



**GIBSON DUNN**

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## Germany's Federal Court of Justice Rejects Climate Cases Against German Automakers in Landmark Ruling

*While climate litigation against corporations will continue, particularly in disclosure, greenwashing, and supply chain contexts, this decision is likely to limit the prospects of claims seeking direct emissions reductions through private law doctrines in Germany.*

On 23 March 2026, the German Federal Court of Justice (Bundesgerichtshof, Court) rejected two climate lawsuits against Mercedes-Benz and BMW which sought to prohibit both companies from selling cars with internal combustion engines after October 2030, despite EU emissions regulation that allows such sales at least until 2035. Gibson Dunn represented Mercedes-Benz in the matter.

The Court dismissed the claims in their entirety, confirming important limits on the use of German civil law to advance climate-related claims against private actors, such as large corporations. The verdicts mark the first time that Germany's highest civil court had to decide a climate lawsuit brought by individuals against private actors. It may have significant persuasive authority in pending climate cases in other European jurisdictions.

### I. Key Takeaways

- The Court rejected attempts to impose company-specific greenhouse gas (GHG) emissions limits through civil litigation.
- The Court reaffirmed that climate policy, particularly the allocation of emissions budgets to individual private actors, is a matter for the legislature, not the courts.

- The decision marks a significant limitation on the viability of climate litigation against private entities in Germany.

## **II. Plaintiffs and Their Theory of the Case**

The plaintiffs are three executive directors of the German environmental NGO “Deutsche Umwelthilfe” (Environmental Action Germany). They sued not in their official capacity but as individual citizens.

In short, plaintiffs claimed that without the requested ban on vehicles with internal combustion engines after October 2030, the German legislature would be required to pass drastic laws in the future to combat climate change. Those laws would severely impact plaintiffs’ individual freedoms (using certain modes of transportation, etc.).

## **III. Procedural History**

The lower courts had rejected plaintiffs’ claims and did not grant leave for appeal to the Federal Court of Justice. In summary, they held that the defendants’ compliance with existing EU emissions regulations barred claims based on general principles of German nuisance and tort law seeking to impose more stringent restrictions on the defendants than existing emissions regulations (OLG Munich, Verdict dated 12.10.2023, 32 U 936/23; OLG Stuttgart, Order dated 08.11.2023, 12 U 170/22).

In light of the novel legal questions presented by climate lawsuits under German civil law, the Court granted plaintiffs’ request to obtain leave for further appeal. On March 2, 2026, the Court held a hearing on the merits, which drew significant media attention.

## **IV. Reasoning of the Court**

The Court’s decision rests on several core grounds:

### **1. No actionable interference with plaintiff’s individual rights**

The Court held that the plaintiffs failed to establish a present or sufficiently concrete future infringement of their protected rights. The concept of an “interference-like pre-effect” (eingriffsähnliche Vorwirkung) derived from constitutional climate jurisprudence of the German Federal Constitutional Court was found inapplicable absent a defined and allocated emissions budget on the automakers by the legislature.

By way of background, in a [landmark decision of 2021](#), the German Federal Constitutional Court had dealt with challenges brought by certain individuals against the German Climate Protection Act (Klimaschutzgesetz). The German Federal Constitutional Court opined that present-day GHG emissions may have an anticipatory effect on how citizens may be able to enjoy their freedoms in the future. As a result, the German Federal Constitutional Court held that Germany as a whole was required to take appropriate steps to limit GHG emissions to the maximum national GHG

budget derived from the Paris Agreement in order to ultimately achieve climate neutrality as a country.

Picking up on the decision of the German Federal Constitutional Court, the German Federal Court of Justice pointed out that for private actors, there was no such maximum emissions budget under German law. Thus, in the view of the Court, German civil law does not provide a basis for making private actors individually responsible to comply with the Paris Agreement.

## **2. No basis for attributing emissions to individual manufacturers**

The Court also held that potential climate effects of GHG emissions could not be attributed to the defendant automakers under German principles of attribution. Under established German case law, liability as an indirect “disturber” (mittelbarer Störer) requires more than a mere causal contribution to a harmful outcome. Specifically, attribution depends on a normative assessment of responsibility, typically grounded in the breach of specific duties of conduct and a delineation of spheres of responsibility.

Against this background, the Court rejected attribution on several grounds:

- The Court found that, under current law, there are no specific legal obligations requiring automakers to limit their activities in line with a company-specific share of global emissions reductions. Neither German climate legislation nor EU law assigns individual emissions budgets or reduction obligations to specific companies.
- The Court stressed that attribution would require a prior legislative determination allocating responsibility for emissions to individual actors. Such a “normative attribution” is currently lacking. In particular, existing climate law operates at the national and supranational levels and does not break down overall emissions budgets to the level of individual companies.
- To the extent the claim was based on anticipated future restrictions imposed by the legislature, the Court held that such measures would be attributable only to the legislature as the immediate actor. Absent a concrete allocation of GHG budgets to individual companies, it would violate the judiciary’s constitutional powers to impute future legislative action to private entities.

## **3. Inadequacy of civil law mechanisms for systemic climate issues**

The Court further held that claims based on private law principles of nuisance and tort are not suitable for addressing global, multi-actor phenomena such as climate change. According to the Court, civil law is designed for bilateral disputes, not for resolving complex societal and regulatory questions affecting indeterminate groups.

The Court emphasized that the allocation of emissions budgets and the balancing of intertemporal freedoms fall within the responsibility of the democratically legitimized legislature. Courts lack both the institutional competence and democratic mandate to determine and distribute emissions quotas among private actors.

#### **4. Primacy of existing regulatory frameworks**

The Court relied on the existence of comprehensive EU vehicles emissions regulation, which already seeks to meet the obligations imposed by the Paris Climate Agreement. Where such comprehensive emissions regulation exists, additional, judge-made obligations under civil law are precluded and companies – bar exceptional circumstances – have no duty of care to go beyond the prescribed measures.

The Court was silent on how it might decide cases which do not involve similarly comprehensive emissions regulations. Its reasoning on this point does open a door for plaintiffs in future cases to allege a violation of a company's duty of care based on German civil law principles. Such a duty of care is at the core of climate litigation in other European jurisdictions, particularly the Netherlands.

#### **5. Territorial and international law constraints**

Since the plaintiffs sought to prohibit all emissions from vehicles sold worldwide with combustion engines October 2030, the Court expressed skepticism in the oral hearing that German courts could regulate emissions on a worldwide basis through domestic private law. Under the Paris Agreement, every state is responsible for reducing its own emissions. A verdict for plaintiffs with worldwide effect could jeopardize this system. In the final verdict, however, the Court only briefly alludes to this question without deciding it. Since the claim already was without merit regarding emissions in Germany, the Court did not need to address the question of international emissions.

#### **V. Implications for Climate Litigation in Germany and Beyond**

The decision represents a clear judicial boundary for climate litigation against private entities in Germany. The ruling significantly curtails strategic litigation seeking to impose emissions reductions through tort or nuisance-based claims.

The decision may also have a significant guiding effect on climate cases seeking damages for harm already incurred. In particular, the Court's emphasis that liability requires a normative allocation of responsibility, rather than mere causal contribution, may raise substantial hurdles for claimants seeking to attribute concrete climate-related damage to individual emitters. Absent a legislative framework that assigns specific emissions responsibilities to companies, German courts may be reluctant to find legal attribution, even assuming that scientific contribution could be demonstrated. At the same time, the Court made clear that compliance with existing regulatory regimes weighs heavily against a finding of unlawfulness and therefore, potentially, against liability for negligence in damages cases.

The decision contrasts with more claimant-friendly developments in lower courts in Germany and some European jurisdictions (e.g., the Netherlands) which are based on the particularities of the respective national laws. It remains to be seen whether the decision will be accepted as persuasive authority in such other jurisdictions as well.

While climate litigation against corporations will continue, particularly in disclosure, greenwashing, and supply chain contexts, this decision is likely to limit the prospects of claims seeking direct emissions reductions through private law doctrines in Germany.

We will continue to monitor developments and are available to discuss the implications of this decision for your business.

**The following Gibson Dunn lawyers prepared this update: Alexander Horn, Markus Rieder, and Valentin Held.**

Gibson Dunn lawyers are available to assist in addressing any questions you may have about these issues. Please contact the Gibson Dunn lawyer with whom you usually work, the authors, or any leader or member of the firm's ESG: Risk, Litigation, and Reporting practice group in Europe:

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