

## Translated from the Dutch: KLIMAATZAAK BONAIRE: WAAROM KLAGEN WE DE STAAT AAN?

<https://www.greenpeace.org/nl/klimaatzaak-bonaire-waarom-klagen-we-de-staat-aan/>Climate Case Bonaire – why we are suing the state? An introduction  
Story in Issue #2, 2024 *The Bonaire Reporter*

On January 11, 2024, 8 residents of Bonaire and Greenpeace Netherlands summoned the Dutch State for the lack of climate policy. In this web article we discuss the legal argumentation underlying the climate case. Would you like to read the 212 page summons yourself? It is in Dutch and can be downloaded from the bottom of the online page at this link:

<https://www.greenpeace.org/nl/klimaatzaak-bonaire-waarom-klagen-we-de-staat-aan/>

Climate change poses a major threat to all Dutch citizens. Residents of Bonaire are extra vulnerable to the consequences of climate change, more vulnerable than many others in the Netherlands. This is due to the large emissions of greenhouse gases and the lack of policy by our government. The effects of climate change are already observable and will permanently change life on Bonaire.

Although Bonaire is a special municipality of the Netherlands, its citizens are not equally protected. In the European Netherlands, measures are being taken against the dangers caused by flooding rivers, damaged dikes, drought and heavy rainfall. As water managers to the core, the Netherlands has the expertise and experience to protect people from water. For the European Netherlands, for example, there is a Climate Adaptation Strategy, a Delta Plan, and a Water Program. And there is financing for protective measures. But the Dutch government has no concrete protection plans for Bonaire. In the middle of the climate crisis, this is irresponsible.

People on Bonaire are already experiencing the effects of climate change, for example increasing heat and flooding. Farmers and fishermen are noticing disappointing harvests and catches and the heat is particularly affecting the health of vulnerable people such as the elderly and the sick. They see their living environment changing and are concerned about the future of future generations.

The Dutch State has the obligation to adequately protect Bonaire and its population against the consequences

of climate change by taking adaptation measures. A precondition for this is that extreme poverty must be combated and people's resilience must be increased. The plans and measures must be made together with the people of Bonaire and based on science.

The State must also do its part to stop climate change, otherwise it will be a matter of sweeping the mop with the tap open. The world also agreed on this in the Paris climate agreement. All countries must take their responsibility to do their fair share to keep warming below 1.5 degrees. The Dutch state also has that responsibility.

Scientists agree that, if historical greenhouse gas emissions are taken into account, the Netherlands should no longer emit anything. The Netherlands has emitted so much in the past that any additional emissions are unfair. The Netherlands must therefore reduce emissions to zero as quickly as possible. Various studies show that it is feasible to reduce emissions in the Netherlands to zero by 2040 at the latest. That is 10 years earlier than it currently plans. Until then, the Netherlands must compensate for its own emissions by helping other countries reduce their emissions.

This is what 8 individual claimants from Bonaire and Greenpeace Netherlands are demanding in the Bonaire Climate Case. The Dutch State commits an unlawful act against the residents of Bonaire. A country commits an unlawful act if it does something (or nothing) that is not permitted under the law. The lack of effective climate policy is a violation of human rights, and specifically the right to life and family life (respectively Articles 2 and 8 of the European Convention on Human Rights, ECHR), the prohibition of discrimination (Article 14 ECHR) and the right to culture (Article 27 International Covenant on Civil and Political Rights (ICCPR)).

Based on Articles 2 and 8 of the ECHR, the State must take measures if there is a threat to the life, well-being and private life of its residents. Case law has established that climate change entails such dangers.

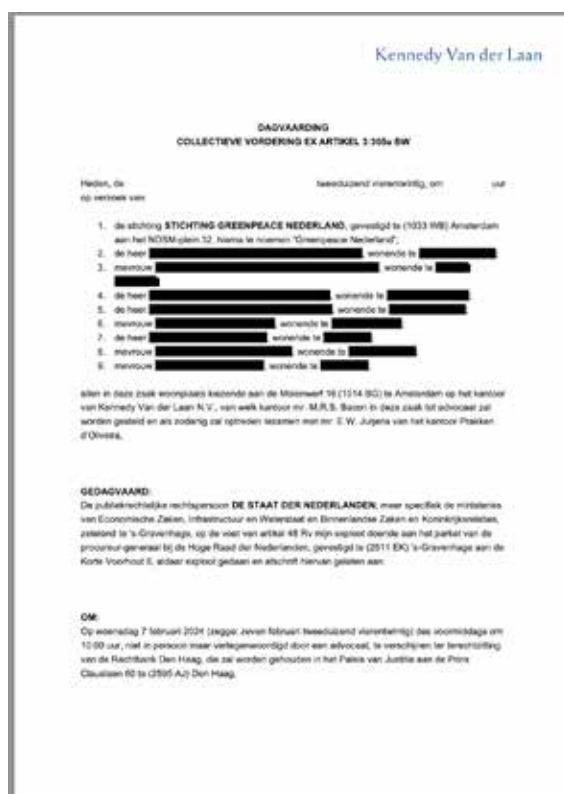
Based on these articles, the State therefore has an

obligation to do 'its part' to prevent dangerous climate change ('mitigation'). The State must also take timely, appropriate and adequate protective measures to deal with the consequences for residents ('adaptation'). The State does not meet these obligations because it is not doing enough to combat the current and future consequences of climate change on Bonaire. The effects on the lives of people on Bonaire are already significant and will only increase if no action is taken. Climate change threatens, among other things, their lives, their livelihoods, their health, their cultural heritage, nature, and the possibility for future generations to live on in the same way on Bonaire.

In addition to Article 2 and Article 8, this also violates Article 27 of the ICCPR. The inhabitants of Bonaire are a minority and have a special and deeply rooted shared culture and history. The State's negligence in taking measures against climate change poses a serious threat to this culture.

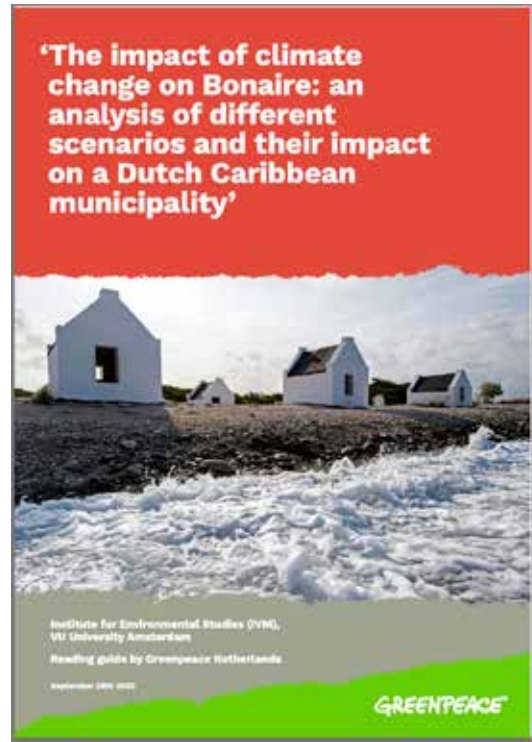
Finally, the prohibition of discrimination (Article 14 of the ECHR) is violated because the State has almost completely excluded Bonaire from the adaptation policy that has applied for years to the European part of the Netherlands, and does not offer equivalent protection for Bonaire. This means there is inequality between the residents of Bonaire and the residents of the European Netherlands (based on place of residence in any case) when it comes to the protection that the State offers against the consequences of climate change. There is no objective justification for this difference.

These human rights must be protected so that future generations and we can continue to live safely and pass on our traditions and culture - whether you live on Bonaire, Ameland or in Valkenburg.



You can download the summons. The summons addresses the facts regarding the history and characteristics of Bonaire, climate change and adaptation, and mitigation and the fair share. The legal framework then substantiates what the constitutional relationships and human rights obligations are of the State towards people on Bonaire. This is followed by the requirements.

<https://www.greenpeace.org/static/planet4-netherlands-stateless/2024/01/a50849f9-dagvaarding-klimaatzaak-bonaire.pdf>



**A research document by the Vrije Universiteit Amsterdam; The impact of climate change on Bonaire: an analysis of different scenarios and their impact on the Dutch Caribbean municipality.**

[https://www.greenpeace.org/static/planet4-netherlands-stateless/2022/10/875fa3ec-gp\\_klimaatverandering-bonaire\\_online\\_eng.pdf](https://www.greenpeace.org/static/planet4-netherlands-stateless/2022/10/875fa3ec-gp_klimaatverandering-bonaire_online_eng.pdf)



## Sign up for Ride for the Roses, January 28



Ride for the Roses 2023, Photo Julie Morgan

On January 28, people of all ages will have the opportunity to help in the fight against cancer by participating in the eighth edition of Ride for the Roses.

Ride for the Roses is not just a ride. Participants can choose to walk, swim or boat for the Roses. The bike (ride) and walk both begin at the stadium. Riders and walkers can choose between a short or long walk. The swim, in association with Jong Bonaire, is from Kas di Regatta to Karel's Beach. At the finish line everyone receives a rose.

Tickets are \$20. Registration is either online [www.ridefortheroses.org](http://www.ridefortheroses.org) or you can purchase a ticket at the

Rincon gas station, de Freewieler, Yogarriba, Bon Bida or from one of the Rose's board members.

Pick up your T-shirt and bag January 25, 26, from 5 – 7 p.m. and January 27 10 a.m. to 7 p.m. at Orco Bank, the main sponsor of the event for several years.

Volunteers for the event can sign up at:  
[signup@ridefortheroses.org](mailto:signup@ridefortheroses.org).

### The schedule:

- 7 a.m. Walk starts
- 7:05 a.m. Ride starts
- (8 a.m. Arrival first walk participants • Start Entertainment)
- 8 a.m. Swimmers register at stadium
- 8:30 "Swim" Bus departs to "Kas di Regatta"
- 9:15 a.m. - Yoga for swimmers
- 9:30 a.m. Swim starts
- 10 a.m. - Arrival first swimming participants at Karel's beach bar
- 12 p.m. - End of event



Rijksdienst  
Caribisch Nederland

## ***MOST IMPORTANT CHANGES IN GOVERNMENTAL TAXES FOR THE CARIBBEAN NETHERLANDS***

RCN PRESS RELEASE

December 19th, 2023

Since the 10th of October 2010, the islands Bonaire, Sint Eustatius and Saba are known as the Caribbean Netherlands and are public entities of the Netherlands. Since this new constitutional status, the Dutch government is responsible for the taxation and fiscal policy. Therefore, a new tax system was introduced in 2011, which differs from both the previous Netherlands Antillean system and the European Dutch system. In the outline below, we will summarize the most important changes per January 1st, 2024.

The Dutch government is responsible for the income tax, payroll tax and social security contributions, revenue distribution tax, ABB, real estate tax, real estate transfer tax and gambling tax and excise duties. The public entities may also impose local taxes, which can differ per island.

Like the European Netherlands, every year the tax free allowances, thresholds and the start of the second tax band for income tax purposes are adjusted for inflation. The Caribbean Netherlands have their own compounded inflation correction. For 2024, this compounded inflation correction amounts to 7.3%, meaning all relevant amounts will be increased by 7.3%.

### **AMENDED ABB RATES ON MOTOR VEHICLES**

Pick-ups (with a single closed cabin) and vans designed for the transportation of goods will no longer be subject to the regular ABB rate but to a higher rate per January 1st. The regular ABB rate on Bonaire is 8% and the higher rate is 25%. The regular ABB rate on the Windward Islands is 6% and the higher (progressive) rate is determined by the value of the car. The progressive rate comprises of the following percentages: 10%, 18%, 22% and 30%.

This will not apply to vans with a specific function, such as ambulances, police vans and fire trucks.

### **ABOLISHMENT INTEGRATION LEVY**

This levy is the equivalent to the rule in the VAT and was abolished in the Netherlands in 2014. This levy is still be abolished in the Caribbean Netherlands despite its adverse impact on the housing market. The elimination of this levy is expected to alleviate the existing bottlenecks. For example, it will become easier for entrepreneurs to rent-out self-constructed homes.

### **SMALL BUSINESSES SCHEME (KOR)**

The annual turnover threshold is being increased from USD 20,000 to USD 30,000. Users of Small Businesses scheme will not have to pay ABB.

### **REVENUE WITHHOLDING TAX.**

The requirements for obtaining and maintaining a residence ruling ('vestigingsplaatsbeschikking') related to revenue distribution tax are amended. On the one hand, they are becoming more lenient, while on the other hand, they are being restricted to prevent potential abuse of the leniency. This only concerns holding companies with a qualifying stake in an operational company situated in the Caribbean Netherlands that also holds an residence ruling ('vestigingsplaatsbeschikking').

### **MANDATORY REPORTING REAL ESTATE TAX.**

It is mandatory for new home- and business property owners to report their new ownership of their property. In addition, if home- and business property owners do not automatically receive a tax assessment for real estate tax and should receive one, this should be reported by the home- and business property owner. Failing to do so could eventually result in an administrative fine.

### **INCREASE OF ANNUAL TAX FREE ALLOWANCE (INCOME TAX) TO MINIMUM WAGE.**

The income tax threshold will be increased from USD 17,352 to USD 20,424. Income up to the threshold will be exempt from income tax and social security contributions.

### **NOTIONAL WAGE SCHEME (INCOME AND WAGE TAX)**

The notional wage scheme mandates that an individual holding at least 5% of the shares in a company and also performing services for that company is deemed to receive a salary that is normal for the level and duration of their work. The standard amount will be replaced by an amount that is twice as high as the income tax threshold. In 2024 this amounts to USD 40,848.

### **ABOLITION DIVIDEND EXEMPTION (INCOME TAX)**

The dividend exemption up to USD 5,000 in the income tax act will be abolished. When determining the taxable income in a year, income tax must be paid on all received dividends that are higher than the tax-free sum (and seniority support).

### **MINIMUM TAXATION FOR MNE'S**

The Caribbean Netherlands does not levy profit tax for companies. However, due to international agreements a minimum tax rate of 15% of net profits is being introduced and the system will comply with the model in the Netherlands as well as the European Directive concerning a minimum rate of taxation for internationally operating companies. The measure therefore only relates to multinational groups with a worldwide turnover of € 750 million or more, and with operational activities in the Caribbean Netherlands through a subsidiary or a local branch.





# THE BONAIRE REPORTER ONLINE


news that has arrived since the printed issue

[Link to the latest issue](#)

[Link to Facebook page](#)

## CURRENT INTERNATIONAL FLIGHT SCHEDULE

DESTINATION	AIRLINE	WEEKLY FLIGHTS	DAY OF THE WEEK	PERIOD
MIA Miami		 3 DAYS	MON   WED   SAT	CONTINUE AS IS
ATL Atlanta		 1 DAY	SAT	CONTINUE AS IS
IAH Houston		 1 DAY	SAT	RETURN FLIGHT ON SUNDAY
EWR Newark		 1 DAY	SAT	CONTINUE AS IS
AMS Amsterdam		 7 DAYS	DAILY	CONTINUE AS IS
AMS Amsterdam		 7 DAYS	DAILY	CONTINUE AS IS

 Flight schedule includes confirmed scheduled flights only. Flight schedule are changing constantly and are subject to change at any time. For the most up-to-date information on each airline, please check with your airline directly.

## HOLIDAY | INTERNATIONAL FLIGHT SCHEDULE

DESTINATION	AIRLINE	WEEKLY FLIGHTS	DAY OF THE WEEK	PERIOD
MIA Miami		 7 DAYS	DAILY	DEC 14TH - JAN 7TH
ATL Atlanta		 5 DAYS	MON   TUE   THU   FRI   SAT	DEC 17TH - JAN 8TH
IAH Houston		 1 DAY	SAT	RETURN FLIGHT ON SUNDAY
EWR Newark		 1 DAY	SAT	CONTINUE AS IS
AMS Amsterdam		 7 DAYS	DAILY	CONTINUE AS IS
AMS Amsterdam		 7 DAYS	DAILY	CONTINUE AS IS
B Belgium		 1 DAY	DEC 23TH & 25TH JAN 6TH & 8TH	DEC 23RD - JAN 8TH

As of December 12, 2023, Westjet's non-stop flight from Toronto, Canada to Bonaire will operate once weekly, every Tuesday, and depart on Wednesday morning, with service running through April 24, 2024.

## Greenpeace

### ***IPR International Press Release Climate Case Bonaire***

#### ***Dutch citizens launch legal action against The Netherlands over climate impacts on Caribbean island Bonaire***

The Hague/Kralendijk, May 11, 2023 - Residents and Dutch citizens of Bonaire, together with Greenpeace Netherlands, today launched a legal action over the government's failure to protect the Caribbean island against climate change impacts. Bonaire, a former Dutch colony, has been a special Dutch municipality since 2010. According to the seven individual plaintiffs the state is negligent in protecting them from climate change and violates their human rights. They demand that the Netherlands meets its fair share when it comes to the reduction of greenhouse gas emissions, and that the island of Bonaire is better protected against climate change impacts.

A scientific report by Vrije Universiteit Amsterdam last year showed that the climate crisis is already affecting the daily lives of people in the Caribbean and will have severe impacts on the island of Bonaire unless strong measures are taken.[1]

A pre-litigation 'letter before action' was delivered to Prime Minister Rutte in The Hague as a final warning before the Dutch State is taken to court.[2] Representatives of the Caribbean diaspora in the European Netherlands and Greenpeace Netherlands were present at Rutte's office and held a banner reading: 'We demand justice - Climate Case Bonaire'.

Speaking from Bonaire, the plaintiffs emphasised their demand for climate justice and a safe future for their island. Teacher Jackie Bernabela (65) said: "I can see how climate change is already impacting Bonaire, even though we are a small island and hardly emit any greenhouse gases. So far, the national government in The Hague has not listened to us. Without pressure on the government in The Hague, nothing will change on Bonaire."

Social worker Danique Martis (25) said: "It is important that the Dutch government takes responsibility. There are plans to protect the European Netherlands against sea-level rise, but for Bonaire this is not yet the case. We demand climate justice." Gardener Onnie Emerenciana (60) added: "Residents of Bonaire should not be treated as second-rate Dutch citizens, we are entitled to be treated equally."

Executive director of Greenpeace Netherlands, Andy Palmen, said: "It should not matter whether you live on Bonaire, in The Hague or in Amsterdam. The government has a duty to protect all municipalities from floods and other life-threatening consequences of the climate crisis. So far, the national government chooses not to protect the Executive director of Greenpeace Netherlands, Andy Palmen, said: "It should not matter whether you live on Bonaire, in The Hague or in Amsterdam. The government has a duty to protect all municipalities from floods and other life-threatening consequences of the climate crisis. So far, the national government chooses not to protect the residents of Bonaire, even though it is desperately needed. That's why today, together with people of Bonaire, we are holding the Dutch State accountable. The Netherlands has a duty to limit global warming as much as possible to contribute to climate justice for people alive today as well as future generations. We demand that Bonaire be better protected and that Dutch CO2 emissions be reduced more quickly."

It makes a fundamental difference whether the world manages to stay below 1.5 degrees of global warming, especially for small islands like Bonaire. The plaintiffs therefore demand that the Dutch State contributes its fair share to limit global warming below 1.5 degrees and that emissions from the Netherlands are reduced to zero by 2040.

Minke de Haan, of Amsterdam law firm Kennedy van der Laan, representing the individual plaintiffs and Greenpeace Netherlands, said: "So far, the government does not seem to be heeding the call for concrete action for the Dutch Caribbean islands, and policies that will enable us to stay below 1.5 degrees global warming. While we would like to be surprised, we do not expect this to suddenly change as a result of this pre-litigation letter, and so we will continue to prepare a writ of summons for a lawsuit against the Dutch State."

The Bonaire climate case is part of a global climate justice movement, led by residents of coastal areas, island nations and other affected communities. Despite having contributed the least to the climate crisis, they are already facing disproportionate climate impacts. An increasing number of communities are experiencing loss of health, lives, homes and livelihoods. Communities all over the world are successfully using the law to demand real climate action and hold governments and polluting corporations to account.

Bonaire is located almost 8,000 kilometres from the capital of the Netherlands. The Netherlands has been present on the Caribbean island for almost four hundred years. Since the dissolution of the Netherlands Antilles in 2010, Bonaire has been a special municipality of the Netherlands.[3]

#### **Notes:**

[1] <https://www.greenpeace.org/nl/klimaatverandering/54574/bonaire-climate-research-lawsuit/> [2] The Letter before Action or pre-litigation letter ('sommatie') is a legal requirement under Dutch law and lists the demands of the plaintiffs as a legal 'last warning' before the summons ('dagvaarding') is issued. The letter can be found here in Dutch, Papiamentu and English: <https://act.gp/bonaire-pre-litigation-letter>

[3] The term Caribbean Netherlands is used to refer to the so-called BES islands: Bonaire, St. Eustatius and Saba. These have been special municipalities of the Netherlands since 10 October 2010. European Netherlands is used to refer to the part of the Netherlands on the European continent.

#### **Contacts:**

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On Bonaire: Saskia van Aalst, press officer: [saskia.van.aalst@greenpeace.org](mailto:saskia.van.aalst@greenpeace.org), + 31 (0) 6 25 03 10 14 (also Whatsapp)

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## Greenpeace

### **The Bonaire Climate Case and Climate Lawsuits Around the World**

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#### 1. Introduction

Residents and Dutch citizens of Bonaire, together with Greenpeace Netherlands, are launching a legal action over the Dutch government's failure to protect the Caribbean island against climate change impacts. Bonaire, a former Dutch colony, has been a special Dutch municipality since 2010. According to the seven individual plaintiffs the state is negligent in protecting them from climate change and violates their human rights. They demand that the Netherlands meets its fair share when it comes to the reduction of greenhouse gas emissions, and that the island of Bonaire is better protected against climate change impacts.

In this background briefing you will find a summary of the issues at stake, the demands the plaintiffs are making, quotes by the plaintiffs, and contact details for interviews, photographs and video material.

#### 2. The issue: State fails to protect Bonaire in the climate crisis

##### ***The State has an obligation to protect all of its citizens***

In their pre-litigation letter of 11 May 2023, seven Bonairean individual plaintiffs and Greenpeace Netherlands claim that the Dutch state has a legal obligation to protect the people of Bonaire against climate change, both by taking protective measures and by reducing emissions to prevent further global warming.

##### ***Bonaire is hit hard in the climate crisis***

The Caribbean island of Bonaire is a former Dutch colony, and has been a 'special municipality' of the Netherlands since 2010. It is widely acknowledged that the low-lying island is vulnerable to climate change. Indeed, the latest IPCC report states that small islands face 'reduced habitability' and are already increasingly affected by the impacts of global warming<sup>1</sup>. Last year, the Vrije Universiteit (VU) of Amsterdam published the research report 'The Impacts of Climate Change on Bonaire', commissioned by Greenpeace Netherlands<sup>2</sup>. In short, the findings include:

- Large parts of the island are at risk of being permanently inundated
- Much of the coral reef and popular dive sites around Bonaire could disappear in the coming decades
- Due to extreme weather and heatwaves, residents of Bonaire will have to deal with increasing numbers of illnesses and deaths;
- All of this will have a major impact on the lives of people in Bonaire and its economy, and endanger the people's cultural heritage.

This report showed that the State must do everything in its power to limit global warming below 1.5 degrees. This would minimize the biggest risks for Bonaire and keep the island habitable for the people of Bonaire, now and in the future.

##### ***The State has no plan to protect Bonaire***

Protecting Bonaire against the impacts of climate change is therefore essential. The Dutch State recognizes that the need for adaptation measures is important and urgent. For the European part of the Netherlands, the Dutch State is making plans to protect its citizens against impacts such as rising sea levels, extreme weather and a heated climate, for example with the National Adaptation Strategy<sup>3</sup>. Yet for the three Caribbean 'special municipalities'<sup>4</sup>, the State is failing to make plans or take adaptation measures to protect citizens against climate change. Little to no research has been conducted on either the impacts or potential protective measures. This different treatment of the people on Bonaire is unlawful. The State may not discriminate among its inhabitants, according to, for example, article 14 of the European Convention on Human Rights (ECHR). The State has a legal obligation to protect the human rights of all of its citizens and take measures to protect them against climate change. This follows from, among others, article 2 and 8 of the ECHR: the right to life and the right to respect for private and family life, home and correspondence.

##### ***The State is not doing its fair share for limiting global warming below 1.5 degrees***

The biggest risks for the people of Bonaire can be reduced, or countered with protection measures, when global warming is limited below 1.5 degrees. Even though with the Paris Agreement the Netherlands made a commitment to delivering its fair share in the global effort to limit warming to a maximum of 1.5 degrees, as informed by the best available science, the Dutch State is failing to reduce greenhouse gas emissions fast enough with its current goals and policies. As a country that profited from industrialization, the Netherlands has emitted a relatively larger amount of greenhouse gasses. It was agreed in the Paris Agreement that countries like the Netherlands have to reduce emissions at a pace in accordance with equity and common but differentiated responsibilities. In climate science, this contribution to the global effort of limiting global warming below 1.5 degrees is called a country's 'fair share'.

The Dutch State only plans to reduce its national emissions to zero by 2050, which is not in line with its fair share. Various studies that calculated the fair share for the Netherlands concluded that the country needs to reduce emissions nationally and abroad by at least 100% of its 1990 domestic emission level in 2030<sup>5</sup>. This should be achieved largely by reducing emissions within the Dutch borders, as the Paris Agreement states that countries should aim for the 'highest possible ambition'. According to research, reducing these national emissions to zero is feasible before 2040. For the remainder of emissions that the Netherlands cannot reduce domestically, the Dutch State should support other countries to reduce their emissions in order to deliver its fair share.

In the Urgenda case, the Supreme Court of the Netherlands concluded that the State



## Greenpeace, continued

must at least play its part in the global effort to reduce emissions<sup>6</sup>. The UN Committee on the Elimination of Racial Discrimination recommended to the Dutch State to ‘take measures to mitigate and protect vulnerable groups from the negative effects of climate change’<sup>7</sup>.

### What the plaintiffs demand from the Dutch State

The plaintiffs from Bonaire together with Greenpeace Netherlands have laid out two demands, which are elaborated in their pre-litigation letter:

1. The Dutch state must take effective adaptation measures to protect the Dutch citizens of Bonaire against the impacts of the climate crisis. This involves, for example, making an adaptation plan in consultation with the people of Bonaire, dedicating financial resources and starting research.
2. The Dutch state must prevent further dangerous climate change by taking its fair share of the global effort to minimize global warming below 1.5 degrees. This means that the State must reduce greenhouse gas emissions more quickly. And the State has the obligation to reduce emissions as much as possible domestically, and reach net zero before 2040.

### 3. What has happened so far?

#### Bringing together a community of people from Bonaire

In recent years Greenpeace Netherlands has talked with people in Bonaire and organizations on the island about the impacts of the climate crisis and how we could take action together. In the week of 17 April, the Greenpeace ship Arctic Sunrise visited Bonaire and hosted a range of community events as well as an Open Boat. Many people wanted to support the campaign in different ways: some more in the background, others by supporting the climate case or formally joining as plaintiffs. After the pre-litigation letter is sent, anyone can become a supporter of the climate case via Greenpeace’s website: [greenpeace.org/nl](https://greenpeace.org/nl).

#### Preparing the pre-litigation letter to the State

Greenpeace Netherlands, together with law firm Kennedy van der Laan and Emiel Jurjens from Prakken d’Oliveira, researched government policies, national and international law and jurisprudence to build this case and form the foundation for the pre-litigation letter. Various experts were consulted, for instance with respect to human rights law or adaptation and water management. Based on these preparations, as well as conversations with organizations and people from Bonaire, the demands were shaped together with the individual plaintiffs from Bonaire. The group of individual plaintiffs consists of people who call Bonaire their home. They represent various ages, backgrounds and perspectives.

### 4. How the case will proceed

With the pre-litigation letter, the plaintiffs lay out their demands. The State has six weeks to respond and say whether they want to mediate with the plaintiffs. Then the State has until 30 September to come to an agreement with the plaintiffs to avert a court case. If the parties cannot agree on a solution, the plaintiffs may file a court case at the Court of First Instance in The Hague. The plaintiffs’ demands will be set out in a writ of summons and the State will then file its written reply. It may take some time, possibly more than a year, before the Court will render a final judgment in such a case. Each party may then file an appeal against that judgment at the Court of Appeal, and ultimately bring the case before the Supreme Court. However, generally a court order of the Court of First Instance will have immediate effect which is not suspended by appeals proceedings.

### 5. Plaintiffs about the case

Danique Martis, 25, social worker:

“It’s important that the Dutch government accepts its responsibility. The Caribbean Netherlands has been forgotten for too long. There are plans in place to protect the European Netherlands against sea-level rise and other consequences of the climate crisis, but for Bonaire this is not yet the case. We demand climate justice.”

Onnie Emerenciana, 60, gardener:

“Bonaire is close to my heart, I don’t want the island to perish. The residents of Bonaire should not be treated as second-rate Dutch citizens; we have the right to be treated equally.”

Jackie Bernabela 65, teacher:

“I can see how climate change is already impacting Bonaire, even though we’re a small island and hardly emit any greenhouse gasses. So far, the national government in The Hague has not listened to us. Without pressure on the government in The Hague, nothing will change in Bonaire. It just ends up as promises, sympathy and yet another report.”

“We don’t have that many emissions, but large countries do, and those emissions have to be reduced to zero. Something has to be done quickly, otherwise part of our island will be gone soon. Not just talk like at the climate summits, but something practical must also be done.”

“I would like to ask Prime Minister Rutte: have you heard our message? And what are you going to do in practical terms? Someone has to speak up! Otherwise we’re doomed. If you agree, support us. This lawsuit is a good thing for us all. Climate change is scientifically proven; it’s not a joke.”

Helen Angela, 51, laboratory technician::

“The scientists’ information is very shocking. It’s good that we now have this information, because little is known on Bonaire about climate change and the consequences. We must not sit still, but act together, now. I hope many people will support us, we have to do this together.”

Judmar Emerenciana, 25, graphic designer; created a mural on the subject.

“We are at risk of losing our culture. But it’s not too late, this warning comes just in time for us to act. I don’t want the slave huts to end up under water in the future, and that we end up thinking, ‘we could have prevented this’.”

### 6. How this case is connected to other climate litigation cases around the world

The Bonaire case is part of the global climate justice movement, led by the youth, elderly, residents of coastal areas, island nations and other communities who, despite having contributed the least to the climate crisis, are the ones already experiencing the adverse impacts of climate change.

All over the world, communities are successfully using the law to demand real action, justice and accountability from governments that through their actions and omissions have knowingly created the climate crisis that we are currently facing. The Bonaire case draws on and builds on other strategic climate cases targeting governments with the aim of holding them accountable for their lack of action against climate change, and seeking to establish a legal precedent recognizing the nexus between climate change and human rights. Be-



## Greenpeace, continued

low some examples of the aforementioned cases.

### ***Urgenda and Shell cases***

In the Netherlands, we have seen two successful climate litigation cases: the Urgenda case and the Shell case. Both were groundbreaking cases, which inspired successful other cases around the world. Like the Bonaire case, they are based on human rights. But there are also important differences. The government is being addressed in the Bonaire case, whereas the case against Shell was focused on a multinational company. And unlike the Urgenda case, the people of Bonaire and how they are treated unfairly are central in this case.

### ***Climate litigation around the world***

The Indonesian Youth v Indonesia (see more here) is a case also based on adaptation claims. On 14 July of 2022, fourteen youth and affected groups from various regions in Indonesia filed a complaint before the Indonesian National Human Rights Commission claiming that the Indonesian government has violated their human rights by not taking necessary measures to prevent the effects of climate change. The complaint alleges that the Indonesian government has violated several of their human rights protected under the Indonesian constitution by not taking necessary mitigation and adaptation measures to prevent temperature rises above 1.5 degrees. They argue that Indonesia still heavily depends on deforestation and fossil fuels, especially coal for economic growth, has inadequate emission reduction targets, allocates significant resources to support carbon-intensive industries, does not integrate adaptation planning into domestic policies and budgeting, fails to ensure that social protection mechanisms work to reduce vulnerability to disasters and climate-related stresses, and does not prioritize nature-based adaptation.

This case is significant not only because of its young plaintiffs but also because it highlights the responsibility of governments to protect their citizens' human rights by taking necessary measures to prevent and minimize the effects of climate change. It also demonstrates the need for governments to transition to sustainable development and invest in nature-based adaptation to mitigate climate risks.

The Neubauer and 8 others v. Germany case (see more here) is also related to climate change and the responsibility of governments to take effective measures to combat it. In this case, a group of young Germans challenged Germany's Federal Climate Protection Act, arguing that it was insufficient to stop climate change and not aligned with the German Constitution. The German Federal Constitutional Court found that the German government's failure to come up with a clear carbon reduction path from 2030 to being carbon zero was unlawful and ordered the government to reconsider its targets and clarify its emission reduction targets from 2031 onwards by the end of 2022. This decision set an important constitutional precedent in Germany and the rest of the world and had a major impact on the fight against climate change and the protection of intergenerational rights. As a result of the ruling, the German government revised its Climate Protection Plan and raised its climate targets for 2030 and 2050.

The KlimaSeniorinnen Schweiz et al v Switzerland (see more here) is about the disproportional impacts of climate change in certain groups. In this case, elderly women. The case was initially litigated before domestic courts in Switzerland but has now reached the European Court of Human Rights (ECtHR). The applicants, four individuals and an association of more than 2.000 women aged 65 and older are suing the Swiss government for its lack of climate action. The applicants argue that climate-induced heatwaves violate their rights to life and private and family life.

The case was the first climate case to ever be heard by the ECtHR. It was relinquished to the Grand Chamber in 2022 as it raised serious questions affecting the interpretation of the Convention. The hearing

took place on March 29, 2023.

Other climate cases have been filed at the ECtHR. In addition to the KlimaSeniorinnen case, the Grand Chamber also heard a case concerning France (Carême v. France) on the 29 of March and has scheduled the hearing of a third major case (Duarte Agostinho v. Portugal), in which 32 countries are defendants. This last one will be heard after the Court's summer recess, on 28 September 2023. Based on these three cases, the court will define the jurisprudence on climate crisis and human rights, which will have far-reaching consequences.

Other climate cases have been filed before the ECtHR. In addition to the aforementioned cases, at least ten other cases are currently pending at the Court. One of them is filed by Greenpeace Nordic, Nature and Youth and 6 individual plaintiffs and concerns the human rights impacts of new oil drilling licenses in the midst of a climate crisis.

In 2016, Greenpeace Nordic and Nature & Youth (see more here) filed a legal case against the Norwegian Ministry of Petroleum and Energy, challenging the Norwegian government's decision to license new oil and gas drilling in the Arctic. Later, Grandparents Climate Action and Friends of the Earth Norway also joined the lawsuit. However, in an unfortunately conservative decision in December 2020, the Supreme Court of Norway ruled in favor of the Norwegian State and found that the oil licenses in question were not in breach with the Norwegian Constitution. The fight against oil and gas drilling in the Arctic has continued at the ECtHR when on 15 June 2021, 6 young climate activists, Greenpeace Nordic and Nature & Youth brought a case against Norway. They argue that opening up new oil drilling in the Arctic, and overall the expansion of fossil fuel extraction, during a climate crisis is in breach of the applicants' human rights.

This case is the first case pending at the ECtHR that is mainly dealing with the effects of oil extraction on the climate crisis. On 10 October 2022, the Court communicated that it would postpone hearing this case in order to hear the three first climate cases relinquished to the Grand Chamber.

### ***Other relevant cases***

- Torres Straits islanders case (see here) is also based on adaptation claims. Furthermore, it touches on the colonizing past of a country like Australia and the rights of local communities to be protected from the impacts of climate change.
- Inclusive Louisiana case v St James Parish case (see more here) is about the environmental racism that an African-american community is facing in Louisiana. It touches upon the intersectionality between environmental damage, racism and its historical roots in the United States.

## 7. Q&A

### ***What exactly does a pre-litigation letter mean?***

A pre-litigation letter describes what you demand from an opposing party, in our case the Dutch State, and on what grounds you do so. This is a required first step before going to court in Dutch law. Often, a pre-litigation letter contains a deadline to meet those demands. If those demands are not (fully) met, the next legal step may be a summons, which you use to take the case to court. In our case, the Dutch State has until 30 September to meet our demands. If the Dutch State does not come with a solution, we will be forced to go to court.

## Greenpeace, continued

### ***How are the plaintiffs affected by the climate crisis?***

Claimants living on Bonaire experience that it has become increasingly hotter on Bonaire during their lifetimes. For example, some recall that they used to be able to play outside all day as children, but that this is no longer possible today. Several claimants also see that the weather in general has become more extreme and unpredictable. Long periods of drought alternate with short, extremely heavy rainstorms. These lead to severe floods, which render roads impassable and can make important facilities such as hospitals and schools inaccessible.

### ***What laws and treaties are you referring to?***

The island Bonaire is a special municipality of the Netherlands, but is forgotten when it comes to climate impact research and is excluded from the laws ensuring protection against the impacts of climate change. We believe this goes against the prohibition of unequal treatment when it comes to protecting human rights. The starting point of the Bonaire case is that the Dutch State is committing an unlawful act towards the people of Bonaire. The lack of effective climate policy is a violation of Article 2 of the ECHR (European Convention on Human Rights) - Right to life, Article 8 of the ECHR - Right to private life and Article 14 of the ECHR - a covenant on unequal treatment.

### **8. Further information and contact**

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Rijksdienst Caribisch Nederland  
RCN-Unit Sociale Zaken en Werkgelegenheid

## Indexation minimum wage, maximum daily wage and social security premiums for 2023 from the Ministry of Social Affairs and Employment

(The amounts published in the 'Staatscourant' are leading.)

### Minimum wage 2023

		Bonaire		St. Eustatius		Saba	
Rate of increase		18,2%		14,3%		15,0%	
Minimum wage Caribbean Netherlands Amounts per hour (USD)	%	2022	2023	2022	2023	2022	2023
21 years and older	100%	6,03	7,13	7,30	8,34	7,19	8,27
20 years	90%	5,43	6,42	6,57	7,51	6,47	7,44
19 years	85%	5,13	6,06	6,21	7,09	6,11	7,03
18 years	75%	4,52	5,35	5,48	6,25	5,39	6,20
17/16 years	65%	3,92	4,63	4,75	5,42	4,67	5,38

### Maximum daily wage 2023 (Wet ziekteverzekering BES and Wet ongevallenverzekering BES)

		Bonaire		St. Eustatius		Saba	
Rate of increase		18,2%		14,3%		15,0%	
Maximum daily wage Amounts per day (USD)		2022	2023	2022	2023	2022	2023
5-day working week and shorter		161,08	190,40	194,82	222,68	192,03	220,83
6-day working week		134,24	158,67	162,35	185,57	160,02	184,03

### Premium percentages social security 2023

Premium percentages	2022	2023
ZV-premium	1,3%	1,3%
OV-premium	0,3%	0,3%
Cessantia-premium	0,1%	0,1%
AOV-premium	25%	25%
AWW-premium	1,3%	1,3%





## MARINE PARK FEE CHANGES

Starting January 1st, 2023

Use or access to Nature Park		
	Current Rate	New established rate
General user	\$45 per year for divers \$25 per year for other users	\$40 per year other users
Kids younger than 13 year	\$45 per year for divers \$0 for kids < 12 year	\$0 kids <13 year
Residents of Bonaire	\$45 per year for divers \$0 for other users	\$0 for all users
Residents of Curaçao, Aruba, Sint Maarten, Sint Eustatius en Saba	\$45 per year for divers \$25 per year for other users	\$0 for all users
Cruise passengers	\$45 per year for divers \$0 for other cruise passengers	\$10 per day for visitors to the WSNP* \$0 for other cruise passengers
Activities or the use of objects in the underwater park		
	Current rate	New established rate
Commercial activities in the underwater park	\$840 per year	\$1,000 per year
Use of a private mooring buoy	\$240 per year	\$1,000 per year
Use of stairs, riprap, seawall, (private or commercial) pier, jetty or overhanging construction and other structures	\$280 per year	\$0
Use of a public mooring buoy	\$10 per night	\$35 per night
Use of ladder	\$140 per jaar	\$0
Use of an industrial jetty or pier	\$560 per year	\$0

Starting January 1st, 2024

Use or access to Nature Park		
	Current rate	New established rate
Cruise passengers	\$10 per day for visitors to the WSNP* \$0 for other cruise passengers	\$10 per day for all cruise passengers

\*WSNP: Washington Slagbaai National Park