

What Milieudéfensie (Friends of the Earth Netherlands) demands

In 2018 Milieudéfensie announced the historic court case against Shell. Shell is causing dangerous climate change and this must stop. A further 6 organisations and more than 17,000 individual plaintiffs joined the case.¹ On 1, 3, 15 and 17 December, both parties will face each other in court during 4 days of hearings.

This document summarises the environmental defence requirement and the main legal basis of the case.

The requirement

In order to prevent dangerous climate change, global warming must be limited as much as possible. In 2015, in the Paris Agreement, the UN Member States agreed that this dangerous limit would be 1.5 degrees Celsius. Scientists from the UN Climate Panel (IPCC) have then developed scenarios for the global CO₂ reductions needed to meet this target. The IPCC wrote the following about this:

²"In model pathways with no or limited overshoot of 1.5°C, global net anthropogenic CO₂ emissions decline by about 45% from 2010 levels by 2030 (40-60% interquartile range), reaching net zero around 2050 (2045-2055 interquartile range)."

Under this scenario, Friends of the Earth Netherlands demands that Shell at least adhere to the global average reduction scenario. And therefore reduce its CO₂ emissions by 45% in 2030 compared to 2019.³ This requirement has been submitted to Shell and the court in The Hague as follows:

"...that Royal Dutch Shell Plc, both directly and through the companies and legal entities it tends to include in its consolidated financial statements and with which it collectively forms Shell, limits, or causes to be reduced, the combined annual volume of all CO₂ emissions into the atmosphere (scope 1, 2 and 3) associated with the Shell group's business activities and sold energy bearing products to such an extent that by the end of the year 2030 [...] this volume will have been reduced by at least 45% ...".

Milieudéfensie will substantiate this claim in court with legal arguments and scientific evidence.

The legal grounds

The most important legal grounds that form the basis for the accusation against Shell and the claim of Milieudéfensie and co-laintiffs is the **unlawful threat** or unlawful act and the precautionary principle (Art. 6:162, Civil Code). This is further substantiated by the **European Convention on Human Rights (ECHR)**. Causing dangerous climate change is a violation of fundamental human rights, particularly Articles 2 and 8 of the ECHR. This was also confirmed by the judges in the Urgenda case against the state.

¹ The other organisations are: Action Aid, Both ENDS, Fossil Free, Greenpeace, JMA and the Wadden Association.

² The IPCC published its Special Report on 1.5 degrees in 2018. The reduction path used by environmental protection is described in the Summary for Policy Makers:
https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf.

³ 2019 is the year in which this case was officially launched.

⁴ The demand has changed slightly in relation to the writ of summons because it has been tightened up even further.