

Client Briefing

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Federal Court of Justice oral hearing in landmark "climate case" seeking injunction against car-makers BMW and Mercedes-Benz

In the context of the climate crisis, companies in emission-intensive industries in particular increasingly face lawsuits seeking injunctive relief or damages for business activities that generate emissions. On March 2, 2026, the Federal Court of Justice, Germany's top-level civil court, heard an appeal on points of law by climate NGO *Deutsche Umwelthilfe e.V.* against car makers BMW and Mercedes-Benz. The plaintiffs seek an injunction prohibiting the sale of cars with combustion engines after October 2030. Although the questions raised by the Federal Court of Justice's summary and questions indicate an awareness that these claims go beyond the legal status quo, climate litigation is and will remain a real risk for companies regardless of the outcome of this specific case.

Ever since the [Federal Constitutional Court's seminal order of 24 March 2021](#), companies particularly from emissions-heavy industries have found themselves brought before the German courts defending against claims for damages or injunction against their business models. In 2022, German climate NGO *Deutsche Umwelthilfe e.V.* filed for injunctive relief against BMW and Mercedes-Benz in the courts in Munich and Stuttgart, seeking to prohibit the defendants from selling new passenger cars with combustion engines after October 2030. The plaintiffs' legal argument rests on "fundamental rights as inter-temporal guarantees of freedom", a dimension to

fundamental rights developed in recent years by the Federal Constitutional Court, Germany's top-level constitutional and human rights court. In essence, the Federal Constitutional Court ruled that fundamental rights may be violated if, due to currently insufficient emission reduction measures, the goals of the Paris Climate Agreement can later only be achieved through severe restrictions on freedom. This situation can give rise to the complex phenomenon of "advance interference-like effect on fundamental rights"; similarly to more classic interference with human rights, this requires constitutional

justification and the corresponding legal position is, in principle, protected.

The plaintiffs in the proceedings against BMW and Mercedes-Benz now seek to transfer this public-law argument to the civil-law context and seek a civil injunction prohibiting the further marketing and sale of cars with combustion engines. While the Higher Regional Courts did not allow appeals in either case, the Federal Court of Justice allowed the appeals and heard oral arguments on March 2, 2026.

I. Federal Court of Justice sees difficult legal issues

In its introduction, the Federal Court of Justice clarified that this novel issue can also be captured within the established categories of tort law. On the one hand, the relief sought depends on whether the sale of cars with combustion engines after 2030 will have an advance effect on the plaintiffs' fundamental rights, similarly to the doctrines developed by the Federal Constitutional Court for state action. On the other hand, it is decisive whether the defendants can be said to be unlawfully causing that effect by enabling the operation of emission-intensive cars. Ultimately, both questions arise because there is no legally prescribed "emissions budget" for private companies which tells them which level of emission-intensive activity is permissible. Even the Federal Constitutional Court had envisaged such an "emissions budget" only at a national level, but had already rejected, for example, a distribution among federal states or municipalities, deferring instead to the legislator.

II. Plaintiffs enter uncharted legal territory

The plaintiffs openly admit that the route through the civil courts is a reaction to what they see as insufficient action on the part of the legislator. However, they submit that the plaintiffs' fundamental rights cannot depend on whether the legislator takes action, but must be protected by the civil courts if necessary. After two lost court instances, the plaintiffs also recognize that such claims are not obvious under the law as it stands; nevertheless, they argue that the courts should develop the law in this direction.

III. Defendants point to separation of powers

The defendants, on the other hand, refer to the complexity of issues associated with tackling the climate crisis and the need to weigh all competing interests. Proceedings between two parties before a civil court, they submit, are not the right place for this; rather, it is up to the legislator to enact appropriate regulations, which has already been done with the EU ban on the sale of new gasoline and diesel vehicles from 2035. The defendants must be able to rely on these regulations and cannot be obliged to refrain from further action beyond this.

IV. "Strategic litigation" conflicts with the purpose of civil proceedings

As the questions posed by the Federal Court of Justice show, the claims for injunction asserted by the plaintiffs against private companies conflict with the established system of German civil law. The attempt to solve complex distribution problems using the binary logic of two-party litigation also contradicts the objectives of civil proceedings. The mechanisms of classic civil proceedings are structurally unsuitable for addressing issues of concern to society as a whole that involve weighing up different private and public interests, because not all relevant persons can be involved, but the effects of the judgment would extend to numerous other persons. Also from a substantive legal perspective, civil law cannot simply be developed in the light of conflicting fundamental rights positions if the relevant constitutional considerations are reserved for the legislature. Against this background, it would be desirable for the Federal Court of Justice to clarify that civil proceedings are structurally unsuitable for 'strategic litigation'.

V. Claims for injunction against emissions as a risk for companies

The nearly two-hour oral hearing before the Federal Court of Justice alone showed that, in line with previous case law, the injunctive relief sought by the plaintiffs is not a simple question. Even the plaintiffs see civil claims against emitting companies as only part of the solution to the climate crisis and as a supplement to political action. Independently of whether climate-related lawsuits are legally successful, mere

exposure to such claims can be a significant burden for the companies concerned. Furthermore, experience from other countries shows that lawsuits against emissions-producing behaviour must be taken seriously from a legal perspective. Defending against such claims therefore requires companies to have a well-coordinated procedural strategy combining civil procedural sensitivity and skilful conflict management. Regardless of the Federal Court of Justice's ultimate decision in the instant case against BMW and Mercedes-Benz, companies must continue to address the risks arising from strategic civil litigation against emission-intensive business models.

This client information contains only a non-binding overview of the subject area addressed in it. It does not replace legal advice. Please do not hesitate to contact us for this client information and for advice:



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