

In the Name of the Queen

[\*\* stamp of District Court of Amsterdam\*\*]

**Judgement**

District Court of Amsterdam  
Civil-Law Sector, Court in Summary Proceedings

**Judgement of 5 October 2012**

in the case with case/docket number 525686 / KG ZA 12-1250 HJ/JWR of

The private company with limited liability **SHELL NEDERLAND VERKOOPMAATSCHAPPIJ B.V.**, with its seat in Rotterdam, the claimant in the main action pursuant to the identical summonses of 14 September 2012, and the respondent in the counterclaim, with J.W.L.M ten Braak, Amsterdam, as its lawyer,

against

1. The foundation **STICHTING GREENPEACE NEDERLAND**, with its seat in Amsterdam, the defendant in the main action, and the claimant in the counterclaim, with R. Hörchner, Breda, as its lawyer;
2. The foundation **STICHTING GREENPEACE COUNCIL**, with its seat in Amsterdam, appearing under a power of attorney granted to D. Simons, the defendant;

and in the case with case/docket number 526023 / KG ZA 12-1271 HJ/JWR of

1. The private company with limited liability **SHELL NEDERLAND CHEMIE B.V.**, with its seat in Moerdijk,
2. The private company with limited liability **SHELL NEDERLAND RAFFINADERIJ B.V.**, with its seat in Rotterdam,
3. The private company with limited liability **SHELL INTERNATIONAL B.V.**, with its seat in The Hague,
4. The public limited company **SHELL PETROLEUM N.V.**, with its seat in The Hague,

the claimants pursuant to the identical summonses of 19 September 2012, and the respondents in the counterclaim, with J.W.L.M ten Braak, Amsterdam, as their lawyer,

against

1. The foundation **STICHTING GREENPEACE NEDERLAND**, with its seat in Amsterdam, the defendant in the main action, and the claimant in the counterclaim, with R. Hörchner, Breda, as its lawyer,
2. The foundation **STICHTING GREENPEACE COUNCIL**, with its seat in Amsterdam, the defendant in the main action and with J.G. Teulings, Amsterdam, as its lawyer.

The claimants in the first-named action will be referred to jointly as 'Shell Nederland'. The claimants in the second-named action will be referred to jointly as the 'Shell Companies'. The claimants in both actions will be referred to jointly as 'Shell'. The defendants in both actions will be referred to as 'Greenpeace Nederland' and 'Greenpeace Council' and jointly as 'Greenpeace'.

## **1. Proceedings**

In the proceedings with case/docket number 525686/KG ZA 12-1250 Shell Nederland submitted the statements and claims as set out in the summons attached as a photocopy to this judgement at the court hearing on 14 September 2012. At the court hearing the parties agreed that Greenpeace would not undertake any action until judgement had been issued. The case was then deferred until 21 September 2012. The case continued on the said date, at the same time as the proceedings with case/docket number 526023/KG ZA 12-1271. In the latter case the Shell Companies submitted the statements as set out in the summons attached as a photocopy to this judgement. In both proceedings Greenpeace submitted a defence concluding in rejection of the preliminary relief requested, and Greenpeace Nederland submitted a counterclaim in both proceedings as set out in the photocopy of the deed attached to this judgement. In both proceedings Shell argued that the claim in the counterclaim should be rejected. All parties submitted evidence and a pleading.

The parties attending the (continued) court hearing included:

- For Shell: L.M. van Schaik, director of Shell Nederland, represented by J.W.L.M. ten Braak;
- For Greenpeace Nederland: S. Born, director of Greenpeace Nederland, represented by R. Hörchner;
- For Greenpeace Council: D. Simons, represented by J.G. Teulings.

After the arguments were heard, the parties asked for judgement to be issued.

The two proceedings will, as far as possible, be discussed below jointly. If any item in the text relates solely to one of the proceedings, this will be explicitly stated.

## **2. Facts**

- 2.1. The group to which Shell belongs recently started drilling for oil in the Arctic.
- 2.2. Greenpeace International is conducting a worldwide campaign against these activities performed by Shell. Action has been taken against Shell in various countries (including Argentina, Finland, France and Hungary) since February 2012.
- 2.3. On 13 July 2012 Greenpeace Nederland blocked the entrance to Shell's headquarters in The Hague for a period of time. A number of activists associated with Greenpeace Nederland entered the building.
- 2.4. On 14 September 2012 Greenpeace Nederland took action at 72 Shell petrol stations in the Netherlands. During this action, locks were attached to fuel nozzles, thus making it impossible for drivers to put fuel in their vehicles.

- 2.5. The following announcement [*\*\* translated \*\**] was published on the [www.shellnederland.nl](http://www.shellnederland.nl) website on 14 September 2012:

*An as yet unknown number of demonstrators were apprehended on Friday morning during action taken by Greenpeace at dozens of Shell petrol stations across the Netherlands. Shell respects Greenpeace's right to disagree with it, but objects to the action taken.*

*This was reported by a police spokesperson. The action was taken in protest against drilling for oil in the Arctic. On Sunday Shell started exploratory drilling in the waters north of Alaska and has two drilling vessels in the area.*

*Greenpeace activists sabotaged diesel and petrol pumps at fuel stations in cities such as The Hague, Leiden and Eindhoven, and also at the service station near Breukelen on the A2 motorway. By approximately 09.15 some ninety per cent of the affected fuel stations were operational again.*

*"It is annoying and we regret the inconvenience caused to our customers" a Shell spokesperson stated. "We are concerned that this type of action may endanger their safety and that of employees".*

*The fire service later cut the chains that Greenpeace had used to link fuel hoses together. The fuel station shops remained open during the action.*

*In response to the Greenpeace action on 14 September, Shell confirmed that action had been taken at a number of its fuel stations in the Netherlands and that the company regarded it as very annoying that this action also caused inconvenience to its customers.*

*Shell respects the right of Greenpeace to disagree with it. "But safety is the top priority for Shell – for employees, customers and also demonstrators themselves. This priority applies everywhere and so also to our activities in Alaska, at Shell offices and at fuel stations".*

### **3. Dispute in the main action**

In the proceedings with case/docket number 525686/KG ZA 12-1250

3.1. Shell Nederland demanded in summary, having amended its claim, that:

1. Greenpeace should be prohibited, with immediate effect from the date of service of the judgement, from organising action at the locations of petrol stations of Shell (or its operators/lessees) and at the offices or other business premises and sites of Shell in the Netherlands for a period of six months from the date of this judgement being served on Greenpeace if such action disrupts or inconveniences Shell's business operations and should also be prohibited from inciting Greenpeace employees, auxiliary persons and sympathisers to take such action, subject to a penalty of €1,000,000 plus a penalty of €100,000 for each day or part of a day during which the violation persists;
2. Greenpeace should be ordered, within one hour after service of this judgement, to instruct its employees, auxiliary persons and sympathisers to refrain from any action that would result in

- violation of the prohibition referred to in 1 above, subject to a penalty of €1,000,000 for each day or part of a day during which the violation persists;
3. Alternatively, such relief should be granted as the court in summary proceedings deems fair in accordance with the proper administration of justice;
  4. Greenpeace should be ordered to pay the costs of the proceedings, together with statutory interest as referred to in Article 119 of Book 6 of the Dutch Civil Code from fourteen days after the date of this judgement.

In the proceedings with case/docket number 526023/KG ZA 12-1271

The Shell Companies demanded in summary, having amended their claim, that:

1. Greenpeace should be prohibited, with immediate effect from the date of service of the judgement, from organising action at the sites of the Shell offices, refineries and other buildings and locations in the Netherlands at Pernis, Rijswijk, Amsterdam, The Hague and Moerdijk for a period of six months from the date of service of this judgement if such action prevents the free and unhindered use by the Shell Companies of their refineries and/or office and other buildings or other business premises and/or sites owned or leased or otherwise used by Shell and should also refrain from inciting Greenpeace employees, auxiliary persons and sympathisers to take such action, subject to a penalty of €1,000,000 plus a penalty of €100,000 for each day or part of a day during which the violation persists;
2. Greenpeace should be ordered, within one hour after service of this judgement, to instruct its employees, auxiliary persons and sympathisers to refrain from any action that would result in violation of the prohibition referred to in 1 above, subject to a penalty of €1,000,000 for each day or part of a day during which the violation persists;
3. Alternatively, such relief should be granted as the court in summary proceedings deems fair in accordance with the proper administration of justice;
4. Greenpeace should be ordered to pay the costs of the proceedings, together with statutory interest as referred to in Article 119 of Book 6 of the Dutch Civil Code from fourteen days after the date of this judgement.

In both proceedings

- 3.2. Shell stated that its activities in the Arctic were completely legitimate and that it had obtained all the required permits. According to Shell, the fact that Greenpeace believed that, from an environmental perspective, it would be better if Shell were not to perform these activities and that it wished to express its support for the general environmental interest did not give it the right to violate Shell's legitimate interests in being able to sell petrol to motorists.
- 3.3. Greenpeace counter-argued. In its view, the risks associated with drilling in the Arctic are substantial. It consequently considered it to be its duty to organise public opinion and to induce it to oppose these activities. It stated in this respect that Greenpeace Council was not involved in the current action in the Netherlands. It also invoked the right to the freedom of expression that, in its view, also included the freedom to take action, even if this caused inconvenience to others. It pointed out that the actions were of short duration and had not resulted in any danger to persons or property.

3.4 The claims by the parties are discussed below, insofar as relevant.

#### 4. Dispute in the counterclaim

##### In both proceedings

4.1. Greenpeace Nederland demanded, in summary, that Shell should be ordered:

- To remove the press release referred to in 2.5 from its site, or at least the sentence "*We are concerned that this type of action may endanger their safety and that of employees*";
- To publish rectification in *De Telegraaf* and *Het Parool* newspapers, and on the [www.shell.nl](http://www.shell.nl) website, in which it would be stated that the summons underlying the main action in these summary proceedings was unjustified, specifically the claims that:
  - Greenpeace Nederland blocked access to Shell's headquarters in The Hague on 13 July 2012, such that people would not easily have been able to leave this building in the event of an emergency;
  - Greenpeace Nederland disabled the electricity supply to the petrol stations when taking action on 14 September 2012;
  - Greenpeace Nederland cut through fuel hoses in a number of cases on 14 September 2012;
  - Greenpeace Nederland spilt petrol at a number of petrol stations on 14 September 2012 and that this created a danger for the people taking the action, others at the location and the emergency services;
- To send the said rectification to the same addresses as those to whom the press release was sent, as well as to the media with whom Shell subsequently had contact in this matter;
- To comply with the above, subject to payment of a penalty in the event of violation;
- To pay the costs of the proceedings.

4.2. Greenpeace Nederland stated that Shell had made claims in its evidence and in the media that incorrectly gave the impression that the action taken by the former had constituted a danger to large groups of people. According to Greenpeace Nederland, this was contrary to the truth and, therefore, wrongful.

4.3. In its defence Shell stated that it had sent only the press release referred to in 2.5 to the media. The announcements it made did not contain any factual inaccuracies. According to Shell, the claim in the counterclaim should therefore be rejected.

4.4. The claims by the parties are discussed below, insofar as relevant.

#### 5. Assessment of the main action

##### *Court fee*

5.1. As these proceedings include a request for preliminary relief, the court in summary proceedings will disregard Article 127a, subsections 1 and 2, of the Dutch Code of Civil Procedure [*Wetboek van Burgerlijke Rechtsvordering*], in which it is stated that failure to pay the court fee in time will result in certain consequences. This is because, given the interest that one or both of the parties

has or have in seeking access to the court, application of this provision would result in unfairness to a determining degree.

*To what do these proceedings relate*

5.2. In adjudicating, the court in summary proceedings states at the outset that the matter at issue in these proceedings is purely a preliminary verdict on the legitimacy of action (in the future) taken by Greenpeace against Shell to the extent that this were to occur at petrol stations of Shell (or its operators/lessees) or Shell's operational sites.

The court in summary proceedings also notes that the question of whether the Shell group held the necessary permits is not in dispute, such that its activities in the Arctic must in principle be regarded as legitimate. The question of whether the said activities nevertheless entail risks of such magnitude that Shell should refrain from performing them is beyond the scope of the two summary proceedings under consideration.

*Standards for assessing the actions taken by Greenpeace*

5.3. With a view to the general interests of humans, animals and the environment and given its objective, Greenpeace is seeking to draw attention to what it regards as the dubious nature of these Shell activities. In doing so, Greenpeace uses the instrument of actions in public in order to make its views known to a wide-ranging public in a forceful manner. Greenpeace claims that its actions should be seen as a form of civil disobedience. In the past, action in the form of civil disobedience has achieved change in situations originally viewed as legitimate (such as slavery, the denial of women's right to vote and racial discrimination). Greenpeace is seeking in a similar way to bring an end to Shell's drilling for oil in the Arctic (which is currently still regarded as legitimate).

5.4. Shell demands a prohibition on (certain forms of) future action. The question to be answered in these proceedings, therefore, is the extent to which action by Greenpeace can be regarded as legitimate in the preliminary view of the court in summary proceedings.

5.5. The basic principle is that organisations such as Greenpeace are in principle free to take action and to make their views publicly known. The sole fact that such action causes inconvenience to the company targeted by the action – in this case, Shell – does not mean that such action is wrongful.

In the case of the actions that prompted Shell to demand a prohibition on future action, the activities in question are activities that may be prohibited under criminal law (e.g. the disabling of petrol pumps, which may be punishable under criminal law on the grounds that it constitutes damage to property) or, if they are not punishable, activities of which it can be claimed that they may be wrongful. The wrongfulness may be attributable to a violation of a right (ownership of the petrol pump, for example) or contravene the unwritten duty of care. Hindering customers from purchasing the products or services of a specific company may constitute a breach of the duty of care if it is known that this will result in damage to that company (i.e. loss of sales). It can also be unlawful to occupy business premises or to hinder operations there in such a way that damaging consequences can be expected to result. In view of these norms, the right to take action is not unlimited. Greenpeace's interest in being able to

express its opinion freely and in a forceful manner has to be weighed against the legitimate (business) interests of Shell.

Account has to be taken of the possibility that Shell may have to accept the cost of a certain loss of sales resulting from the action and that it will not be able to seek recourse to Greenpeace Nederland *et al*, and action cannot therefore be completely prohibited in advance simply because it is damaging to Shell.

- 5.6. The interests referred to above can generally be weighed against each other only on the basis of the specific facts and circumstances of the case. With regard to future actions, to which Shell's claims relate, it is at this stage possible only to indicate certain outer limits. Acts that are in any event wrongful in the preliminary judgement of the court in summary proceedings can be prohibited in advance. An action not prohibited in advance can nevertheless subsequently be found to be wrongful.

*Requirement for subsidiarity and proportionality in actions*

- 5.7. In setting the outer limits, beyond which action will at this stage be regarded as wrongful and therefore prohibited, it has to be noted that Greenpeace must in any event comply with requirements of subsidiarity and proportionality. Greenpeace has itself also invoked the concept of 'civil disobedience'.
- 5.8. Greenpeace will firstly have to comply with the principle of *subsidiarity*. In this case this means that actions causing damage to Shell may be taken only after it has been attempted to use less far-reaching means to achieve the intended result. It has not been claimed or shown that Greenpeace has violated this principle; the evidence submitted to these proceedings shows that Greenpeace has used multiple means to try to persuade Shell to refrain from drilling for oil in the Arctic. Shell has continued to adhere to its plans and, where possible, also to implement them. This means that it cannot be stated at this stage that future action must be prohibited because less far-reaching means are still available.
- 5.9. Action must also be *proportional*. In a case such as this, it cannot be stipulated that action must not cause any damage whatsoever to Shell. A company such as Shell, which performs or wishes to perform activities that are controversial in society, and to which many people object, can and must expect that action will be taken to try to persuade it to change its views. To be effective, such action will also be able to cause damage to Shell. However, such action may at least be required not to cause substantial damage by, for example, lasting longer than is needed to achieve the intended objective.
- 5.10. These summary proceedings do not concern the specific loss or damage suffered by Shell through the actions of 14 September 2012 or whether Greenpeace must reimburse all or some of such damage. The question that is at stake is the extent to which the fact that future action may result in possible damage should result in a prohibition now.

*'Civil disobedience'*

- 5.11. According to Greenpeace, the nature of the action taken was that of an act of '*civil disobedience*'. Although there is no clear, fixed definition of this term, it is generally used in

situations involving non-violent protests against an existing situation in which those taking the action are seeking to achieve a political or social objective rather than to further their own interests. It is also commonly stated that it must involve action in public and where the consequences of any judicial intervention under criminal law and possible liability for compensation are accepted.

The court in summary proceedings believes that the demands commonly required to be met if action is to constitute civil disobedience largely fit within the requirement for proportionality as referred to above.

- 5.12. When action is taken, measures also have to be taken to prevent the safety of persons or goods being endangered. Those involved also need to be informed of these safety measures. Here, too, those taking the action are required to remain at the location of the action, and the person responsible for/coordinating the action must make him/herself known and remain available at the location for consultation.
- 5.13. According to the preliminary judgement of the court in summary proceedings, action must be structured in such a way that the emphasis is on the wish to draw the public's attention to the situation regarded by Greenpeace as undesirable; causing damage to a party holding a different view (in this case, Shell) must not be a substantive aim of the action.
- 5.14. In addition, with regard to the requirement not unnecessarily to cause damage, Shell must be informed of the objective, method and intended duration at the start of any action. The duration that can be regarded as legitimate will depend on the nature of the action, whereby, in addition to what has been stated earlier in respect of the damage or loss to be suffered by Shell, the general rule is that action is more likely to be considered wrongful (and, therefore, required to be of more limited duration) the more that parties other than Shell are disadvantaged by it. Furthermore, the action must not last longer than necessary for achieving the intended effect. In order to provide some guidance on this important point, the court in summary proceedings will grant relief that states that action lasting longer than the maximum duration to be determined for various forms of action will be prohibited, subject to payment of a penalty in the event of violation. This is notwithstanding the fact that Shell may seek to end the action earlier.

*Referring again to proportionality*

- 5.15. The principle of proportionality also means that the extent of any action must not exceed the level needed to achieve the intended objective. Greenpeace has so far observed this norm by not taking action at all (approximately 600) Shell petrol stations, but instead at some 70 petrol stations. There is no reason, therefore, in this respect to grant relief; when organising action in future, however, Greenpeace will continue to have to take this norm into account.

*Shell's claims*

- 5.16. The outer limits referred to above are not the same as the prohibition that Shell – in both proceedings – wishes to be granted under point 1 of its claim. Shell is demanding a prohibition on any action disrupting or impeding the uninterrupted performance of its business activities. If this prohibition were to be granted, it would mean that Greenpeace would not be allowed to take any action whatsoever that could affect the performance of Shell's business activities. Such

a prohibition would go too far. Given that the claim under point 1 will be rejected, the claim under point 2 is also inadmissible. Under point 3 of its claim Shell requests that such relief should be awarded as the court in summary proceedings deems fair in accordance with the proper administration of justice. This gives the court in summary proceedings scope to grant relief that takes account of the interests of each party and to impose the basic conditions referred to above on any action, without unnecessarily restricting action.

### *Conclusion*

- 5.17. The above will result in action by Greenpeace being prohibited, subject to payment of a penalty in the event of violation, if and to the extent that it does not comply with certain conditions. Not all the basic conditions referred to above can be formulated as a prohibition subject to a penalty in the event of violation. Even, however, if the above conditions are not included in the court's decision, they may nevertheless play a role if the legitimacy of action is assessed retrospectively.

It should be noted in this respect that the conditions formulated comprise a preliminary judgement by the court in summary proceedings. If a further request for a prohibition is submitted after a period of six months, the assessment of aspects of the judgement may differ. The court then hearing the case on its merits will also not be bound by the preliminary assessment set out in this judgement.

The court in summary proceedings also explicitly points out that the fact that an action complies with the conditions set out in this judgement does not mean that the action is lawful. Whether that is the case will, if necessary, have to be determined retrospectively.

- 5.18. The prohibition will be imposed on both defendants as, although it is plausible that the actions in the Netherlands have to date been organised by Greenpeace Nederland, Greenpeace Council is also involved in organising actions, and so the possibility that the latter could become involved in organising actions in the Netherlands at a later date cannot be excluded in advance.

### *Costs*

- 5.19. Since neither party has been entirely successful in its claims, each party will pay its own costs.

## **6. Assessment in the counterclaim**

- 6.1. In its counterclaim Greenpeace Nederland demands rectification of a press release issued by Shell and statements made by Shell in its summonses. According to Greenpeace Nederland, Shell is guilty of intentionally, systematically and publicly making accusations that it knows to be incorrect. More specifically, Greenpeace Nederland accuses Shell of claiming in its summons that the electricity supply was disabled during the action on 14 September 2012, that fuel hoses were cut through during the action and that petrol was spilt, thus endangering the safety of persons and goods, and also that the blocking of access to Shell's headquarters meant that those present would not have been able to leave the building (or not without considerable difficulty) in the event of an emergency, with the result that Shell concluded that it had reason to fear that future action would again result in vandalism. According to Greenpeace Nederland, the wording in the press release was similar.

- 6.2. According to Greenpeace Nederland, the electricity supply was not disabled during the action on 14 September 2012, and neither were fuel hoses cut through. If any petrol was spilt, this was in such small quantities that could not cause any danger. Furthermore, according to Greenpeace Nederland, the blocking of access to the headquarters was organised in a way that could not endanger the safety of those present in any way.
- 6.3. Shell refers to its right to freedom of expression. According to Shell, the statements made in its summonses are factually correct, and it notes that it did not state that the electricity supply was disabled during the action on 14 September 2012. Shell also states that, apart from the press release, which did not contain any comments damaging to Greenpeace Nederland, it had not sought any contact with the media.
- 6.4. The court in summary proceedings is of the opinion that the press release does not contain any statements lacking a basis in fact as the sentence at issue is solely an – otherwise unsubstantiated – opinion: *"We are concerned that this type of action may endanger their safety and that of employees"*. Shell is free to make its opinion on the safety aspects of the action known. If Greenpeace Nederland has a different opinion on this, it is similarly free to make this known in public.
- 6.5. With regard to the disputed claims made by Shell in the evidence submitted to the proceedings, items submitted as evidence in civil-law proceedings (other than a judgement) are not public and views expressed in them cannot, therefore, be regarded as being 'made public'. This alone means there are no grounds for demanding rectification of views expressed in the items submitted as evidence. The question of whether the views of Shell as referred to in 6.1 above have been correctly represented can, therefore, be disregarded.
- 6.6. As the party ruled against, Greenpeace Nederland will be ordered to pay the costs of the proceedings in the counterclaim, estimated as of today on the part of Shell as being €816 in lawyer's fees. Although a counterclaim was commenced in both proceedings, the order to pay costs will be awarded in one case only, given that the arguments in both proceedings were identical.

## **7. Decision**

The court in summary proceedings

in the proceedings with case/docket number 525686/KG ZA 12-1250

### **In the main action**

- 7.1. Prohibits the defendants, with effect from 24 hours after service of this judgement, from organising action at the locations of the petrol stations of Shell (or its operators/lessees) or at the offices or other business premises and sites of Shell in the Netherlands for a period of six months from the date of service of this judgement on Greenpeace, insofar as such action does not comply with the following conditions:

1. At the start of the action, the person responsible for the Shell location will be given a written document stating:
  - the purpose of the action;
  - how it is to be performed;
  - the duration of the action;
  - if applicable, the security measures taken;
  - the name and telephone number of the person responsible on behalf of Greenpeace for the action at the specific location and of the person coordinating the action on behalf of Greenpeace if the action is being taken at various locations.
2. Action at fuel stations that makes it impossible or significantly restricts the opportunities for the public to put fuel in their vehicles will not last longer than one hour.
3. Action at locations not accessible by the public (such as production facilities, storage locations or offices) that makes normal business operations impossible or significantly restricts them will not last longer than two hours.

The starting point of action as referred to in 2 or 3 above will be the moment at which actual intervention in the business activities – disabling petrol pumps or blocking access to a location, for example – starts.

- 7.2. Rules that Greenpeace will be liable for a penalty of €10,000 for each action in which it fails to comply with the condition referred to in 7.1 subsection 1;
- 7.3. Rules that Greenpeace will be liable for a penalty of €25,000 for each hour, or part of an hour, that action lasts longer than the time specified in 7.1 subsections 2 and 3;
- 7.4. Orders each party to pay its own costs;
- 7.5. Declares this judgement to be provisionally enforceable as far as possible;
- 7.6. Rejects any additional or different claims;

#### **In the counterclaim**

- 7.7. Rejects the requested relief;
- 7.8. Orders Greenpeace Nederland to pay Shell's costs in this counterclaim, estimated as of today as being €816 in lawyer's fees;
- 7.9. Declares this awarding of costs to be provisionally enforceable as far as possible.

#### In the proceedings with case/docket number 526023/KG ZA 12-1271

#### **In the main action**

- 7.10. Prohibits the defendants, with effect from 24 hours after service of this judgement, from organising action at the locations of the petrol stations of Shell (or its operators/lessees) or at the offices or other business premises and sites of Shell in the Netherlands at Pernis, Rijswijk, Amsterdam, The Hague and Moerdijk for a period of six months from the date of service of this judgement on the defendants, insofar as such action does not comply with the following conditions:

1. At the start of the action, the person responsible for the Shell location will be given a written document stating:
  - the purpose of the action;
  - how it is to be performed;
  - the duration of the action;
  - if applicable, the security measures taken;
  - the name and telephone number of the person responsible on behalf of Greenpeace for the action at the specific location and of the person coordinating the action on behalf of Greenpeace if the action is being taken at various locations.
2. Action at fuel stations that makes it impossible or significantly restricts the opportunities for the public to put fuel in their vehicles will not last longer than one hour.
3. Action at locations not accessible by the public (such as production facilities, storage locations or offices) that makes normal business operations impossible or significantly restricts them will not last longer than two hours.

- 7.11. Rules that Greenpeace will be liable for a penalty of €10,000 for each action in which it fails to comply with the condition referred to in 7.10 subsection 1;
- 7.12. Rules that Greenpeace will be liable for a penalty of €25,000 for each hour, or part of an hour, that action lasts longer than the time specified in 7.10 subsections 2 and 3;
- 7.13. Declares this judgement to be provisionally enforceable as far as possible;
- 7.14. Orders each party to pay its own costs;
- 7.15. Rejects any additional or different claims;

#### **In the counterclaim**

- 7.16. Rejects the requested relief;
- 7.17. Orders Greenpeace Nederland to pay Shell's costs in this counterclaim, estimated as of today as nil;
- 7.18. Declares this awarding of costs to be provisionally enforceable as far as possible.

This judgement was pronounced in open court by R.H.C. Jongeneel, judge in summary proceedings, assisted by J.W. Rouwendal, court registrar, on 5 October 2012.

ISSUED AS AN AUTHENTICATED COPY

Registrar of the District Court of Amsterdam

*[\*\* signatures \*\*]*

*Typ. JWR*

*Coll. [\*\* signature \*\*]*

=====END OF TRANSLATION=====