

Environmental Claims

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Stichting Frisse Wind vs Tata Steel IJmuiden

- **Frisse Wind (“Fresh Wind”)**: a foundation which aims to protect the environmental and health interests in the Dutch province of North-Holland
- **Tata Steel IJmuiden**: a large privately owned steel factory, located in the vicinity of peoples homes at the West coast of The Netherlands; owners are located in India



Frisse Wind. Nu!

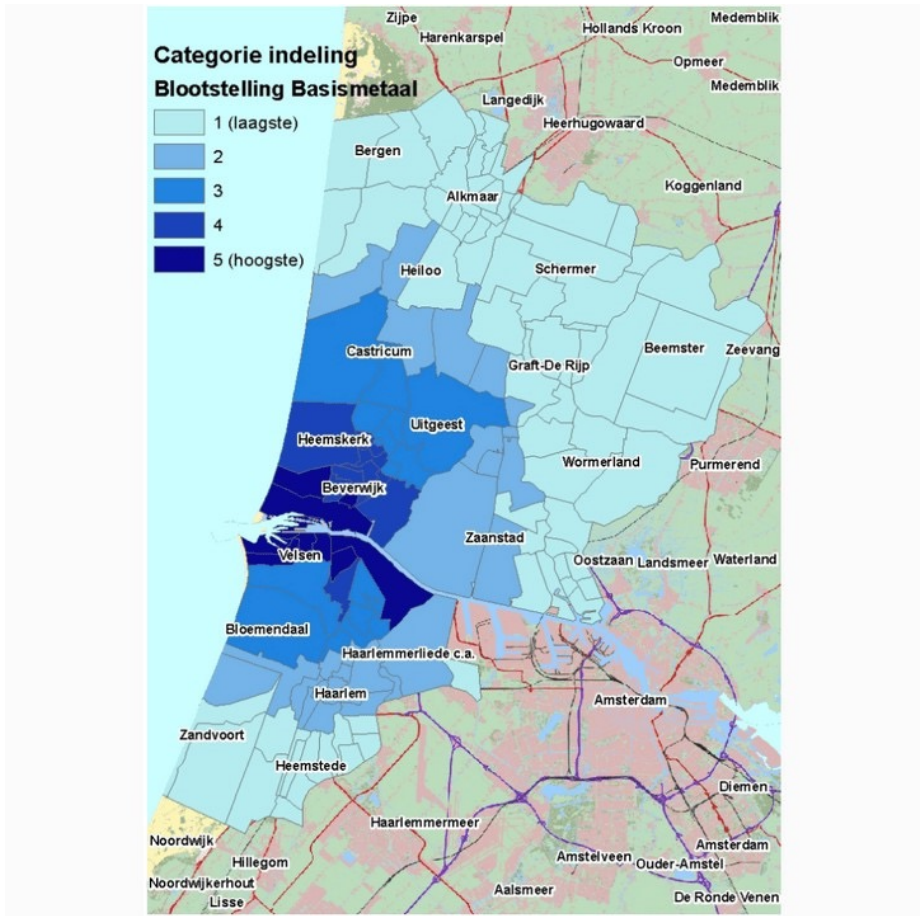


Stichting Frisse Wind vs Tata Steel IJmuiden

- Frisse Wind has been restructured as a foundation which qualifies under Dutch law (WAMCA) to act as a collective advocate (“Class counsel”) in a mass civil action on behalf of all people suffering damages as a result of the environmental pollution by Tata Steel. About 150.000 people in the region.
- Tata Steel is the largest polluter in The Netherlands and serious health problems have been reported which are largely attributed to the company.



GEOGRAPHICS



National Institute for Public Health (RIVM) in most recent report of 22 September 2023

- The current level of emissions from the Tata Steel site is putting people who live in the IJmond region at an elevated risk of disease. The greatest benefits to public health in the region can be achieved by reducing nuisance caused by and exposure to Tata Steel emissions. This is the outcome of a study conducted by RIVM. The RIVM study combines the available knowledge on the link between emissions from the Tata Steel site and the health of people who live nearby. One of the findings was that 80% of Wijk aan Zee residents experience odour, dust and noise nuisance. As a consequence of Tata Steel's emissions of fine particles and nitrous oxides, Wijk aan Zee residents have a life expectancy that is 2.5 months lower.

Dutch law on collective civil action (WAMCA)

- In effect since 2020, for events that happened after 14 November 2016.
- A legal entity like a foundation can act as a collective advocate (Class counsel) of mass interests, and seek a monetary verdict, if it meets strict criteria set by law.
- Some of the main criteria are:
 - Its board needs to have relevant legal knowledge of the matter involved
 - None of the board members are allowed to have commercial interests in the outcome of the matter
 - A Supervisory Board, including legal and financial expertise, has to be implemented
 - The foundation needs to have sufficient representativity among the people whose interests it supports
 - The foundation needs to have sufficient financial funds for bringing and completing the civil action

Litigation

- The foundation can take the defendant(s) to Court to seek a verdict on liability on behalf of the group, after it has tried to achieve its goals through out-of-Court discussions.
- The Court makes sure whether other parallel initiatives have been taken or not.
- The Court will – challenged by the defendant(s) or not – decide whether the foundation meets the legal criteria or not.
- The foundation is entitled to seek a monetary verdict on behalf of the group it represents.

Class Counsel

- After the collective civil action is filed, the Court first decides on the appointment of Class counsel, which is most likely the initiating foundation
- If several similar actions by various foundations have been brought, the Court decides which of the foundations is appointed Class Counsel.
- *Unlike US not a lawyer but the foundation itself is Class counsel!*
- The Court provides a decision on the certification of Class Counsel for all people whose interests are subject of the proceedings
- During at least one month after publication of this decision, people can decide to opt-out (first possibility to opt-out).

Personal injury claims are hard(er) to deal with in a collective setting

- Unlike certain products liability cases, these claims require medical facts and circumstances to be reviewed on an individual basis.
- The collective claim can first lead to a judgment on liability and a Court Order whereby both parties are compelled to negotiate on a collective schedule of damages.
- This negotiated schedule of damages needs approval of the Court.
- After the decision whereby a schedule of damages is approved, people can decide to opt-out (second possibility to opt-out).

Liability letter has been formally served by bailiff on 23 August 2023



Thank you for your attention!
Any questions?

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