



## GERMAN GOVERNMENT SUED OVER CLIMATE CHANGE

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***For immediate release***

A legal challenge was launched today to force the German government to disclose the contribution to climate change made by projects supported by the German taxpayer through its export credit agency Euler Hermes AG ("Hermes"). The government is refusing to abide by legislation on freedom of information.

Germanwatch and Friends of the Earth Germany (BUND) have taken action against the German Federal Ministry of Economics and Labour in the Administrative Court in Berlin. It follows a similar legal attack on the Bush Administration's export credit support for fossil fuel projects [1], and marks the first European case to enforce the law to combat climate change [2].

Hermes is a public agency that provides government-backed guarantees and insurance to German corporations that seek to do business in developing countries. It provides billions of dollars of funding support for energy, mining and transport projects around the world on behalf of the German taxpayer [3]. These projects give rise to greenhouse gas emissions that cause climate change which affect everybody. Germanwatch and Friends of the Earth Germany therefore asked the German government to disclose information on these projects since 1997, when the Kyoto Protocol was agreed [4], using German laws based on European Union legislation on freedom of environmental information [5]. But the government refused, claiming all sorts of legal reasons [6]. Germanwatch and Friends of the Earth Germany are convinced the reasons put forward by the government are spurious and have taken legal action to ensure that this important information is put in the public domain where it belongs.

**Klaus Milke, Vice-Chairman of Germanwatch said:**

*"Transparency is the basis for seriously assessing how much the export credit agency and the German taxpayer damages the global climate. That is why we expect Hermes and the German government to fulfil their obligations under the Environmental Information Law".*

**Gerhard Timm, Executive Director of Friends of the Earth Germany said:**

*"German exports play a vital role in the climate impact of global energy and transportation systems. The public has a right to know how much carbon dioxide Hermes is indirectly responsible for. The environmental effects of*

*German export credits for mining, new power stations and supplying aircraft overseas must be urgently taken into account.”*

**Peter Roderick, Director of the Climate Justice Programme said:**

*“Climate change litigation has now arrived in Europe. Legal action of this kind will intensify until the developed world and its corporations face up to their global responsibilities and deliver huge cuts in greenhouse gas emissions.”*

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## END NOTES

[1] The US export credit bodies are being sued under the National Environmental Policy Act by Friends of the Earth, Greenpeace, various cities and individuals for failing to consider climate change when deciding to support fossil fuel projects. For more details see: [www.climatelawsuit.org](http://www.climatelawsuit.org)

[2] The Climate Justice Programme supports enforcement of the law by citizens and their organisations around the world to combat climate change. For more details see: [www.climatelaw.org](http://www.climatelaw.org)

[3] For example, Hermes has supported supplies for the building of Paiton 2, a disputed coal-fired power station in Indonesia; delivery of tubes into Turkey, to the Baku-Tiblisi-Ceyhan pipeline throughout Azerbaijan, Georgia and Turkey; and delivery of aircraft by the airbus industry into the USA, Sweden and Saudi Arabia. Lack of transparency makes it impossible to assess exactly what contribution their funded projects have made to climate change. One estimate published by the World Resources Institute (WRI) suggests that Hermes promoted between 1996 and 2001 fossil projects in developing countries to an extent of US \$2 billion – US \$1.5 billion of it for projects of energy production and about US \$500 million for oil and gas projects. On the other hand, WRI also shows Hermes supporting about US \$5 billion of energy-intensive projects in developing countries from 1994-99.

More information is available in the briefing prepared by Germanwatch and Friends of the Earth Germany: <http://www.germanwatch.org/rio/herbpe04.pdf>

[4] The letter of request asked for a list of all projects in the field of energy production, for which export guarantees were granted since 1997, covering coal, oil, gas, nuclear and renewable categories; the aggregated sum covered by the export guarantees for each category; an indication of fossil fuel type, origin and input along with energy output and plant efficiency and projected period of operation; and identifying those projects which underwent “an environmental check” in accordance with guidelines for the consideration of ecological, social criteria and criteria related to development policy.

[5] The EU Directive 90/313 on access to environmental information gives citizens the right to information on the environment held by public authorities across the European Union. This Directive has been transposed into German domestic law by the Environmental Information Act of the Federal Republic of Germany (Umweltinformationsgesetz des Bundes, UIG). These rights were strengthened in the Aarhus Convention on Access to Information, Public Participation and Access to Justice on Environmental Matters, as a result of which a stronger EU Directive 2003/4/EC has been adopted and must be transposed into domestic law by the Member States by 14<sup>th</sup> February 2005. The decision of the court in this case, especially by the European Court to which it may be referred, will have implications for access to environmental information throughout the EU.

[6] Firstly, the Ministry stated that certain information was already published and therefore our request was unnecessary. This, however, is not the case as only selected projects are available on the internet and only very vague data are published. Secondly, the Ministry said it was not subject to the Environmental Information Act as it does not fulfil any direct mandate of environmental protection. In our opinion, this is wrong. The European Court of Justice has ruled on this issue several times: the legislation applies not only to Departments or Ministries of the Environment. Thirdly, the Ministry hid behind the alleged protection of the Federal Criminal Code. § 203 of the Criminal Code protects trade and business secrets and prohibits any “inadmissible” publication of business data. This argument is not convincing either. The release of environmental information is not prohibited under the criminal code.