

Climate
ChangeTHE STATE OF THE NETHERLANDS V
URGENDA FOUNDATION

Supreme Court of the Netherlands. Decided 20 December 2019.

The Dutch government appeals the judgment calling for a more ambitious policy on climate change.

Parties

Appellant: The State of the Netherlands, Ministry of Economic Affairs and Climate Policy

Respondent: Urgenda - a nonprofit foundation in the Netherlands which aims to help enforce national, European and international environmental treaties. ("Urgenda" stands for "Urgent" and "Agenda")

Key Facts

- This case considered whether the State is obliged to reduce, by the end of 2020, its emissions target of greenhouse gases (GHG) originating from Dutch soil by at least 25% as compared to 1990, and whether the courts can order the State to do so.
- Until 2011, the State deemed it necessary to reduce GHG emissions by 30% by 2020. Later, the State lowered its target down to 20% without providing scientific reasoning and in spite of its international commitments.
- Urgenda sought a court order directing the State to reduce GHG emissions by 40% by the end of 2020 in alignment with its international commitments, or in any case by at least 25% as compared to 1990 according to scientific figures.
- The case was brought against the State in 2013, arguing that the government, by not meeting a minimum reduction goal established by scientists against harmful climate change, was endangering the human rights of Dutch citizens as set by national and European Union laws.
- In 2015, the Hague District Court allowed Urgenda's claim and the State was ordered to reduce emissions by the end of 2020 by at least 25%.
- In 2018, the Court of Appeal confirmed the District Court's judgment to order the State to achieve a level of reduction by the end of 2020 that is more ambitious than envisioned by the State's policy.
- The State appealed the decision.

Key Rights

Right to life; Right to respect for private and family life.

The Court's
Decision

- The Supreme Court stated that the Dutch government's failure to take responsibility for the Netherlands' contribution to the climate crisis is a breach of its obligations under the European Convention on Human Rights (ECHR). Furthermore, there is a large degree of consensus in the scientific and international community regarding the urgent need for developed countries to reduce GHG emissions by at least 25% by the end of 2020.
- The Dutch government argued that it is up to politicians to decide on the reduction of GHG emissions. However, the Supreme Court found that the Dutch Constitution requires that Dutch courts apply the provisions of the ECHR.
- In its ruling, the Supreme Court affirmed that the Dutch State was responsible for managing GHG emissions for the country and was bound to protect human rights.

- Climate change impacts to current and future generations was so great and concrete that, given its duty of care, the State must make an adequate contribution, which is greater than its current contribution, to mitigate harmful impacts.
- The argument that a reduction in emissions in the Netherlands would not have a big effect on the global level did not absolve a country from taking measures to reduce its own emissions.

What now?

- The judgment, while binding the government to meet the 25% reduction, did not specify what repercussions exist should the government miss that target. A spokesperson for Urgenda stated they did not inquire about penalties for the government in failing to meet the target, as they do not anticipate any reason for the government to not respect the decision of the highest court of justice in the Netherlands.
- The Dutch government has since ordered the shutdown of the Hemweg plant in 2020, four years earlier than planned. The Dutch government passed a new climate plan in June 2019, targeting 49% greenhouse gas emissions reduction by 2030. This plan includes taxes on industries on greenhouse gas emissions, transitioning from gas to electric power through incentives, and pay-per-use driving taxes as early as 2025.

International Impact

- **This series of judgments marks one of the first civil action cases taken against a government challenging climate change commitments based on human rights, with the original 2015 Hague District Court decision being the first successful climate justice case.**
- The affirming decision from the Supreme Court is a landmark decision in climate justice and environmental law worldwide.
- The case has already inspired similar suits against national governments in Europe (including in Belgium, France, Ireland, Germany, New Zealand, Britain, Switzerland and Norway) - and from plaintiffs around the world against the European Union - as part of a larger trend of citizens seeking action from courts on climate issues.

Key Principles

Precautionary principle

International Agreements Cited

Declaration of the United Nations Conference on the Human Environment, United Nations Framework Convention on Climate Change, Kyoto Protocol, Doha Amendment, Paris Agreement

References & Further Reading

Urgenda: <https://www.urgenda.nl/en/themas/climate-case/>

Further Reading:

"[State of the Netherlands v. Urgenda Foundation](#)". Harvard Law Review, May 2019: 2090-2097.

Schwartz, John (20 December 2019). "[In 'Strongest' Climate Ruling Yet, Dutch Court Orders Leaders to Take Action](#)". The New York Times.