

# ON THE ACTION FOR A PROHIBITORY INJUNCTION OF THE “WETTBEWERBSZENTRALE” AGAINST CLIMATE NEUTRALITY

THE WORLD NEEDS MANY MORE COMPANIES LIKE ALDI SÜD

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The German “Centre for Protection against Unfair Competition” (*Wettbewerbszentrale*) recently objected to the misleading and non-transparent use of the term 'climate neutrality' in the advertising of four companies, including ALDI Süd, and sued them for injunctive relief.<sup>2</sup> This event was widely commented on in the media. However, there was no critical discussion or questioning of the legitimacy of these lawsuits. The media merely reflected the argumentation of the *Wettbewerbszentrale*.<sup>3</sup>

## CLIMATE NEUTRALITY – AN ESTABLISHED TERM

The term 'climate neutrality' has been established for many years now. It originates from the climate policy arena and was first used in the Kyoto Protocol adopted in 1997. Therein, it was agreed that CO<sub>2</sub> emissions generated in an industrialized country could be offset or compensated for elsewhere. The mechanisms developed for this purpose were the Clean Development Mechanism (CDM) and Joint Implementation (JI).

Such approaches are absolutely sensible and necessary, since it is irrelevant for the CO<sub>2</sub> concentration in the atmosphere, the most important determinant of climate change, where in the world CO<sub>2</sub> is emitted or absorbed. It is this fact that makes climate change a phenomenon that can only be solved globally – or not at all. Therefore, on no other issue international cooperation is needed more urgently than on this one. It will not be possible to save the world's climate in Germany – no matter how much of an effort is made nationally – without corresponding measures being taken everywhere in the world as well.

Speaking of climate neutrality, we are talking about a balance sheet approach (net zero): CO<sub>2</sub> emissions caused by oneself can be offset or compensated for by taking action oneself or enabling others to conduct activities in which, for example, CO<sub>2</sub> is removed from the atmosphere through reforestation (negative emissions) or CO<sub>2</sub> emissions are avoided by promoting renewable energy.

The concept of climate neutrality has become an integral part of today's political debate. Following the recent ruling by the German Federal Constitutional Court, the German government has committed itself to going climate neutral in 2045 in

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<sup>2</sup> See *Wettbewerbszentrale* (2021).

<sup>3</sup> See: Bialeck (2021), Knuth (2021), Theile (2021).

the new Climate Protection Act. The European Union is aiming for this in 2050, and the global community has committed to achieving climate neutrality in the second half of this century as part of the Paris Climate Agreement. In all these cases, the aim is to achieve balance sheet climate neutrality, knowing that it is virtually impossible to realize a livable civilization for billions of people completely without greenhouse gas emissions.

The fact that the Wettbewerbszentrale considers it misleading to use the term climate neutrality in cases where this state of balance is achieved by using the instrument of CO<sub>2</sub> offsetting is therefore absurd. It should be briefly pointed out at this point that the regulatory recognition of e-cars as climate neutral, which has not yet been officially objected to by any body, is to be regarded as far more misleading. Looking at the entire product lifecycle of an e-car, its carbon footprint is not 'zero'. Today's electricity mix means that the actual carbon footprint of an e-car is no better than that of a car with a combustion engine. In the European fleet regulations, e-cars are nevertheless even counted twice, i.e. as two emission-free vehicles. It is not only the Wettbewerbszentrale that ought to take a closer look here.

## INTERNATIONAL CLIMATE PROTECTION PROJECTS ACHIEVE VARIOUS POSITIVE EFFECTS

Examining the Wettbewerbszentrale's background paper more close, it is not only concerned with the use of the term climate neutrality described above but also with the fundamental use of the instrument of CO<sub>2</sub> offsetting and the activities that companies undertake to this end. This is clear from phrases such as "There is agreement that the focus must be on avoiding and reducing greenhouse gas emissions to achieve a zero carbon footprint."

Those arguing in this way reveal a lack of understanding of the global challenge of climate change. It is also clear that the great added value of additional, voluntary corporate action for international climate protection, taken at a time when domestic avoidance and reduction measures are turning more and more into a legal 'must', is not recognized. Yet companies deserve our gratitude for their voluntary additional commitment.

The many positive effects of the activities criticized by the Wettbewerbszentrale can be exemplified by the example of ALDI Süd:

As part of its CO<sub>2</sub> offsetting activities, ALDI Süd supports certified projects in Brazil, Ghana, India, and the Philippines. These projects involve forest protection (Brazil) and the promotion of renewable energy and energy efficiency (Ghana, India, Philippines). All projects have a positive climate impact and also promote other UN Sustainable Development Goals (2030 Agenda), including the very pressing issue of biodiversity conservation as well as food security and job creation. In this way, ALDI Süd is thus positively contributing to addressing many current sustainability challenges.

Furthermore, the Wettbewerbszentrale criticizes that CO<sub>2</sub> certificates from projects in developing and emerging countries are cheap ("Certificates that support climate protection projects in Germany or Europe also cost significantly more than certificates for the same CO<sub>2</sub> offsetting in countries of the Global South."). Money is always tight and even more so due to the Corona pandemic. The global hardships are frightening. So, in this situation, it would be better to rejoice at the possibility of achieving a much higher CO<sub>2</sub> impact per euro invested elsewhere than is possible today in Germany because the 'low hanging fruits' here have been harvested long ago.

The success of global sustainable development is by no means assured. The unresolved issues of the 2030 Agenda and especially in the area of climate protection are too big. Most recently, 126 Nobel laureates argued that the "Decade of Action", i.e. the time until 2030, must be used to turn the tide and save the world from the dramatic consequences of failing environmental and climate protection. In times of utmost urgency, therefore, it can only be right to pull out all the stops at the same time and wisely combine local and international measures in order to become climate neutral as quickly as possible.

Another sad fact is that the 2°C target cannot be achieved with the political commitments made so far, not to mention the 1.5°C target. Additional voluntary non-governmental action by companies such as ALDI Süd, especially in developing and emerging countries, is therefore an indispensable component of successful climate protection. It contributes to closing the so-called Paris Gap, which yawns between the governmental commitments made and the targets aimed at.

Companies engaged in international climate protection projects that also promote development in the sense of the 2030 Agenda, i.e. human development and human rights on the one hand and the protection of the environment and biodiversity on the other, contribute to closing not only emissions gap. They also help make progress in development, which is critically needed at a time when there have been

major setbacks in this area as a result of the COVID-19 pandemic. By providing sorely needed financial resources, they are also helping to close the huge funding gaps that exist in international climate finance and in the context of the 2030 Agenda. Renewable energy projects also specifically foster technology transfer.

## QUALITY OF THE PROJECTS

It is self-evident that the climate protection projects funded must meet high quality standards. In this context, the Development and Climate Alliance Foundation (*Stiftung Allianz für Entwicklung und Klima*) plays an important role. It was established in 2018 by the German Federal Ministry for Economic Cooperation and Development (BMZ) to promote non-governmental action for international climate protection and development in line with the 2030 Agenda, for the benefit of people and the environment. It has developed a catalog of criteria and standards that international projects must meet. Compliance with the standards listed there is the 'ticket' for project developers and companies to become supporters of the alliance.

ALDI Süd is a supporter of the Development and Climate Alliance, as are now more than 1,000 other companies, sports clubs, local authorities and private individuals. The projects funded by the supporters of the Development and Climate Alliance make demonstrable contributions to international climate protection and to promoting development in the sense of the 2030 Agenda while complying with the required standards. Funds can hardly be used more efficiently than this.

## WITHOUT INTERNATIONAL CLIMATE PROTECTION WE HAVE NO CHANCE

Since we will have no chance of achieving a 2°C or even 1.5°C target without voluntary contributions from non-state actors, we will need many more companies in the future that understand that the global climate cannot be saved by CO<sub>2</sub> reduction and avoidance in Germany alone – not to mention the fact that both will be implemented via government constraints by 2045 anyway. A smart way, therefore, is to become climate neutral as quickly as possible – using the instrument of international CO<sub>2</sub> offsetting. The climate nationalism that is unfortunately widespread in our country is counterproductive. The Wettbewerbszentrale contributes to the solidification of this nationalistic perspective. While it strives to avoid misleading, it contributes to misleading itself.

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