ANALYSIS

The Urgenda Decision: Netherlands Liable for Role in Causing Dangerous Global Climate Change

K. J. de Graaf* and J. H. Jans*

ABSTRACT

On June 24th 2015, the civil section of The Hague District Court ruled—in its judgment of 60 pages translated into English—that the Netherlands has breached the standard of due care by implementing a policy that would lead to a reduction of CO2 emissions by 2020 of less than 25% compared with 1990 emissions. Any such policy of the Netherlands was seen as insufficient to avoid dangerous climate change and was therefore unlawful towards the Urgenda Foundation, a citizen’s platform that instituted the proceedings, partly on behalf of 886 Dutch individuals. The Court ordered the State to cut CO2 emissions by 25% by 2020 against a baseline of 1990 emissions. This case note discusses the reasoning of the court.

1. INTRODUCTION

‘Unexpected’, ‘spectacular’, ‘surprising’ and ‘unprecedented’ are only some of the words used to describe the landmark ruling of the District Court in The Hague (Civil Section) on the 24th of June 2015. The court ordered the Netherlands to cut CO2 emissions by 25% by 2020 compared with 1990 emission levels. The Urgenda Foundation (hereinafter ‘Urgenda’), partly on behalf of 886 Dutch concerned citizens, instituted the proceedings. Urgenda is a Dutch citizens’ platform established in 2008, which aims to stimulate and accelerate the transition to a more sustainable society.

In November 2012, Urgenda wrote a letter to the Dutch government stating that there was scientific proof that the European Union’s promise to reduce emissions by 20% against 1990 levels was simply not enough to avert dangerous climate change and that the Dutch reduction targets derived from this European target were therefore equally inadequate. Urgenda urged the Netherlands to do more. The

* Department of Constitutional Law, Administrative Law and Public Administration, University of Groningen. (k.j.de.graaf@rug.nl)

government’s response to the letter was unsatisfactory. In November 2013, Urgenda therefore requested the District Court of The Hague to rule that the State was liable for its role in causing dangerous global climate change. The claim asserted that the State would be acting unlawfully if it failed to reduce the annual greenhouse gas emissions (GHGs) in the Netherlands by 40%, in any case by at least 25%, compared with 1990 levels, by the end of 2020. Urgenda furthermore asked the court to order the State to reduce the joint volume of annual GHGs in the Netherlands by 40% by the end of 2020, in any case by at least 25%, compared with 1990 levels. Any slower reduction path would be insufficient in preventing dangerous climate change and should be considered unlawful. The claimants did not request that the court’s order should be made subject to a penalty.

In its defence, the Netherlands argued that the government was committed to preventing dangerous climate change and had for that reason implemented relevant policies. It also agreed that the present mitigation efforts would only achieve a 17% reduction in GHGs by 2020. The State however argued that there was no legal duty under national or international law for the Netherlands to take measures to achieve the reduction targets claimed by Urgenda. Furthermore, any court order to amend the State’s climate change mitigation policies would violate the government’s prerogative over environmental policies and interfere with the system of separation of powers. After the formal hearing on 15 April 2015, the District Court found—for the most part—for the claimants on 24 June 2015.

Before analysing the court’s reasoning, there are three specific elements of the case that are important to highlight. First, both parties acknowledged the existence of climate change. This case is therefore not concerned with the Netherlands denying that climate change occurs. One of the key elements of the court’s decision is that it relies on the current climate science and international climate policy and agreements to establish that the Dutch reduction target is below the standard deemed necessary for developed countries (25–40% by 2020) in order to prevent dangerous global climate change ($2^\circ$ C target). Since the Dutch target is similar to the EU target, the court implicitly ruled that the EU target is (unlawfully) below the necessary standard as well.

Second, there was some discussion about Urgenda’s standing. Dutch law explicitly allows non-governmental organisations (NGOs) to initiate procedures on behalf of the public interests. Urgenda’s standing on behalf of the current generation of the public interests. Urgenda’s standing on behalf of the current generation of

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3 These findings derive from several Intergovernmental Panel on Climate Change reports and the acknowledgement of those reports in the Cancun Agreements of 2010. The court however did not take into account that the reduction target was set for all developed countries as a group.


5 Under art 305a of Book 3 of the Dutch Civil Code, foundations like Urgenda are allowed to bring an action to court pertaining to the protection of the public interest or the collective interests of other persons as long as those interests are based on the objectives formulated in the by-laws of the foundation. See B van den
Dutch citizens was therefore not challenged. The defendant however challenged Urgenda’s argument that it could partially base its standing on the fact that Dutch GHGs also have consequences for persons outside Dutch national borders. In light of Urgenda’s objectives for a sustainable society, the court allowed the case on behalf of future Dutch generations and oddly enough seemed to have no problem with Urgenda acting partially for current and future generations outside the Netherlands.

Third, we should point out that, since Urgenda was not claiming compensation of damages but a court order,\(^6\) the existence of present damage was not required. The threat of future damage was sufficient.

As in any tort case, there were several key questions the court was required to answer in order to arrive at its decision. In particular, was there a breach of a duty by the State towards Urgenda? Was there a sufficient causal relation between the mitigation policy of the Netherlands and dangerous global climate change? Sections 2 and 3 deal with these two doctrinal questions. Section 4 discusses why the reasoning of the court has already been considerably critiqued, in particular in relation to the question of whether the constitutional separation of powers precluded the court from ordering the government to take further action and in relation to its reasoning assessing the standard of due care of the State vis-à-vis its citizens and Urgenda. Section 5 offers some concluding remarks.

2. THE NETHERLANDS ACTING UNLAWFULLY: A BREACH OF A DUTY TOWARDS URGENDA

The relevant provision in this case is Article 162 of Book 6 of the Dutch Civil Code. This provision stipulates that a person can be held liable if there is a violation of a personal right, a breach of a statutory duty or a breach of the unwritten standard of due care that must be observed in society.

2.1 No Written Legal Obligation

Urgenda claimed that the Netherlands was acting contrary to the statutory duty of Article 21 of the Dutch Constitution. This provision imposes a duty of care on the State relating to the habitability of the country and the protection and improvement of the living environment. This duty of care leaves considerable discretion to the government as to how it should be carried out and in particular whether there are relevant international and European provisions that would entail either a statutory duty for the State or a personal right for the claimants? The judgment deals with international agreements like the UNFCCC and the Kyoto Protocol and concludes that their binding force relates only to obligations between states. Even if the Netherlands failed to meet one of its international obligations, that would not imply that it was acting unlawfully towards Urgenda.\(^7\) According to Dutch law, this conclusion could be different in some cases. Under Articles 93 and 94 of the Dutch Constitution, citizens can derive a right from any written or unwritten rule of international law if the relevant provisions of the treaties or resolutions are considered to

\(^6\) See art 296 of Book 3 of the Dutch Civil Code.

\(^7\) Urgenda [4.42].
be binding on all persons. However, the court understandably ruled that it could not find any such relevant content in the relevant international treaties. The court also looked at Article 191 TFEU and the EU law instruments for climate change mitigation such as the EU emissions trading scheme (EU ETS). Although the direct effect of EU law does not rely on Articles 93 and 94 of the Dutch Constitution, the court was of the opinion that—broadly speaking—the conclusion that no obligation of the State vis-à-vis Urgenda can be derived from the relevant provisions in international law is also valid for EU law. The court therefore did not rule on the question of whether the State was actually acting in breach of international law.

Furthermore Urgenda argued that, under Articles 2 and 8 of the European Convention on Human Rights (ECHR), the State has a positive obligation to take protective measures towards its citizens. Urgenda claimed that the State had been acting contrary to Articles 2 and 8 of the ECHR and that those actions constituted a violation of a personal right of each of the claimants in the sense of Article 162 of Book 6 of the Dutch Civil Code. The court however found that the Urgenda Foundation itself did not have the status of a potential victim within the sense of Article 34 ECHR and therefore could not rely on these provisions.8

The foregoing led the court to the conclusion that ‘a legal obligation of the State towards Urgenda cannot be derived from Article 21 of the Dutch Constitution, the UN Climate Change Convention, with associated protocols, [ . . . ] and Article 191 TFEU with the ETS Directive and Effort Sharing Decision based on TFEU.’9

2.2 The Unwritten Standard of Due Care Observed in Society

After concluding that Urgenda could derive no legal obligation of the State towards it from international or European law, the arguments of the court became particularly interesting. The relevant question was whether the actions of the Netherlands were in fact in breach of the standard of due care mentioned in Article 162 of book 6 of the Dutch Civil Code. A doctrinal challenge for the court was how it could establish the actual scope of the duty of care of the Netherlands towards Urgenda as a matter of Dutch law. The court reasoned as follows:

[ . . . ] under Article 21 of the Constitution, the State has a wide discretion of power to organise the national climate policy in the manner it deems fit. However, the court is of the opinion that due to the nature of the hazard (a global cause) and the task to be realised accordingly (shared risk management of a global hazard that could result in an impaired living climate in the Netherlands), the objectives and principles, such as those laid down in the UN Climate Change Convention and the TFEU, should also be considered in determining the scope for policymaking and duty of care.10

Since the question of whether the State was in breach of the unwritten standard of due care that has to be observed in society for taking insufficient measures to prevent

8 ibid [4.45].
9 ibid [4.52].
10 ibid [4.54].
dangerous climate change had never been answered in Dutch case law, the court es-
established from international agreements, principles and certain elements of the spe-
cific case law of the Dutch Supreme Court on negligence\textsuperscript{11} the factors it took into account in determining the scope of the duty of care owed by the State: (1) the na-
ture and extent of climate change damage; (2) the foreseeability of such damage; (3) the chance that hazardous climate change will occur; (4) the nature of the acts or omissions of the State; (5) the onerousness of taking precautionary measures; and (6) the extent of the discretionary powers of the State, with due regard to public law principles.

In assessing the influence of the first three factors, the court stated that climate change will have serious and irreversible consequences and that these are known by the State. The consequences require the State to take preventive measures in order to protect its citizens. The high risk of climate change places a heavy duty of care on the State to prevent its effects. In relation to the fourth factor, the court held that the State has the power to control the level of collective GHG emissions in the Netherlands and has a crucial part to play in the transition to a more sustainable society. With regard to the fifth factor, the court stated that mitigation measures, such as those requested by Urgenda, are the most effective and cost-efficient way to prevent hazardous climate change. In relation to the sixth factor, the court recognised that the Dutch government has broad discretionary powers with regard to its environmental policies, but that they were not unlimited. The State had an obligation to pro-
tect its citizens by implementing suitable and effective measures.

This assessment led the court to conclude that the State owed a duty of care to Urgenda that implies taking mitigation measures. As it had been established that the current government policy regarding mitigation of GHGs did not comply with the standards deemed necessary by science and international climate policies to avoid dangerous climate change, the State was found to be in breach of its duty of care and therefore acting unlawfully towards Urgenda. Furthermore, the court concluded that, in view of the latest scientific and technical knowledge, it is more efficient to mitigate and it is more cost effective to take adequate action than to postpone measures in order to prevent hazardous climate change. Quite remarkable in view of the separ-
ation of powers, is the court’s conclusion that the State has a duty of care to mitigate as quickly and as much as possible.\textsuperscript{12}

3. THE NETHERLANDS CAUSES DANGEROUS GLOBAL CLIMATE CHANGE

One of the important requirements to establish state liability in (Dutch) law is the existence of a causal link between the wrongful conduct of the tortfeasor on the one

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\textsuperscript{11} Particularly on negligent endangerment: someone perpetuates a situation that is hazardous to others in non-compliance with the unwritten standard of due care that one has to observe in society. See Basement Hatch Ruling, Dutch Supreme Court (5 November 1965) ECLI:NL:HR:1965:AB7079. This famous ruling is concerned with an opened basement hatch in a bar and the factors relevant for the unwritten duty to warn about the dangers. See KJ de Graaf and JH Jans, ‘Liability of Public Authorities in Cases of Non-Enforcement of Environmental Standards’ (2007) 24 Pace Env L Rev 377. The main difference in the Urgenda case is the court has to deal with a hazardous global development, in relation to which it is uncertain when, where and to what extent exactly this hazard will materialise.

\textsuperscript{12} Urgenda [4.73].
hand and, on the other, the damage to the victim. This requirement is usually con-
sidered to be an important obstacle in climate cases such as the Urgenda case, as it
must be shown that the government’s negligence is the cause of dangerous global cli-
mate change. The State put forward several arguments against accepting a causal
link.

The Netherlands government argued that it could not be seen as one of the causal
agents of climate change as it does not emit greenhouse gases itself. The court re-
sponded simply by stating that it is an established fact that the State has the power
to control the Dutch level of GHG emissions. In view of the security interests of its
citizens, including Urgenda, a high level of meticulousness should be required of the
State. Furthermore, the court held that the Netherlands expressly accepted its re-
sponsibility for the overall level of national emissions, and the obligation to reduce it,
when it became a signatory to the UNFCCC and the Kyoto Protocol.

The court rejected the State’s argument that Urgenda had insufficient interest for
its claim because the current ‘contribution’ of the Netherlands to the worldwide
emissions of GHGs is only 0.5% and allowing Urgenda’s claim would not be effective
to avoid dangerous climate change. The State also argued that allowing the claim
would not be effective on a global scale, as the court-ordered target would result in a
very minor, if not negligible, reduction of global GHG emissions. The Netherlands
government emphasised that reduction of GHG emissions in other countries with
high emissions were far more relevant for achieving the 2°C target. In other words,
they argued that the Netherlands should not be liable for results that were the conse-
quence of the emissions of other countries. The court argued that in view of the fact
that the Dutch emission reduction was determined by the State, the State may not
reject possible liability by stating that its contribution was minor. Also the court did
not follow the State’s argument that other EU countries would neutralise reduced
emissions in the Netherlands, and that GHGs in the EU as a whole would therefore
not decrease (‘waterbed effect’ or ‘carbon leakage’). Since the available research
showed that there were no signs of carbon leakage the court ruled that it could not
be maintained that extra reduction efforts of the State would be without substantial
influence.

The court refuted all arguments against a causal link, and in few words. The court
referred to important case law of the Dutch Supreme Court on joint liability. That
case law basically entails that when one actor’s contribution to the damage is minor,
that is no reason to reject liability.13 In the words of the court:

[i]t is an established fact that climate change is a global problem and therefore
requires global accountability. [...] It compels all countries, including the
Netherlands, to implement the reduction measures to the fullest extent as

13 ibid [4.79]; the court refers to Kalimijnen Ruling, Dutch Supreme Court (23 September 1988)
ECLI:NL:HR:1988:AD5713. This famous ruling is concerned with excessive pollution of the Rhine River
due to repeated dumping of chloride by various parties in France, Germany, Luxembourg and the
Netherlands and only the cumulative effect would make the water unusable. In such a case, in which an
increase in the concentration of chloride leads to a proportionate increase in the damage, each defendant
whose contribution is not negligible bears a corresponding liability in proportion to its share in causing
the damage.
possible. The fact that the amount of the Dutch emissions is small compared to other countries does not affect the obligation to take precautionary measures in view of the State’s obligation to exercise care.\textsuperscript{14}

The court also reiterated that the Netherlands had committed to implementing mitigation measures that allow for more than a proportionate contribution to reduction of GHG emissions. In light of these reasons, the court simply decided that ‘a sufficient causal link can be assumed to exist between the Dutch greenhouse gas emissions, global climate change and the effects (now and in the future) on the Dutch living climate’.\textsuperscript{15}

4. DISCUSSION: ENVIRONMENTALISTS VERSUS LAWYERS?
There are three controversial aspects to the court’s decision in the Urgenda case, which also relate to whether an appeal will be successful. First, commentators’ arguments have focused on the separation of powers, questioning whether the court overstepped its powers by giving an order.\textsuperscript{16} Second, one could criticise the court’s assessment of the scope of the State’s unwritten duty to take due care. Finally, there has been much debate about whether the Netherlands government should lodge an appeal against the court’s judgment, including the possibility of taking the case directly to the Supreme Court.

4.1 Can the Court order the Legislature to legislate?
Although many have welcomed the court’s order as a wake-up call for the Dutch government to take further action against climate change, some legal scholars have doubts about whether the court should be allowed to move into political decision-making.\textsuperscript{17} Setting mitigation targets and finding efficient and effective instruments to achieve those targets is generally considered a matter of policy. Therefore, the argument goes, the Dutch system of separation of powers between the legislator and the judiciary does not allow for the order given by the court.\textsuperscript{18}

The court was aware that its judgment might be perceived as encroaching on the powers of government. It held that Dutch law does not have a full separation of powers but rather a balanced system between the powers of State, with the court’s role understood in the following terms: ‘[s]eparate from any political agenda, the court has to limit itself to its own domain, which is the application of law.’\textsuperscript{19} The court held:

\textsuperscript{14} ibid [4.79].
\textsuperscript{15} ibid [4.90].
\textsuperscript{17} W Voermans, ‘Staat moet wel in hoger beroep gaan’ Volkskrant (Amsterdam, 28 August 2015) 20.
\textsuperscript{19} Urgenda [4.95].
It is worthwhile noting that a judge, although not elected and therefore has no democratic legitimacy, has democratic legitimacy in another – but vital – respect. His authority and ensuing ‘power’ are based on democratically established legislation, whether national or international, which has assigned him the task of settling legal disputes. [...] In a general sense, given the grounds put forward by Urgenda, the claim does not fall outside the scope of the court’s domain. The claim essentially concerns legal protection and therefore requires a ‘judicial review’.20

The court further acknowledged that its judgment will have political consequences and that mitigation policies are subject to political decision-making but it held that this is no reason to curb the court in its task.

Some have already disagreed with the reasoning of the court on constitutional grounds, and argue that the court overstepped its authority.21 In their view the court should have shown more restraint in light of the discretionary powers of the government. Arguments in this respect are also based on the case law of the Dutch Supreme Court. In the famous ruling in Waterpakt v The Netherlands, the Supreme Court firmly ruled that, even though it is unlawful not to have adopted any formal legislation implementing the European Nitrates Directive, Dutch law precluded the court from ordering the State to introduce formal legislation. After all, legislative acts are established by government and Parliament and the question of whether, when and in what form the law will be established, is to be answered on the basis of political decision-making and consideration of the interests involved.22 The Dutch Supreme Court simply ruled that courts may not intervene in procedures of political decision-making like legislative initiatives, even when it is clear that the legislature is legally bound to act. Although Dutch case law also shows that more informal orders and declaratory judgments that do not create an executorial relationship between the judiciary and the legislature are acceptable in the Netherlands,23 the court’s order in the Urgenda case cannot be considered informal, nor is it merely a declaratory judgment. The court in Urgenda did not explicitly order the State to adopt a legislative act, but one could argue that, as a matter of Dutch law and based on the Waterpakt Ruling, the District Court should have refrained from going further than issuing a declaratory decision. This argument is convincing and it seems unlikely that the court’s order will survive an appeal.

On the other hand, would legal scholars find a declaratory judgment acceptable? Is there actually a big difference between the court’s order in this particular case and

20 ibid [4.97] and [4.98].
21 Voermans (n 17).
a declaratory judgment? The court did not in fact order the State to adopt a legislative act and it did not indicate in what way the government should achieve the target set by the court. In that respect, the court order could be considered ‘balanced constitutionalism’ and could be assessed as little more than a declaratory judgment that could be legally acceptable—at least as regards the separation of powers guaranteed in the Constitution. An important question is therefore whether the critics would be satisfied if a Court of Appeal refrains from giving an order and issues a declaratory judgment instead. Although we think this might indeed help silence the critics, there remains at least one other issue that could be key in the appeal procedure—whether the Court of Appeal accept the view of the District Court that it was simply using its power to settle disputes on the basis of the law, including the standard of due care that the State has to observe in society.

4.2 Can International Agreements be used to Interpret the Standard of Due Care?

Since Dutch courts are not allowed to order the legislator to legislate, it could be argued that the District Court in The Hague has overstepped its competences. Urgenda had also asked the court for a declaratory judgment entailing the declaration that the State was in breach of either the international law or the standard of due care that it has to observe in society. It is clear that the district court ruled that Urgenda could not rely on international law since Articles 93 and 94 of the Dutch Constitution stipulate that rights for individuals can only be derived from provisions of international law that are considered binding on all persons by virtue of their contents. The District Court in The Hague concluded that Urgenda had no such rights vis-a-vis the State. However, in establishing the scope of the standard of due care that the State owed to Urgenda the court made use of the State’s international obligations towards contracting parties.

One of the main reasons for a critical reception of the Urgenda judgment is that, while the court ruled that no State obligations vis-a-vis Urgenda can be derived from the contents of international agreements and other documents, the court still made use of these international agreements and other documents to establish the scope of the State’s duty towards Urgenda. Using international agreements to establish the unwritten standard of due care of the State in this particular case is not the only argument for the court’s decision, but it is a remarkable one. In reading the judgment of the court, one could seriously consider that specific provisions in the Dutch Constitution had lost their meaning. Agreements of the State with other states and the latest scientific knowledge seem to transform into binding obligations of the State vis-a-vis Urgenda by interpreting the standard of due care of Article 162(2) of book 6 of the Dutch Civil Code in the face of dangerous climate change. This manner of interpretation is not entirely uncommon since Dutch law allows the courts, when applying and interpreting open or vague norms or concepts in national legislation (eg ‘good faith’, ‘due care’), to take into account such international law obligations. These obligations can have what is called a ‘reflex effect’ in national law. However, the application and the outcome of the reflex effect in this particular case can be
firmly criticised in light of Articles 93 and 94 of the Dutch Constitution and one can seriously doubt whether it will stand up to scrutiny in an appeal procedure.24

Furthermore, one could question some of the court’s reasoning in finding a duty of care. Would the standard of due care be different if the Netherlands were not a signatory to the UNFCCC? Should the unwritten standard of due care that the State has to observe in society and the court-ordered reduction target be derived directly from scientific data in the IPCC reports and previous policy statements of the Netherlands? Why should the IPCC report’s target of 25% for all Annex I countries lead to a 25% target for the Netherlands? Could the court rightfully intervene in the political process that has led to the decision to slow down the rate of reduction because it deemed any reduction path that does not result in a reduction of at least 25% of GHG emissions by 2025 unlawful? Since the court has put much weight on its interpretation of the relevant facts and a Dutch Court of Appeal will need to interpret the same facts, there is a fairly high possibility that a Court of Appeal would interpret them differently.

4.3 To Appeal or not to Appeal?
As was expected, the court’s decision led to discussion, both in Parliament and in civil society. Many have urged the Dutch cabinet to decide not to appeal against the judgment. Members of Parliament demanded a debate in order to influence the cabinet’s decision on whether to file an appeal. Parliament also passed a motion asking the cabinet to lay down an environmental quality requirement matching the court-ordered target of CO₂ reduction in a governmental decree. The basis for this will be available under the new Environment and Management Act that is expected to come into force in 2018.25 In one sense then, the judgment of the court has had the political attention it deserved. Others, however, would like the cabinet to appeal the judgment directly to the Supreme Court in order to obtain the decision of the highest court sooner and to avoid another interpretation of the facts by the Court of Appeal. The discussion reflects the importance for society of climate change, but also shows the intertwining of political opinions and legal arguments.

On 1 September 2015, the Dutch cabinet released a press statement that carries the same ambiguity: the ‘cabinet begins implementation of Urgenda ruling but will file appeal’. The government questions the reasoning of the court that ‘international treaties between countries were directly applicable to residents of the Netherlands and set the future emissions reduction target agreed between countries as the current lower limit for a policy that fulfils the State’s duty of care’. The government’s main complaint is therefore the assessment of the duty of care of the State in respect of its citizens in this particular ruling. However, the statement concludes by stating the government will begin implementing the ruling immediately by reviewing a newly forged report on the effectiveness of CO₂ reduction measures. This is not just because the court ordered this, but also because the government agrees that climate change mitigation is necessary.

24 See Voermans (n 17), who argues that no one would think to enforce the State’s obligation vis-à-vis the European Union to refrain from excessive budget deficits (greater than 3% of GDP), which is part of the Stability and Growth Pact. Is there however danger in neglecting the Stability and Growth Pact?
5. CONCLUDING REMARKS

There is no doubt that something quite unique occurred in the Netherlands on 24 June 2015. The Urgenda Foundation and its claim against the Netherlands seduced the District Court of The Hague to pronounce a bold decision in favour of the environment and in favour of future generations. The court’s judgment accepts a causal link between the actions of the Netherlands and dangerous climate change and interprets the standard of due care in such a way that it matches the international agreements between states and the latest scientific knowledge. This resulted in a court order to reduce GHG emissions by 25% by 2020. Although the reasoning is questionable from a legal perspective, the judgment is nothing short of ground-breaking. It could inspire other environmental NGOs to bring similar claims to civil courts in many countries all over the world. In fact, we understand that Belgian and Norwegian lawyers are currently working on such cases, following Urgenda and the Oslo Principles on Global Obligations to Reduce Climate Change that were adopted in March 2015 by a group of experts in international law, human rights law and environmental law.26 Using tort-based instruments to protect the environment is not new and it is also not uncommon to attempt to use them to prevent climate change.27 However, this case seems to be the very first decision by any court in the world that orders a state to limit GHG emissions for reasons other than statutory mandates. In that respect and in light of the criticism discussed in section 4, it is probably a wise decision of the Dutch government to file an appeal against the judgment.

26 See <www.osloprinciples.org> accessed 2 September 2015.
27 For a list, see <http://web.law.columbia.edu/climate-change/resources/litigation-charts> accessed 2 September 2015.