



de Rechtspraak

Pressrelease

30 January 2013

Dutch judgments on liability Shell

Decision on oil spills in Nigeria

The district court of The Hague has reached a decision in five cases as regards Shell's liability for oil spills in Nigeria. Shell Nigeria has been sentenced to pay damages in one of the cases. All claims in the other four proceedings have been dismissed.

Four Nigerian farmers and fishermen initiated the lawsuits together with the Dutch Environmental Defense Organization (Friends of the Earth Netherlands, *Milieudefensie*), because they hold four corporations of the Shell concern with its headquarters in The Hague liable for the damages caused by four specific oil spills in the surroundings of their villages in Nigeria. The district court has established that the four oil spills were not caused by defective maintenance by Shell, but by sabotage from third parties. Pursuant to applicable Nigerian law, an oil company is not liable for oil spills caused by sabotage in principle. For this main reason, all claims have been dismissed in four out of the five lawsuits.

In the four cases as regards an oil spill in 2004 near the village of Goi and as regards an oil spill in 2005 near the village of Oruma, in the view of the district court, Shell Nigeria had taken sufficient precautions to prevent the sabotage from its underground oil pipelines. This is why the district court of The Hague, according to the general rule of Nigerian law, has dismissed the claims in those four cases from the plaintiffs Oguru, Efanga and Dooh.

In the proceedings about two oil spills near the village Ikot Ada Udo, the district court has held that Shell Nigeria, pursuant to applicable Nigerian law, has violated a duty of care and shall be held liable for tort of negligence. Near that village, sabotage was committed in a very simple way in 2006 and 2007 by opening the overground valves with a monkey wrench (adjustable spanner) of a deserted oil well by Shell Nigeria. Shell Nigeria could and should have prevented this sabotage in an easy way by installing the concrete plug *before* 2006 already, which it did not do until 2010 during the pending lawsuit. This is why the district court has sentenced Shell Nigeria (i.e. Shell Petroleum Development Company of Nigeria Ltd, the Nigerian subsidiary of the Shell concern) to pay damages to the Nigerian plaintiff, Mr. Akpan. The amount of these damages shall be determined in separate proceedings (the so called damages assessment procedure), since the parties in these proceedings have only litigated about the liability up till present, and they have not litigated yet about the amount of the damages.

The legal proceedings were initiated, among others, by *Milieudefensie*. The district court has held that *Milieudefensie* is authorized to defend the environmental interests in Nigeria this way in the Netherlands. However, pursuant to Nigerian law the oil spills in Nigeria do not infringe on *Milieudefensie's* rights and, therefore, the claims of *Milieudefensie* have been dismissed.



de Rechtspraak

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pagina 2 van 2

Dutch district court and Shell's parent companies

The cases were heard by the Dutch district court since the claims were not only directed against Shell Nigeria, but also against the current British parent company of Shell which has its headquarters in The Hague. In addition, the former parent companies of the Shell concern in London and The Hague were summonsed.

In its interlocutory judgments in 2009 and 2010, the district court already considered that it is justified to hear the cases against all Shell companies in The Netherlands since these cases are intertwined. The district court dismissed all claims against the parent companies in the final judgments of 30 January 2013, since (in summary) pursuant to Nigerian law a parent company, in principle, is not obliged to prevent that its (sub-)subsidiaries harm third parties abroad and since there were no special grounds in this case to deviate from this general rule.

All parties against which the district court ruled, may lodge an appeal with the Court of Appeal in The Hague within three months. For further information, the district court of The Hague refers to the contents of its exhaustively motivated written decisions in these five civil proceedings which were addressed at the same time. Because of its connection, the district court has jointly laid down these (formally) five decisions in three documents in writing. The final decisions of 30 January 2013 will be published on www.rechtspraak.nl. The earlier interlocutory judgments of the district court of The Hague have already been published on this site under the LJN-numbers BK8616, BM1469, BM1470, BU3521, BU3529, BU3535 en BU3538.

More information

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