

# The precedent of *Saúl v. RWE*

**On May 28, 2025**, the **Higher Regional Court of Hamm** delivered a landmark ruling in the **climate lawsuit** brought by Peruvian farmer and mountain guide **Saúl Luciano Lliuya** against German energy giant RWE—setting a powerful precedent that reaches far beyond his individual case.





## For *the first* *time in history,*

a high court in Europe has ruled that major greenhouse gas emitters can be held liable under civil law for the specific consequences of the climate crisis. Although the court ultimately dismissed Saúl Luciano Lliuya's claim, its reasoning represents a significant breakthrough in climate litigation.





- 1.** A New Era of Accountability: Major emitters can be held liable for the consequences of the climate crisis.
- 2.** Promising Prospects for Climate litigation: The ruling paves the way for new cases with an increased chance of success.
- 3.** Empowering actors on the front lines of the climate crisis: Those affected by the climate crisis worldwide can hold large polluters accountable.

# *Key aspects of the Court's Ruling:*

## **Civil courts can decide on climate liability:**

The court clarified that civil claims relating to the impacts of climate change fall within the judiciary's purview and do not infringe on the domain of politics or violate the principle of separation of powers. While the climate crisis requires political solutions, courts are fully competent to adjudicate individual civil claims for injunctive relief or damages. Such legal scrutiny is not only permissible but a constitutional function of civil justice.

**Section 1004 BGB applies  
transnationally in climate cases:**

The court recognized that Section 1004 of the German Civil Code—a provision that protects from impairment of property or other rights—applies to cases involving climate-related risks, including transnational claims. The key criterion is whether there is an ongoing or imminent unlawful impairment caused by the defendant. This principle applies even when the claimant resides outside Germany, as in Lliuya's case in Peru, while the defendant's emissions originate in Germany.

**The complexity of climate change  
does not prevent liability:**

The decisive factor for causality is that RWE's power plants have contributed significantly to the increase in global greenhouse gas concentration and that the danger in question is a consequence of climate change.

### **Foreseeability since 1965:**

The court notes that the risks associated with greenhouse gas emissions have been scientifically evident since at least 1958, when Charles D. Keeling began documenting the steady rise in atmospheric CO<sub>2</sub> due to human activity, particularly the combustion of fossil fuels. On this basis, the court held that from at least 1965 onward, major emitters could reasonably foresee the harmful consequences of their actions—and thus bear legal responsibility for them.

### **Significance of RWE's Emissions:**

With a share of approximately 0.4% of global emissions, RWE's contribution to the climate crisis is to be classified as significant. This establishes that, unlike individual citizens, RWE bears a special duty and responsibility for the consequences of the climate crisis.

### **Liability as a Reflection of a Values-Based Legal Order:**

Holding major emitters liable is not a competitive disadvantage for Germany. On the contrary, it reflects a values-based legal system. It is increasingly evident that this approach is becoming a competitive advantage: major emitters that take responsibility for their societal impact and move away from fossil fuels today are positioning themselves for the future.

### **A permit is not a carte blanche to cause harm:**

The court made it clear that RWE's state-issued permits do not exempt it from civil liability. When permitted activities disproportionately infringe on the rights of others, liability under civil law remains possible.

