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In a [landmark ruling](#), The Hague District Court has ordered the Netherlands government to take more action to reduce its greenhouse gas emissions.

The verdict is a victory for [Urgenda](#), the non-profit that brought the case against the government. The decision will see Dutch emissions fall by at least 25% by 2020 relative to 1990 levels, rather than the previous 14-17% target.

This is the first successful climate change action founded in [tort law](#) and the first time a court has determined the appropriate emissions-reduction target for a state, based on the duty of care owed to its people.

Could such a case be brought in Australia? And what are the broader implications for Australia in how it positions itself on climate change?

What did the Court say?

Urgenda, on behalf of 886 individuals, brought the case on the basis that the Netherlands' declared emission reduction was insufficient to protect its people from dangerous climate change. This case was not about whether climate change exists, but rather the pace at which the state needs to reduce greenhouse gas emissions. Urgenda's central argument was that the Netherlands' emissions-reduction target of 14-17% fell short in its duty of care to its citizens.

The court drew on a range of legal sources, both domestic and international, to find that the Netherlands owed a duty of care to its citizens to take mitigation measures. It said:

...the possibility of damages for those whose interests Urgenda represents, including current and future generations of Dutch nationals, is so great and concrete that given its duty of care, the state must make an adequate contribution, greater than its current contribution, to prevent hazardous climate change.

Significantly, the court assessed the range of climate scenarios compiled by the [Intergovernmental Panel on Climate Change \(IPCC\)](#) to conclude that an

emissions reduction of 25-40% by 2020 from 1990 levels was the scientifically proven standard for developed countries based on climate science and international climate policy.

The court said that postponing mitigation efforts by committing to a lower 2020 target of 14% would result in higher levels of atmospheric carbon dioxide, and would thus contribute to the risk of dangerous climate change. The court also highlighted that there was no plausible economic argument that a 25% target was out of the Netherlands' reach.

Could such a case be brought in Australia?

The case highlights the parallels to the [current debate](#) about what a responsible and acceptable emissions reduction target for Australia should be. Given the Abbott government's reluctance so far to follow [expert advice](#) on an appropriate target, it begs the question of whether a similar case could be brought in an Australian court.

The Netherlands has much broader laws than Australia around "[standing](#)", which determines which people or groups have the right to sue over a particular issue. The Dutch standing laws explicitly recognise the right of environmental groups to bring an action to protect "the general rights of other persons".

But in Australia, environmental groups generally have to show a "special interest" in the subject of the action, beyond that of the general public. This has been a stumbling block for public interest environmental litigation in Australia.

There has also been a reluctance by the Australian courts to find a causal nexus between climate change and the greenhouse gas emissions of individuals and organisations. The view that the role of the common law is to protect private rights and cannot be invoked to protect public rights or the environment has held sway.

Having said that, in Australia there have been no climate change actions based solely on tort to date, and therefore the laws have not been tested. If a group satisfies the standing test, then it may be able to meet the requirements of a tort action, in particular to prove a sufficient causal link between Australia's greenhouse gas

emissions and the harm caused to its people (present and future). It is possible that if the government's intransigence on climate change action continues, the courts in Australia will be increasingly called on to decide questions such as those raised in the Netherlands case.

What are the wider legal implications for Australia?

While the decision of the Dutch court was made in a domestic setting, it has broad international implications, particularly for developed countries such as Australia. Besides the growing [diplomatic pressure](#) on Australia to step up its action on climate change, there is, for the first time, judicial evidence to compel developed countries to take serious action.

Measured against the Dutch court's verdict on a fair and reasonable target for a rich nation, Australia's current [5% target](#) looks inadequate. The spotlight will increasingly be on Australia to justify this target in light of the decision.

Significantly, the judges drew heavily on international developments and the work of the IPCC to support their findings. As cases like this are brought in more countries around the world – similar cases are set to be heard in [Belgium](#) and Norway – it may be more likely that courts in Australia will draw on similar international resources to come to similar conclusions on the level of care required by governments to protect their citizens from harm.

As the precedents for these sorts of actions grow, it is also more likely that we will see international legal actions brought against countries such as Australia, for instance by the people of Pacific Island nations.

Moreover, the decision of the Netherlands court represents an alarm call for developed countries who can afford to do more to address climate change, but who are so far failing to take responsible action within a reasonable time frame.