

Your Honours,

First of all, I would like to thank the Court for the extensive opportunities the Court has offered all parties to properly substantiate and explain their assertions. There will not be many civil cases for which four days of hearings are set aside. Milieudefensie/Friends of the Earth Netherlands, the Waddenvereniging, Greenpeace Nederland, Fossielvrij Nederland, BothENDS, and their supporting base and Milieudefensie's youth division, Milieudefensie JONG, are extremely grateful to the Court for the time and attention you gave us.

Milieudefensie et al. believes that with all its assertions and substantiation in this appeal, Milieudefensie et al. has made it clear that the District Court of The Hague passed the right Judgment and a well-reasoned Judgment. It is a Judgment that deserves praise and to be upheld. It is a Judgment that shows that Shell is a major contributor to the climate problem and that Shell therefore also has a great responsibility in helping to limit the severity and extent of the climate problem.

The District Court passed a Judgment that has become global news, which is one of the reasons why the world, and certainly

the international legal community, is closely following this appeal.

The community of attorneys and jurists generally tends to take a wait-and-see attitude when a groundbreaking Judgment is passed at first instance. They want to see how a higher court will rule on the matter. This is what happened with the Urgenda case and this is what is happening with this case against Shell.

We know that many attorneys and corporate lawyers in the Netherlands and abroad first want to see how this Court of Appeal determines this case, before being willing to actually internalise that large corporations like Shell can be required to take responsibility in relation to solving the climate problem. Our expectation is therefore that in case the Judgment is upheld, not only will Shell go into action mode, but that many other companies will also be more proactive when it comes to taking responsibility for solving the climate problem. Upholding the Judgment will therefore have a flywheel effect that will incentivise others to do better.

It has become clear in these proceedings that Shell will not take its climate responsibility without a court order. Many other companies will also ignore the climate problem as much as possible if there is no legal pressure to take the significant

human rights that will be under pressure because of climate change seriously.

In this lawsuit, Shell's attitude in the proceedings has given us a good idea of how the business community thinks and acts. The excuses that are used to not have to take climate responsibility, have turned out to be almost infinite. What it comes down to is that it is up to everything and everyone to bring about the necessary change, but not the business community. And when others in society wish to bring about this change, the business community thwarts their attempts at change. We have mentioned and substantiated the many ways in which this thwarting is created and even organised in this case.

Shell, almost more than any other company in the world, has truly turned it into an art form to influence political decision makers and the public and consequently work against and delay the energy transition. Both through its investments and the associated lock-in, and via the many other ways at its disposal to exert influence.

Partly as a result, in the past few decades Shell has determined the political and public narrative together with the oil and gas industry and we have started to collectively believe in that narrative. That narrative is that the climate problem is the fault

of citizens, that it is up to the political domain to solve it, that companies do not have any influence, that the climate approach will be at the expense of energy safety and the affordability of energy, that it would be economically destructive and more of these kinds of one-liners. They are all assertions that demonstrably are not correct, but you first have to know enough about it to be able to see this. Because most of us do not have the time and the resources to refute the inaccuracy of the public assertions of Shell and the industry, Shell and the industry have managed to make the climate problem worse in the past decade and to avoid any responsibility in this respect.

The Judgment cannot change Shell's history of policies that are far from climate-friendly, but Shell's future conduct can, fortunately, be steered in the right direction by upholding the Judgment. In 2024 there is a greater need for this than ever, in view of Shell's attitude since the Judgment of 2021. This attitude is one of continuation of the further worsening of the climate problem and continuing to look for ways to, above all else, not have to take any responsibility.

Shell's attitude and the fact that Shell will not take the necessary steps of its own accord is reflected in Shell's climate policy. There is a good reason why we consistently see disclaimers with Shell's announcements and ambitions that

make it clear that Shell can still go any way. The fact that Shell watered down its climate ambitions only a few weeks ago is living proof of Shell's attitude. It has become more than clear in these proceedings that Shell's climate policy is miles removed from what is truly necessary.

We are confident in stating that no one in the world is as fully informed as this Court of Appeal when it comes to passing judgment on Shell's climate responsibility. Shell, M&M and Milieudefensie et al. have submitted many hundreds of pages in supporting material and many thousands of pages of evidence to the Court. All relevant aspects to reach a well-considered judgment have been discussed and reviewed. Hopefully all remaining questions of the Court have been answered today. The parties and the world are looking at the Court's actions and will have some tense months while awaiting the judgment of the Court. Whatever the judgment is, it will have a significant influence on the further approach to climate change and the worldwide energy transition and the role of companies in this transition.

In concluding today, I would like to submit the following for the Court's consideration. I would like to take you back to December 2020, the opening argument at first instance. Where I said the following: *"we are entering the last decade in which*

*dangerous climate change can still be prevented. If the emissions are not drastically reduced in the coming decade, then the race will have been run."* We are now 3.5 years further and Shell is still acting just as irresponsibly. We have about 7 years left. These are the decisive years in which we must make up for lost time in order to stay in the race.

The hard reality is that we are already far into the crucial decade and that it is time for major steps. We know what is necessary and we know that the answer to the biggest dangers of climate change is different from what Shell claims. Science, the global community and the most important institutions all agree: we have to get rid of fossil fuels and we have to drastically reduce global emissions this decade.

To repeat the recent words of the President of Colombia during the last UN climate summit: *"Today we face an immense confrontation between fossil capital and human life. And we must choose a side. Any human being knows that we must choose life. I have no doubt which position to take: between fossil capital and life, we choose the side of life."*

There is a clear road ahead to protect life. Shell too must walk this road. It is evident that global emissions must have fallen by 45% in 2030 in order to keep the limiting of global warming by

1.5 degrees in sight. Shell is one of the most influential and capital-rich companies in the world. Shell can therefore at least be expected to use global average efforts. It has become clear in these proceedings that this is not too onerous for Shell and that both Shell and the world can handle the Judgment.

In 2020 I asked the District Court the following: *“If this District Court does not apply the law and intervene now, who will? And if this District Court were not to intervene now, then when?”*

On behalf of Milieudefensie et al., I am asking this Court of Appeal the same question.