

Climate Change

URGENDA FOUNDATION V THE STATE OF THE NETHERLANDS

The Hague Court of Appeal. Decided 9 October 2018

A citizen's platform challenges the Dutch government's unambitious policy on climate change.

Parties

- **Appellant:** The State of the Netherlands
- **Respondent:** Urgenda Foundation (A citizens' platform based in the Netherlands)

Key Facts

- Until 2011, the State of the Netherlands felt it was necessary to reduce greenhouse gas emissions by 30% by 2020. However, later, the State aligned its policy with the European Union's emissions target, lowering the target to 20% without providing scientific reasoning.
- Urgenda approached The Hague District Court asking for the Court to order the State to achieve a more ambitious level of reduction of greenhouse gas emissions by the end of 2020. In 2015, The Hague District Court ordered the State to reduce greenhouse gas emissions by at least 25% by the end of 2020. The State appealed the decision.
- According to the Intergovernmental Panel on Climate Change (IPCC), in order to keep below the 2°C global warming target, the total greenhouse gas emissions of developed countries in 2020 must be 25-40% lower than 1990 levels.
- A 2017 United Nations Environment Programme (UNEP) report states that increased pre-2020 mitigation actions are more urgent than ever. It warns that if the emissions gap is not bridged by 2030, achieving the 2°C target is extremely unlikely.
- The Netherlands ranks amongst the countries with the highest per capita greenhouse gas emissions in the world. Since 1990, carbon dioxide emissions, which account for 85% of all greenhouse gas emissions in the Netherlands, have increased.

Key Rights

Right to life, private life, family life and home.

The Court's Decision

- The Court agreed with the District Court that a reduction obligation of at least 25% by the end of 2020 is in line with the State's duty of care.
- It finds that the State has a positive obligation, under Article 2 and 8 of the European Convention on Human Rights, to take concrete and reasonable actions against climate change. Doing so is crucial in order to prevent the serious risk of a future violation of the right to life, as well as the right to family life.
- Referring to the current science on climate change, the Court found it necessary to begin with emission reduction efforts as early as possible. It set a reduction target of at least 25% by the end of 2020 as a starting point. The Court held that the order to reduce emissions does not violate the principle of the separation of powers as it remains within the government's discretion to decide how it wants to achieve the emission target.

“ Under Article 2 and 8 of the European Convention on Human Rights, the State has an obligation to take concrete and reasonable actions against climate change. ”

The Court's Order

The Court upheld the judgment of The Hague District Court of 24 June 2015 which ordered the State to reduce greenhouse gas emissions by at least 25%, relative to 1990 levels, by the end of 2020.

What now?

The State appealed the decision to the Supreme Court. On 20 December 2019, the Supreme Court handed down judgment, dismissing the State's appeal, and upholding the decision of the two courts before it. The Supreme Court agreed that the Dutch government must urgently and significantly reduce emissions in line with its human rights obligations.

International Impact

- Even prior to the judgment of the Supreme Court, the international impact of the judgment was already visible. Other courts have relied on its findings.
- In '**Friends of the Irish Environment CLG v. The Government of Ireland**', the ruling's summary of current science on climate change was adopted.
- In the Australian judgment '**Gloucester Resources Limited v. Minister for Planning**', the court relied on the Urgenda ruling when dismissing the argument that a coal mines' greenhouse gas emissions only account for a small fraction of emissions and should, therefore, not be a decisive factor when deciding on development projects.
- The confirmation of the ruling by the Supreme Court further affirms that governments have binding legal obligations to reduce their emissions in line with their international commitments and international human rights law.

Key Issues

Climate Change Mitigation, State's Duty of Care, Separation of Powers.

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

Judgment: http://blogs2.law.columbia.edu/climate-change-litigation/wp-content/uploads/sites/16/non-us-case-documents/2018/20181009_2015-HAZA-C0900456689_decision-3.pdf

Additional Information:

Silke Goldberg / Benjamin Rubinstein [Decision of the Dutch Court of Appeal, Urgenda Foundation v Kingdom of the Netherlands - Case Summary](#).

Harvard Law Review [State of the Netherlands v. Urgenda Foundation - Hague Court of Appeal Requires Dutch Government to Meet Greenhouse Gas Emissions Reductions By 2020](#)

Isabella Kaminski, [Final Appeal in Historic Urgenda Case May Hinge on Human Rights](#)