



EUFJE 2022

**Milieudefensie et al. vs Royal
Dutch Shell**

Larisa Alwin



District Court of The Hague, The Netherlands 26 May 2022

ECLI:NL:RBDHA:2021:5339



Class action

art. 3:305a DCC:

“A foundation or association with full legal capacity can institute an action intended to protect similar interests of other persons to the extent that its articles promote such interests and these interests are sufficiently safeguarded.”

Interests of the inhabitants of The Netherlands and the Wadden region (partly in Germany and Denmark)

17,379 individual claimants

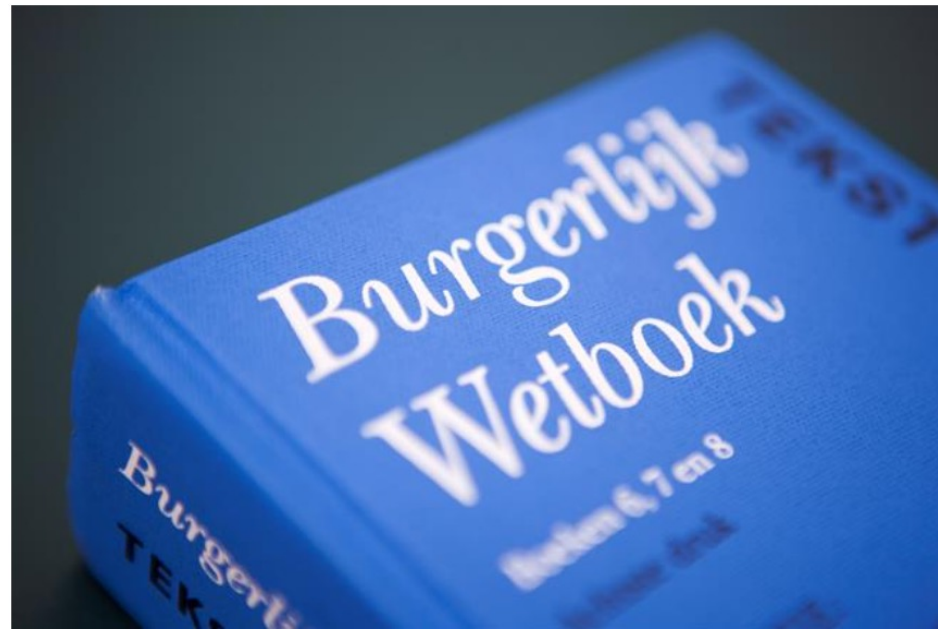


Royal Dutch Shell (RDS) was addressed in its capacity as policy-setting entity of the Shell group

Claim: a declaratory decision and:

“to order RDS, both directly and via the companies and legal entities it commonly includes in its consolidated annual accounts and with which it jointly forms the Shell group, to limit or cause to be limited the aggregate annual volume of all CO₂ emissions into the atmosphere (Scope 1, 2 and 3) due to the business operations and sold energy products of the Shell group to such an extent that this volume at year-end 2030:

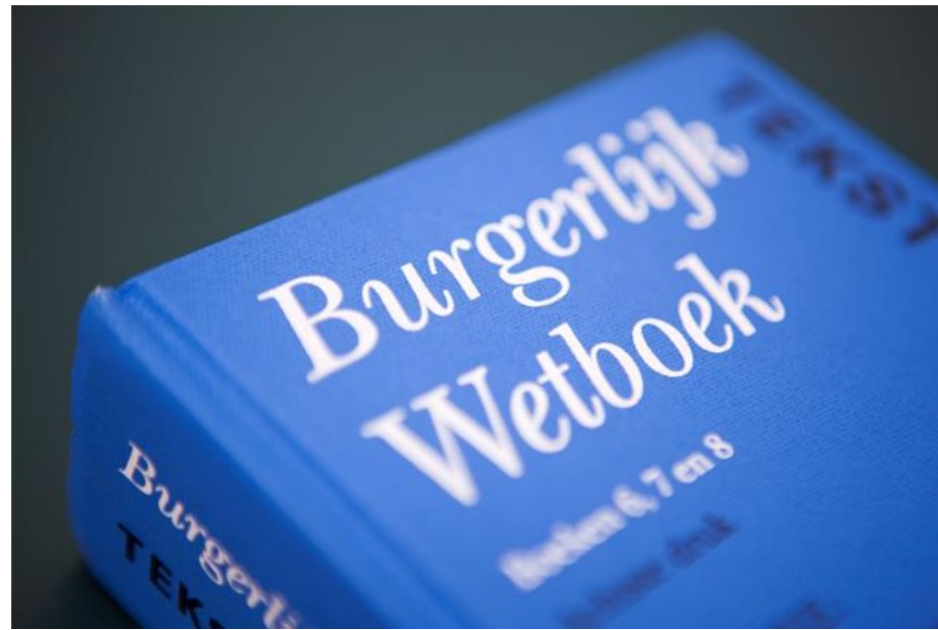
- principally: will have reduced by at least 45% or net 45% relative to 2019 levels;
- in the alternative: will have reduced by at least 35% or net 35% relative to 2019 levels;
- further in the alternative: will have reduced by at least 25% or net 25% relative to 2019 levels;”



Dutch law: Dutch Civil Code (DCC)

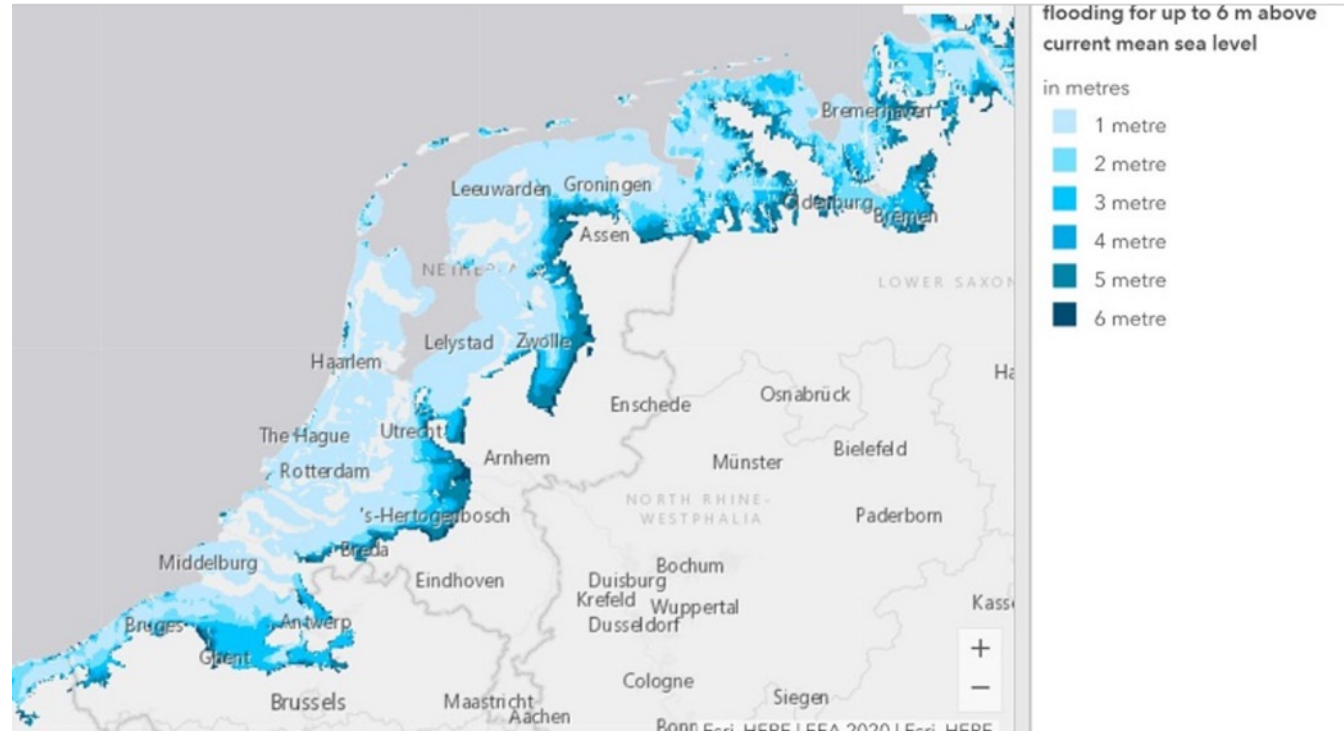
art 3:296 DCC: if a party is obliged to do something, it may be ordered to do so by the courts, at the request of the entitled party, unless something else results from law, the nature of the obligation or a juridical act

1. Does the defendant have the obligation described in the claim?
2. Is there a (threat of) violation of the obligation by the defendant?



Art. 6:162 DCC: "As a tortious act is regarded a violation of someone else's right (entitlement) and an act or omission in violation of a duty imposed by law or of what according to unwritten law has to be regarded as proper social conduct, always as far as there was no justification for this behavior"

The interpretation of the unwritten standard of care: assessment of all circumstances of the case in question.





- Order:** reduce CO2 emissions of the Shell group's activities by net 45% at end 2030, relative to 2019, through the Shell group's corporate policy
- Obligation of result for the activities of the Shell group
 - Significant best-efforts obligation with respect to the business relations of the Shell group, including the end-users

Povisionally enforceable



