

**Alert | Energy & Natural Resources/
Litigation**



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Shell Wins Appeal in Dutch Climate Ruling

On 12 November 2024, the Court of Appeal in The Hague handed down its ruling in the appeal proceedings between Shell plc and Milieudefensie, a non-governmental organization. Shell appealed a district court ruling ordering the company to reduce its global CO₂ emissions by 45% by 2030 compared to 2019 levels, through the group's corporate policy.

The Court of Appeal ruled that, while Shell is indeed obligated to reduce its CO₂ emissions, a civil court cannot require it to meet specific reduction targets. As a result, the Court of Appeal overturned the ruling and rejected Milieudefensie's claims.

Background

Milieudefensie initiated this lawsuit in 2018, arguing that Shell has a duty of care to contribute to the fight against climate change. According to the 26 May 2021 ruling, Shell was ordered to reduce its own emissions by 45% by 2030 compared to 2019 in relation to three types of CO₂ emissions (scope 1, 2 and 3). Consequently, this meant that Shell had to ensure it achieved this reduction across its entire corporate supply chain, including suppliers and customers.¹

This was the first time a court had ordered an individual company to meet specific emissions-reduction targets as part of global climate policy, rather than only complying with statutory laws.

¹ District Court of The Hague, 26 May 2021, ECLI:NL:RBDHA:2021:5339.

Court of Appeal Ruling: Social Standard of Care, but No Specific Reduction Obligation

The Court of Appeal stated that climate change poses serious risks and that governments and large corporations have a responsibility to reduce the greenhouse gas emissions that contribute to global warming. The court acknowledged that this responsibility is based on the human right to protection from dangerous climate change. While it is primarily the role of governments to protect human rights, these rights – including protection from dangerous climate change – may have an effect through open standards, such as the “social standard of care.” The UN Guiding Principles on Business and Human Rights and the OECD guidelines define the social standard of care. The content and scope may vary from one company to another.

The Court of Appeal concluded that, notwithstanding Shell’s responsibility to reduce greenhouse gas emissions, a civil court cannot impose specific emissions reduction targets on the company. Specifically for scope 1 and 2 emissions, the court considered that Shell is already working towards meeting the goals Milieudéfensie requested.

For scope 3 emissions, the court noted that there is currently insufficient scientific consensus on what precise reduction percentage should apply to individual companies like Shell. Furthermore, the court found that imposing a global reduction obligation on Shell may not necessarily have a meaningful impact on mitigating climate change. For example, if Shell started selling gas to customers that previously purchased coal from other suppliers, this would increase Shell’s scope 3 emissions, but on balance might lead to lower global CO₂ emissions. Also, if Shell were to reduce its sales of oil and gas extracted by other companies, other firms could potentially fill that gap. As a result, the court ruled that Shell has the freedom to determine how it reduces its greenhouse gas emissions and is not subject to specific demands from the court.²

Conclusion

The Court of Appeal’s ruling on 12 November 2024 overturns the previous ruling in Milieudéfensie’s case against Shell. While the court confirmed that large companies like Shell have a duty of care to address climate change, it emphasized that the specific implementation of emissions reductions should be determined by governments, not courts.

Milieudéfensie can file an appeal against the ruling with the Dutch Supreme Court within three months of the ruling.

[The full English translation of the appeal judgement can be found here.](#)

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² Court of Appeal of The Hague, 12 November 2024, ECLI:NL:GHDHA:2024:2099.

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