Editorial

As this issue goes to print, the world is reeling from the impacts of a pandemic that no observer would have predicted only three months ago, when the last issue was released. As the novel coronavirus spreads across the globe, its exponential growth abated only where measures have been taken to shut down nearly all social interaction and large parts of economic activity, commentators have begun tracing parallels between this health emergency and another existential crisis: climate change. Pointing to the substantial emission reductions observed as one country after another responds to the contagion, they highlight the unprecedented scale of individual and collective action, and ask whether this mobilisation can offer lessons for how we position ourselves against the climate challenge.

Admittedly, the similarities between both crises are intriguing. Both are global in nature, requiring a concerted policy effort and the commitment of extraordinary resources. Complexity and cost are only matched by the urgency of action; scientific and economic uncertainties abound, as do difficult moral choices. But the parallels end there. A vast majority of the emission benefits seen in the wake of the pandemic are not sustainable, nor should we want them to be: they come at a considerable price, resulting from a sudden and dramatic shock to the global economy that will disrupt countless lives and cause widespread social and economic hardship.

At some point, the health crisis will wind down, and as it does, citizens and their governments will prioritise economic recovery. They may not have the bandwidth or the resources to immediately resume fighting another emergency. Countries will have injected record levels of financial stimulus into their economies, depleting public budgets. Some of the behavioral changes adopted in response to the pandemic may linger, and some of the investments made to dampen its impacts may be aligned with sustainability objectives. But overall, if the last major crisis – the ‘Great Recession’ of 2008 – is any indication, economic activity will resume and be accompanied by a commensurate rise in emissions, at best modestly flattened by the effects of green stimulus investments and sustained behavioral change.

Indeed, the appetite for decisive intervention to address climate change appears limited even in the best of times. When nations convened in Madrid in late 2019 for the annual United Nations climate summit, at the tail end of the longest economic expansion on record, they failed to fully operationalise the Paris Agreement, let alone to strengthen collective climate ambition. In their lead article, Wolfgang Obergassel and his co-authors have compiled a sobering account of these negotiations. Aside from laying out the main decisions and areas of contention, they discuss the implications of Madrid for the need to step up climate action at the next climate summit, currently scheduled for Glasgow later this year.

The Paris Rulebook may not have been finalised in Madrid, but most of its elements were already adopted at the previous climate summit in Katowice in 2019. That includes the

enhanced transparency framework, which provides guidance on how to, *inter alia*, report greenhouse gas emissions and track progress towards national climate pledges. Myele Rouxel dissects this framework and gauges its capacity to incentivise greater climate ambition against a set of criteria drawn from compliance theory. Based on her analysis, she concludes on a cautious note.

Where states fail to live up to their climate commitments, strategic litigation has become an increasingly popular tool for citizens and civil society groups to hold their governments to account. Christel Cournil describes a pending lawsuit before the Administrative Court of Paris challenging the lack of climate action by the French state. She draws particular attention to a series of innovative legal arguments invoked by the plaintiffs, and assesses their doctrinal and theoretical merits. Climate-related disputes can take various shapes, however, and Emily Davies surveys how investors – such as banks and pension funds – can become the targets of lawsuits and other dispute resolution mechanisms. Her taxonomy of mechanisms, ranging from litigation to public inquiry and mediation, offers helpful guidance to understand the most appropriate role of each at different stages of a dispute. Alastair Marke, Sarisha Ramanand and Kamil Daniel Akdag, finally, conclude this issue's section of general articles by querying how the evolving regime on loss and damage under the Paris Agreement, if reinterpreted, could serve to advance the interests of vulnerable developing countries, including through litigation against developed countries.

Soberly considered, the stagnation of international climate cooperation coupled with a rise in more confrontational approaches do not bode well for our prospect of mobilising action at the scale and urgency called for by the climate crisis. But while the breathtaking response to the novel coronavirus may have only limited bearing on the climate challenge, it has already taught us a valuable lesson: faced with a tangible, pervasive threat, we can rise to even the most daunting challenge, more often than not working in solidarity as we adapt to drastic changes in our way of life and commit unprecedented resources to a collective cause. In both contexts, the hardest part is yet to come; but veteran observers of the climate policy process, perennially at risk of disillusionment and resignation, are likely to take heart.

On an internal note, we are pleased to announce that Patrick Toussaint, Researcher at the Institute for Advanced Sustainability Studies, will join *Carbon & Climate Law Review* as Managing Editor as of the next issue, working closely with myself and the Executive Editor Jakob McKernan to chart the future path of this journal. Despite political setbacks and partisan gridlock, climate change has continued to gain salience since our journal was launched more than a decade ago, and so have, in that period, questions of governance and regulation. *Carbon & Climate Law Review* will continue to trace relevant trends and facilitate scholarly debate, as always fostering an open, critical and inclusive outlook.

Michael Mehling
Managing Editor