

GROWING TREND OF ENVIRONMENTAL AND HUMAN RIGHTS-BASED CLASS ACTIONS

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Legal Briefings - By **Silke Goldberg**

On 25 October 2018, Greenpeace e.V. , alongside three organic farmers, filed a claim in the Administrative Court of Berlin on the basis that the German federal government had wrongfully abandoned its target of cutting greenhouse gas emissions by 40% compared to 1990 levels by 2020. Under the government's 2017 Climate Projection Report, it projects a reduction of only 32% and has amended its target to achieving the 40% mark "to the greatest extent possible". The claimants seek relief in the form of a declaration that the government remains obligated to meet the original 40% target and to supplement the national climate protection programme with measures that ensure that the target is met.

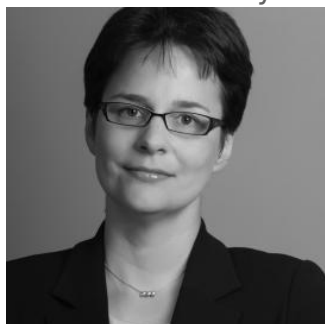
The claim alleges that the government has ceased its actions aimed at meeting the target without providing a comprehensible substantive justification. The claimants further allege an encroachment of their fundamental rights contained in Articles 2, 12 and 14 of the Basic Law for the Federal Republic of Germany (Grundgesetz), which provide for the right to protection of life and health, for freedom to exercise an occupation and for guarantee of ownership respectively. Extreme weather conditions caused by climate change are said to have led to crop failures as well as endangering the health and food supply of agricultural livestock. Greenpeace has associational standing in the claim, which obviates the requirement to prove a loss, and instead allows it to demand that particular laws be followed.

Assessing the prospects of the case is difficult, due to the unprecedented nature of the claim in the German courts. The line of argumentation seems to follow that of the Urgenda case which is currently being appealed by the Dutch government (see below). Substantively, the case will turn on the question of whether the cabinet decisions to adopt the CO2 emission target constitute a legal act which is subject to the German courts' jurisdiction. Accordingly, the claimants have requested inspection of administrative records relating to the cabinet resolutions to adopt (or maintain) the 2020 emissions target and that these be admitted into evidence.

The claim follows a trend of recent actions brought by environmental activists, such as the successful claim brought against the Dutch government by the Urgenda Foundation and the People's Climate Case, brought by Carvalho and 36 others against the European Parliament and the Council of the European Union. The latter case is also based on the 2020 CO2 target, alleging that it does not go far enough to protect their fundamental rights. The growing trend of environmental and human rights-based class actions in the Courts of England and Wales is explored in Chapter 10 of the recent Herbert Smith Freehills publication [Class Actions in England and Wales](#).

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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