical application by the dissemination of research through publications, conferences and discussion.

# Table of Contents

- Mission Statement..... 2
- Vision ..... 2
- Introduction.....4
- Session: Poland National Conference .....5
  - Dr. Izabela Schiffauer ..... 5
  - Maja Frontczak ..... 5
  - Dr. Katarzyna Ciućkowska ..... 6
- Closing Remarks.....7
  - Discussion ..... 7

# Introduction

The conference, organised by the national Rapporteur for Poland, Ms Marta Zamorska, took place online on 22 May and featured the participation of three experts from the group of experts for Poland. The primary objective of the conference was to present BIIICL's project on [Global Perspectives on Corporate Climate Legal Tactics](#), and the [National Report for Poland](#), prepared within this context, emphasising its main conclusions and significance for Polish research in the field. The conference commenced with an overview of all causes of action in climate change litigation as presented in the report. Marta Zamorska provided a brief summary of the relevance and application of these causes of action within the framework of Polish law. She also discussed the two causes of action invoked thus far before Polish courts against corporations: environmental law, as seen in the cases of Greenpeace/ClientEarth v. PGE, and the commercial code, exemplified by the case of Enea against its former managers. Marta Zamorska referenced several European lawsuits in corporate climate change litigation, elaborating on their relevance for the future of climate litigation against corporations in Poland. This presentation set the stage for a deeper exploration of the report's findings and their implications for ongoing and future research and its practical applications. The contributions of the experts offered more nuanced perspectives which helped to foster a comprehensive understanding of the current state of and future prospects for climate change litigation in Poland. The speakers not only underscored the importance of the national report for Polish research but also highlighted the pivotal role of expert analysis in shaping effective legal strategies in climate litigation.

## Chair

- Marta Zamorska, University of Lausanne

## Speakers

- Dr. Izabela Schiffauer, Adam Mickiewicz University in Poznań
- Dr. Katarzyna Ciućkowska, University of Warmia and Mazury in Olsztyn
- Maja Frontczak, a counsel and a leader of the Climate Team at GESSEL

# Session: Poland National Conference

## Dr. Izabela Schiffauer

*Adam Mickiewicz University in Poznań*

In her presentation, Dr. Schiffauer emphasised the significance of the Corporate Sustainability Due Diligence Directive (CSDDD), which the European Parliament adopted on April 24<sup>th</sup>, 2024. This Directive includes specific requirements relating to climate change and imposes legal obligations on large companies with substantial activities in the EU to perform human rights and environmental due diligence within their operations and throughout their supply chains. Dr. Schiffauer provided a concise overview of the Directive's history, outlining its development and the processes that led to its adoption. She also detailed the Directive's scope of application, emphasising that it targets major corporations, and elaborated on its primary objectives, such as promoting sustainable business practices and protecting human rights and the environment. Crucially, Dr. Schiffauer underscored the implications the Directive will have on the Polish legal landscape. However, she noted that the implications will depend on how the Directive is transposed into Polish law, with the caveat that, since the Member States have the discretion to expand or not the Directive's scoping thresholds, this could potentially alter its impact. Dr. Schiffauer noted that the Directive would necessitate a new interpretation of due diligence within Polish law, which could have an impact on climate change litigation in the country. The transformation brought by the Directive is expected to hold corporations more accountable for their environmental impact and human rights practices, thereby fostering a more sustainable and ethically responsible business environment in Poland. Dr. Schiffauer concluded by highlighting the Directive's potential to drive substantial legal and environmental reforms, reinforcing the importance of its timely and effective implementation.

## Maja Frontczak

*Counsel and a leader of the Climate Team at GESSEL*

During the conference, Maja Frontczak delved into the repercussions of the recent ruling of the European Court of Human Rights in the case *KlimaSeniorinnen v. Switzerland*. She specifically addressed its potential impact on ongoing climate change litigation in Poland, where citizens have filed cases against the government for its perceived inaction in mitigating climate change. While acknowledging that the Polish cases differ in legal grounds from the Swiss lawsuit, Maja Frontczak highlighted their shared focus on governmental inaction regarding climate change mitigation and expressed optimism that Polish courts would have to take the ECHR's judgment into consideration when

deliberating similar cases within their jurisdiction. She underscored the broader significance of the ECHR's ruling, emphasising how it could catalyse advances in climate change litigation across Europe. By drawing attention to the influence that human rights have on the ongoing Polish cases, Maja Frontczak pointed out the pivotal role of such landmark judgments in shaping climate policy in Poland.

## Dr. Katarzyna Ciućkowska

*University of Warmia and Mazury in Olsztyn*

Dr. Ciućkowska spoke about the legal framework concerning the infringement of personal rights, particularly health, freedom, and dignity, as outlined in Articles 23 and 24 of the Polish Civil Code. She elucidated the potential ramifications of such legal grounds on climate change litigation in Poland. Notably, Dr. Ciućkowska highlighted the dynamic nature of the catalogue of personal rights, indicating its openness to encompass emerging rights relevant to climate concerns. Dr. Ciućkowska referenced a pivotal resolution by the Supreme Court in 2021, addressing the question of whether the right to clean air constitutes a personal right. While the Court rejected the argument that the right to clean air is a separate personal right, it nonetheless acknowledged that instances of environmental degradation, such as smog, may indeed encroach upon recognised personal rights. In drawing connections between this resolution and climate change litigation, Dr. Ciućkowska highlighted the potential applicability of personal rights' framework to environmental issues, thus paving the way for new legal avenues to address climate-related claims.

# Closing Remarks

## Discussion

Following the presentation, the ensuing discussion addressed two inquiries raised by the audience. The first question concerned the issue of invoking civil liability grounds in climate change litigation. In her response, Marta Zamorska drew attention to several notable cases across Europe and the United States, including the German case *Lliuya v. RWE AG* and the Shell case in the Netherlands. She highlighted potential challenges associated with basing lawsuits on civil liability, emphasising for instance the issue of causation that may be particularly challenging to address in climate change litigation. Maja Frontczak supplemented this response by suggesting that while such grounds have not been invoked before Polish courts to date, it is plausible that they may become increasingly relevant in the future. She underscored the nuances of Polish law regarding causality, the apportionment of liability and the burden of proof, citing for example the medical malpractice cases.

Another question raised during the conference pertained to the sustainability obligations of insurers and their implications for the insurability and pricing of climate-related risks. While this query is inherently complex and lacks a straightforward answer at present, it also highlights the novel challenges that climate change presents for different industries in Poland and underscores the necessity to develop comprehensive analyses to discern optimal approaches to risk assessment relating to climate change.

Charles Clore House  
17 Russell Square  
London WC1B 5JP

T 020 7862 5151  
E [info@biicl.org](mailto:info@biicl.org)

<https://www.biicl.org/>

A company limited by guarantee  
Registered in England No. 615025  
Registered Charity No. 209425



**British Institute of  
International and  
Comparative Law**