

# ENVIRONMENTAL COURT CASES ACROSS THE WORLD

## Climate Change

### NEUBAUER ET AL. V. GERMANY

Federal Constitutional Court of Germany, Filed: February 2020;  
Decided April 29, 2021

#### GERMAN CONSTITUTIONAL COURT STRIKES DOWN NATIONAL CLIMATE LAW AS INADEQUATE

#### Parties

**Applicant:** Luisa Neubauer (25-year-old climate activist)  
**Defendant:** Government of Germany

#### Key Facts

A group of German youth filed a legal challenge to Germany's Federal Climate Protection Act, arguing that the law's target of reducing greenhouse gas emissions 55% by 2030 from 1990 levels was insufficient and consequently violated their human rights as protected by Germany's constitution. The applicants argued that the law's 2030 target did not take into account either Germany or the EU's obligation under the Paris Agreement to limit global temperature rise to the "well below 2 degrees Celsius" level. The applicants argued that Germany would need to reduce greenhouse gas emissions by 70% by 2030 (from 1990 levels) in order to meet its international obligations. The argued that the government's failure to take adequate action on climate change violated multiple rights guaranteed to them by the Basic Law, Germany's constitution, including the principle of human dignity, the right to life and physical integrity, and the natural foundations of life in responsibility for future generations. The applicants asked the Federal Constitutional Court to declare the 55% reduction goal a violation of the Basic Law, require the legislature to issue new reduction quotas, and prohibit the transfer of emissions allocations under the new regulatory regime.

#### The Court's Decision and Reasoning

##### Decision:

The Federal Constitutional Court struck down the parts of the Federal Climate Protection Act as incompatible with fundamental rights for failing to require sufficient emission cuts beyond 2030.

##### Reasoning:

The Court found that the Basic Law requires the legislature to protect the climate and aim towards achieving climate neutrality. The Court found that the legislature had not proportionally distributed its carbon budget between current and future generations and ordered the legislature to set clear provisions for reduction targets from 2031 onward by the end of 2022.

#### What now?

On April 30, 2021, the German government announced that it would move swiftly to adjust its climate law in response to the decision.



## International Impact

This decision has considered groundbreaking, because while climate lawsuits are on the rise globally, many suits are still unsuccessful. The success that applicants had in this case is therefore a promising result for climate activists, and it came on the heels of other key victories, including a Paris court ruling that France was legally responsible for its failure to meet emission cutting targets. This lawsuit is part of an emerging global pattern of young people bringing climate lawsuits on theories of intergenerational equity, including a successful case in Colombia and a case brought by Portuguese youth, which was fast-tracked at the European Court of Human Rights.

## Key Issues

Greenhouse gas emissions reductions, basic rights, human dignity, right to life and physical integrity, rights of future generations, transfer of emissions

## Laws and Agreements Cited

### Domestic Law Implicated:

Basic Law Articles 1, 2, and 20a

### International Law Implicated:

Paris Agreement

## References & Further Reading

### Judgment:

The judgment is available in German here: [Judgment \(German\)](#)

The judgment is available in English here: [Judgment \(English\)](#)

### Further Reading:

[The Guardian - 'Historic' German ruling says climate goals not tough enough](#)

[OpenGlobalRights - Litigating the future: climate rights before the German Constitutional Court](#)

[EJIL: Talk! - Sustainable Development made justiciable: The German Constitutional Court's climate ruling on intra- and inter-generational equity](#)

[CNN - Kids are taking governments to court over climate. And they are starting to win](#)

For more information:

Contact Natural Justice at  
[info@naturaljustice.org](mailto:info@naturaljustice.org)  
Or find us @ [www.naturaljustice.org](http://www.naturaljustice.org)

Published December 2021, with support from

HEINRICH BÖLL STIFTUNG  
CAPE TOWN  
South Africa | Namibia | Zimbabwe

