

## CLIMATE CHANGE - A CHALLENGE AND AN OPPORTUNITY FOR LAW AND JUSTICE

Tjarda Tiedeken<sup>1</sup>

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**Abstract.** The article “Der Klimawandel als Chance für die Beziehung zwischen Recht und Gerechtigkeit” aims to further the discussion on a possible justification of environmental activism (particularly in the German legal system). The author, Tjarda Tiedeken, finds that actions of climate change activists may fall under the definition of civil disobedience. She states that due to the superiority over ‘common’ crime and the relative effect of majority decisions, civil disobedience aiming to prevent state decisions with irreversible consequences must be justified. The author discusses the ‘irreversibility criterion’ as part of this justification, yet she finds it to lack differentiation causing a lack of practicability. Despite the unsuitability of the criterion examined, the author concludes that anyone who stands up against climate change for the preservation of democracy and even of humanity itself, cannot be treated like a person who transgresses the law out of pure self-interest. How a justification could be designed instead remains subject of further discussion, to which the author attempts to find an answer in her dissertation.

### INTRODUCTION AND THESIS

‘[One] has a moral responsibility to disobey unjust laws’ as Martin Luther King Jr. stated in his letter from the Birmingham Jail. Does such moral obligation and (perceived) injustice lead to a necessity for a differentiation between criminal actions of environmental activists and other forms of crime? Gandhi’s statement that ‘[an] unjust law is itself a species of violence [and an arrest] for its breach is more so’ may lead to that conclusion. But are climate activists even committing acts of civil disobedience? How should the criminal law respond to such? The question seems particularly relevant as climate change activism gains more and more momentum. This paper will present and discuss a possible approach to dealing with such behaviour. The German Constitution installs a protection of the plurality of values.<sup>2</sup> Consequently, there are no generally binding moral views that can act as a standard. Still, the German Constitutional Court stressed that the German Constitution is not to be understood as a completely value-neutral order (First Senate of the German Constitutional Court. 15 January 1958. Decision 1 BvR 400/51, para. 25). In addition, the law is accessible to moral concepts where it grants practitioners a margin of discretion or judgement or requires a decision

1 PhD student, Johann-Wolfgang-Goethe University Frankfurt am Main, Faculty of Law, with a dissertation on “How far can environmental activism go?”, [tjarda-tiedeken@web.de](mailto:tjarda-tiedeken@web.de).

2 Protected by art. 2-20 of the German Constitution (GG), all derived from art. 1 para. 1 GG stating that the human dignity is unimpeachable.

based on the weighting of interests.<sup>3</sup> Criminal law is no exception to this and the German Constitutional Court has not ruled out the protection of moral values through the Criminal Code.<sup>4</sup> Thus, it can be said, that legal norms are not free of moral influences and may even be part of them. Whilst an absolute primacy of morality over legal evaluation is certainly not desirable,<sup>5</sup> the question on the relationship between (criminal) law and morality arises in particular in the context of actions undertaken by individuals to protect the environment. Climate change affects the international community in its entirety and a rising number of international regulations on climate change are being installed (Satzger and von Maltitz. 2021, p. 26). However, a report of the European Parliament (Report on the liability..., 2021) shows that the institution considers the directive on environmental liability (Directive 2004/35/CE, 2004) and the directive on the protection of the environment through criminal law (Directive 2008/99/EC, 2008) to be insufficiently implemented. It adds, that a balance between corporate interests and environmental and climate protection has yet to be established (Report on the liability..., 2021, p. 8).<sup>6</sup> The deficits criticized by the EU Parliament are likely to be among the reasons of why activists engage in the protection of the environment and the climate and consequently come into conflict with the law. In this context the term ‘civil disobedience’ finds mentioning. Civil disobedience is a moral-legal construct causing discussion amongst scholars.<sup>7</sup> Even the mere definition is a matter of controversy. In this article, the term civil disobedience shall be understood as only including actions that take place publicly (Frankenberg, 1984, p. 269. Arendt, 2000, p. 318. Laker, 1986, p. 186. Habermas, 1983, p. 35. Schüler-Springorum, 1983, p. 79), are of a symbolic nature and non-violent (Frankenberg, 1984, p.269. Also demanding non-violence as a definitional component: Braune, 2021. Arendt, 2000, p. 301. Habermas, 1983, p. 35. Schüler-Springorum, 1983, p. 79. Dreier 1983b, p. 575, 586. Laker, 1986, p. 186.), but nevertheless potentially punishable (in the sense of a (at least objectively factual) breach of law. See also Kotzur 2021, para. 183. Perron, 2019, para. 41a. Frankenberg, 1984, p. 268, 270. German Institute for Human Rights, 2021, p. 10. Glotz, 1983, p. 15. Habermas, 1983, p. 33. Schüler-Springorum, 1983, p. 79. Braune, 2021. Engländer, 2020, para. 46. Roxin 1993, p. 451. Prittwitz, 1987, p. 18. Laker, 1986,

3 The term ‘gute Sitten’ (‘good morals’) in § 228 of the German Criminal Code seems particularly noteworthy.

4 On the contrary: the Court has, as Greco (critically) acknowledges, basically assigned the task of maintaining and enforcing moral concepts to criminal law (see Greco, 2008, p. 235).

5 The National Socialist era proved this in a horrific way. See Hill, 2020.

6 In the - so far unique - judgment of Rechtbank Den Haag, 26 May 2021. Case C/09/571932 / HA ZA 19-379, a Dutch court ordered Shell to reduce its emissions, as according to the court, companies have (indirect) obligations to protect human rights (ibid., lit. 4.5.4f.). This shows that an allocation of causation and liability in climate-damaging behaviour is conceivable. Such judgement also seems possible in a case in Germany (Oberlandesgericht (higher regional court) Hamm, 30 November 2017. Case 5 U 15/17), where a farmer from Peru is suing a German energy producer for damage repair due to their contribution to climate change. Yet, the fact that the outcome in this case is uncertain, meaning that the reasoning of the Dutch decision is not a decisive factor in every legal system, illustrates the existence of the imbalance in (German) civil law referred to by the European parliament.

7 The term was first used by Henry David Thoreau (Thoreau, 2008, original version from 1849) and has later among others been influenced by Ghandi and Martin Luther King Jr. In Germany, the concept was primarily shaped by Jürgen Habermas (most referenced: *ibid.*, 1983).

p. 131. Dreier, 1983b, p. 588).<sup>8</sup> Non-violence for this purpose is defined as the absence of direct physical violence against persons or objects<sup>9</sup>, in order to avoid a proliferation of the concept of violence in this context. The term is based on the German dispute on the topic.

Yet, the aim of this paper is not to define the term and argue on it. Instead, the focus lies on a possible justification of civil disobedience that has also been subject to heated debate<sup>10</sup>. The thesis of this paper is deliberately provocative<sup>11</sup>: (criminal) law needs a justification for civil disobedient actions aiming to prevent decisions with irreversible consequences because the democratic legitimation of the legislator is not sufficient as a foundation for such decisions.<sup>12</sup>

### I. IRREVERSIBILITY MAKES ALL THE DIFFERENCE...

It seems rather plausible to consider advocacy for climate-protective measures and action against climate-damaging measures by the state morally justified. It would therefore already contradict the sense of justice to punish such morally justified action (Prittwitz, 1987, p. 22). However, law and (moral) justice are not always congruent and the perception of what justice is may differ considerably. Yet, as I mentioned before, the law *is* accessible to moral evaluations. Such evaluation, particularly the weighing of conflicting interests, is also necessary when assessing the criminal liability of civil disobedience - especially in the context of climate protection: it must be possible for those applying the law to give greater weight to the interests of persons who oppose state decisions that counter the well-being of the population in the long term (e.g. such that are permanently harmful to the climate) than to those of the state<sup>13</sup> and to derive a betterment from this superiority.<sup>14</sup> The legitimacy of the favourable treatment of civil disobedience results from the significant distinguishability from 'common' criminality (see e.g. Arendt, 2000, p. 299f., Frankenberg, 1984, p. 274). In contrast to 'conventional' criminals, civil disobedient persons do not claim an exception of the law for themselves, but instead aim to bring about political change for the benefit of the entire society. Therefore, they do not act out of selfish motives (Arendt, 2000, p. 300. Laker, 1986, p. 184), do not systematically conceal their actions (Laker, 1986, p. 184) and

8 Similar definitions can be found in Rawls, 1975, p. 401. Laker, 1986, p. 186.

9 For different terms in the German debate see Dreier, 1983a, p. 62f. Schüler-Springorum, 1983, p. 83. Differently Rawls, for whom any interference with the civil liberties of others leads to the exclusion of an act from the concept of civil disobedience, see Rawls, 1975, p. 403.

10 The term shall be understood broadly and not in the dogmatics of German criminal law.

11 After all, this approach is likely to contradict the prevailing view in Germany (see Rönnau 2019, para. 140 with corresponding evidence) that the punitive solution is preferable to a justification.

12 Depending on the interpretation, this is probably in line with Habermas' views (Habermas, 1983, p. 49f.).

13 If the global climate is brought to an irreparable state, leading to significant consequential problems such as natural disasters and famine, other socially beneficial concerns, such as the creation of new jobs or economic growth, are likely to become irrelevant. The promotion of progress, on the other hand, is likely to be conducive to combating climate change, as innovation often not only takes this aspect into account, but proactively promotes it.

14 It should be emphasized that this does not mean a general betterment, but rather a betterment after weighting out various interests, as Dreier proposed, see Dreier 1985, p. 313f.

do not categorically reject the law (Arendt, 2000, p.300. Habermas, 1983, p. 35). Even though, the principal obligation for a compliance with the law does not entirely disintegrate even in the case of substantially misguided decisions by the state<sup>15</sup>, measures taken to prevent state decisions with irreversible consequences which serve the (international) community, must be given particular consideration. This is not only the case for moral reasons: majority decisions are only relative in their effect (Frankenberg, 1984, p. 273). Yet, if decisions (indirectly) made by the majority<sup>16</sup> can no longer be reversed, there is no chance for a minority, should it become the majority, to shape the future according to its ideas. In this case, a majority with temporally limited legitimacy would make a decision that would challenge the principle of democratic equality: Although the minority can still become a majority, it must always consider the irreversible consequences resulting from the majority decisions previously taken, no longer allowing for the full exercise of their own freedom, consequently shortening or possibly even eliminating the scope of action (similarly Frankenberg, 1984, p. 273).<sup>17</sup> Therefore, it poses a necessary task of democratic society to protect the livelihoods of future generations to enable them to exercise their rights.<sup>18</sup> Thus, action directed against decisions with irreversible consequences are not invalid overprotection of minorities. Instead, they are necessary to ensure the permanent preservation of the freedoms guaranteed by the Basic Law in the democratic state. This very preservation of constitutional rights as well as the restoration of the balance of power within the system of government are the objective of civil disobedience (Arendt, 2000, p. 299).<sup>19</sup> Punishing such behaviour, that preserves the governmental system and

15 This can be inferred from the right to resistance in art. 20 para. 4 GG, which only allows resistance against the state if the latter aims to abolish democracy. If the basic law allows resistance under certain circumstances, the more moderate civil disobedience must also be allowed at least if a comparable threat occurs but potentially also in an earlier stage. This article does not question that the basic legal principles of an intact democracy can claim unrestricted binding force. Instead, it aims to develop boundaries for a legal use of civil disobedience within this system.

It may be added, that the use of the term 'resistance' in the legal discussion on civil disobedience is not conducive to a clear distinction between the individual phenomena and thus to the discussion on justification (also Dreier 1985, p. 307) and will thus be refrained from.

16 Meaning that the legislator makes decisions on behalf of the majority of the population. Whether democratic legitimacy can really go so far as to allow the legislature to make irreversible decisions without a review of the consent of the majority of the population (instead of a parliamentary majority), or at all, must be questioned.

17 In the context of climate change, it seems questionable in which situation a minority could force the majority to irreversible non-action (as assumed by Rönnau para. 142). In this case, preventing an irreversible decision does not only protect the minority, but on the contrary, the majority (see above). This should by now be sufficiently scientifically proven. Also, the majority rule, which is already only relative in its effect in the German legal sphere, is hardly sufficient to justify the legitimacy of an irreversible decision affecting the entire international community. The fact that legality and legitimacy must still be separated and that one does not take precedence over the other, but that both factors must be balanced, is not questioned. What is to be questioned, on the other hand, is whether increased proof of legitimacy is necessary in the case of irreversible decisions. Making a decision on the basis of existing legal procedures can only establish the legality of the decision.

18 Such safeguarding would have to be established by the state, as the Basic Law obliges to safeguard freedoms protected by fundamental rights over time and to distribute opportunities for freedom proportionately across generations, see First Senate of the German Constitutional Court. 24 March 2021. Decision 1 BvR 2656/18. Failure to do so will lead to irreversible consequences for the global climate, which is why waiting for actual implementation over a longer period of time is not reasonable.

19 Some even ascribe civil disobedience a 'genuine democratic constitutional character', see Neubauer, 2016, p. 65.

its law, seems rather unpalatable. Consequently, there must be a legal possibility to defend oneself against state actions<sup>20</sup> with irreversible consequences.

Deriving from this, as a prerequisite for the justification of civil disobedience, the latter must be a reaction to a state decision that will almost certainly have irreversible consequences for society and the possibility of exercising fundamental rights in the future.<sup>21</sup>

## II. ...BUT IT ISN'T ALL THAT SIMPLE.

I will illustrate by giving an example the problems arising from the use of the irreversibility criterion:

A group of people occupies a forest after protests and signature lists have not resulted in the desired prohibition of the deforestation of the area for the construction of an e-car factory, even though the project will not only increase CO<sub>2</sub> emissions but most likely cause a drinking water shortage in the region. If people were to peacefully but unlawfully block the site to prevent the construction with all consequences to protect the climate, can their actions be justified?<sup>22</sup>

The action clearly qualifies as public, symbolic and non-violent as defined above. As the occupation has not been approved by authorities and further affects the rights of third parties, it may also be relevant with regard to criminal law.<sup>23</sup> Thus, the occupation is an act of civil disobedience. But is it also a reaction to a state decision that will almost certainly have irreversible consequences so that it qualifies for a justification?

It is possible to either stop the building project, the operation of the factory or to even reverse the construction after it has been completed. However, the forest cannot be 'restored' after clearing, so that a biotope will irrevocably be lost. Even after a reforestation of the area, it will take decades to create a comparable habitat with an equivalent capacity to absorb CO<sub>2</sub>. Moreover, water that has already been used up cannot be recovered, the groundwater level may no longer be stable. Further, emissions are not reversible. Thus, the consequences of the governmental approval of the factory construction are significant – both for the region but also generally for the warming of the climate.

Nevertheless, it is questionable whether this is sufficient to fulfil the irreversibility criterion as there is some uncertainty to the substance of the latter.

Firstly, the criterion gives no guidance on whether or how to account for possible positive long-term effects of state decisions. After all, the use of e-cars will presumably benefit the climate and society in the long term<sup>24</sup>, so that emissions are compensated for.

20 Or the omission of required actions to prevent irreversible conditions.

21 Whether the classification of the chosen means as ultima ratio is also required for a justification (e.g. Rawls, 1975, p. 411, even though he also formulates counter-exceptions. Likewise, Frankenberg, 1984, p. 273) and at what point this criterion would be fulfilled was neglected in view of the limited duration of the speech.

22 The example is only partly fictitious: the construction of the factory as approved by the authorities despite burdening the water resources, has actually taken place: The factory in question is Tesla's Gigafactory in Berlin-Brandenburg.

23 Whether or not this is the case depends on the national legal situation (criminal liability for sit-ins exists in several European territories, amongst others Germany) and will simply be assumed in this article.

24 However, if the switch to renewable energies is not sufficiently implemented, there will be no significant advantage of

Secondly, it cannot be derived from the criterion how positive consequences for the climate and negative consequences for a single region, e.g., the overloading of the water reserves, must be weighed against each other. May potential positive effects be considered or can they only be accounted for if certain?

Thirdly, it remains unclear, which state decision can be taken action against. Generally, any decision leading to the emission of CO<sub>2</sub> must be considered irreversible. However, individual decisions hardly have a significant effect on the global climate. For example, the construction of a single factory or the clearing of a manageable area of forest is unlikely to be classified as a 'climate killer'. On the contrary, they may further other societal objectives such as technological progress and thus in the long term contribute to ecological progress. Yet, cumulatively, even minor factors irreversibly lead to the heating of the atmosphere. So, is there a threshold for the impact a decision must have? Is this threshold adjusted if the decision has other positive effects (either on the climate or society in general)? The criterion does not provide an answer to this.

### III. CONCLUSION

1. Due to the superiority of civil disobedience over 'common' crime and the democracy-theoretical objections to the relativity of majority rule,<sup>25</sup> there needs to be a justification for civil disobedient actions aiming to prevent state decisions with irreversible consequences (for the environment).
2. However, there is a lack of differentiation of the irreversibility criterion leading to a lack of practicability. This is caused by the vagueness of the criterion in regard to which decision may be opposed and at what point irreversible consequences pass the threshold that justifies an intervention without criminal liability. In addition, if positive effects must be taken into account and also weighed against other consequences, an immense effort is necessary to determine all relevant factors and calculate the carbon footprint for each case. Further, the criterion lacks a possibility to account for other legitimate state and societal interests. Due to this, the irreversibility criterion seems unfit as a prerequisite of a justification.
3. If, therefore, one finds the betterment of such actions to be unfeasible, this does not yet mean a denial of a justification: The general principles of criminal law can still lead to impunity. Yet, if the only argument against a justification was the lack of practicability of one of its potential elements,<sup>26</sup> this does not remove the need for a serious alternative to the status quo in order to

e-cars over conventional vehicles. See Kämper *et. Al.*, 2020, p. 2. Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, 2021, p. 6.

<sup>25</sup> Moreover, it is not far-fetched to demand such a justification on the basis of the state objective provision of art. 20a GG and the voluntary commitment under international law in the Paris Climate Agreement, the Resolution of the Human Rights Council, adopted on 8 October 2021 and the Resolution of the General Assembly of the United Nations, adopted on 28 July 2022 due to the requirement of a unity of the legal order. A right to the protection of the environment and thus a right to enforce such protection in case of a lack of governmental action could potentially also be derived from norms of international law (e.g. art. 191 TFEU, art. 1-3, 37 Charter of Fundamental Rights of the European Union).

<sup>26</sup> In the absence of an examination of further aspects of a justification of civil disobedience, this is probably still in question.

take into account the specificities of civil disobedience. The fact that the existing regulations are not sufficient for this, is shown by the recurring discussion of this very problem.

4. The legislator therefore has the task of balancing law and morality, legality and legitimacy<sup>27</sup> for climate activist action. The difficulty of this task likely lies in working out manageable criteria and practicable mechanisms. It is the task of legal scholars to develop suitable alternatives. The outcome may be uncertain. However, as has become clear, anyone who stands up against climate change for the preservation of democracy and even of humanity itself, cannot be treated like a person who transgresses the law out of pure self-interest.

### List of sources

#### Legal acts

1. European Union: Charter of Fundamental Rights of the European Union (2007), Official Journal C 326/391, 2012, 391–407.
2. European Union: Consolidated version of the Treaty on the Functioning of the European Union (2007), *Official Journal C 326, 2012, 1-390*.
3. European Parliament and Council, 21 April 2004. Directive 2004/35/CE on environmental liability with regard to the prevention and remedying of environmental damage. *Official Journal L 143, p.56*.
4. European Parliament and Council, 19 November 2008. Directive 2008/99/EC on the protection of the environment through criminal law. *Official Journal L 328, p.28*.
5. Constitution of the Federal Republic of Germany, Germany (1949). Federal Law Gazette Part III, 2022.
6. Criminal Code, Germany (1998). Federal Law Gazette I, 2022.

#### Literature

1. Arendt, H. (2000). In der Gegenwart. *Übungen im politischen Denken II*. München (and others): Piper.
2. Braune, A. (2021). Ziviler Ungehorsam. In: Görres-Gesellschaft (publ.) (2021). Staatslexikon. 8. ed. [interactive]. Freiburg: Herder. Internet access: [https://www.staatslexikon-online.de/Lexikon/Ziviler\\_Ungehorsam](https://www.staatslexikon-online.de/Lexikon/Ziviler_Ungehorsam) [Accessed: 08 August 2022].
3. Dreier, R. (1983)a. Widerstand und ziviler Ungehorsam im Rechtsstaat. In: Glotz, P. (publ.) (1983). *Ziviler Ungehorsam im Rechtsstaat*, 1. ed. Frankfurt am Main: Suhrkamp, 54-75.
4. Dreier, R. (1983)b. Widerstandsrecht im Rechtsstaat? Bemerkungen zum zivilen Ungehorsam. In: Achterberg, N. (publ.) (1983). *Recht und Staat im sozialen Wandel. Festschrift für Hans Ulrich Scupin zum 80. Geburtstag*. Berlin: Dunker und Humblot, 537-554.
5. Dreier, R. (1985). Rechtsgehorsam und Widerstandsrecht. In: Broda, C. et. Al. (publ.) (1985). *Festschrift für Rudolf Wassermann zum sechzigsten Geburtstag*. Darmstadt (and others): Luchterhand, 299-316.
6. Engländer, A. (2020). Vorbemerkung zu §32. In: Matt, H. and Renzikowski, J. (publ.) (2020). *Strafgesetzbuch. Commentary*. 2. ed. München : Vahlen.

<sup>27</sup> The legitimacy of a decision does not derive from the fact that the legislator has been elected for a certain period of time and simply has the possibility to make certain decisions. This only establishes the legality of the decision (see Schmude, 1985, p. 211).

7. Frankenberg, G. (1984). Ziviler Ungehorsam und Rechtsstaatliche Demokratie, *Juristenzeitung* 6/1984, 266-275.
8. Glotz, P. (1983). Am Widerstand scheiden sich die Geister. In: Glotz, P. (publ.) (1983). *Ziviler Ungehorsam im Rechtsstaat*, 1. ed. Frankfurt am Main: Suhrkamp, 7-16.
9. Greco, L. (2008.) Was lässt das Bundesverfassungsgericht von der Rechtsgutslehre übrig? *Zeitschrift für Internationale Strafrechtsdogmatik* 5/2008, 234-238.
10. Habermas, J. (1983). Ziviler Ungehorsam - Testfall für den demokratischen Rechtsstaat. Wider den autoritären Legalismus in der Bundesrepublik. In: Glotz, P. (publ.) (1983). *Ziviler Ungehorsam im Rechtsstaat*, 1. ed. Frankfurt am Main: Suhrkamp, 29-53.
11. Hill, L. A. (2020). Der Dualismus von Recht und Moral im NS-Strafrecht und heute. *Göttinger Rechtszeitschrift* 2/2020, 125-136.
12. Kämper, C. and Helms, H. and Biemann, K. (2020). Wie klimafreundlich sind Elektroautos? Update Bilanz [interactive], Insitut für Energie- und Umweltforschung Heidelberg. Internet access: [https://www.bmu.de/fileadmin/Daten\\_BMU/Download\\_PDF/Verkehr/emob\\_klimabilanz\\_bf.pdf](https://www.bmu.de/fileadmin/Daten_BMU/Download_PDF/Verkehr/emob_klimabilanz_bf.pdf) [Accessed: 08 August 2022].
13. Kotzur, M. (2021). Art.20 GG. In: Von Münch, I. (found.) (2021). *Grundgesetz. Kommentar. Commentary*. Vol. 1, 7. ed. München: C.H. Beck.
14. Laker, T. (1986). *Ziviler Ungehorsam. Geschichte – Begriff – Rechtfertigung*. 1. ed. Baden-Baden: Nomos.
15. Neubauer, G. (2016). *Das Recht des Staates auf zivilen Ungehorsam: mit Menschenrechten begründete Rechtsbrüche in der internationalen Politik*. 1. ed. Baden-Baden: Nomos.
16. Perron, D. (2019). §34. In: Schönke, A. and Schröder, H. (found.) (2019). *Strafgesetzbuch. Kommentar. Commentary*. 30. ed. München: C.H. Beck.
17. Prittwitz, C. (1987). Sitzblockaden – ziviler Ungehorsam und strafbare Nötigung? *Juristische Arbeitsblätter*, 1/1987, 17-28.
18. Rawls, J. (1975). *Eine Theorie der Gerechtigkeit*. Vetter, H. Frankfurt am Main: Suhrkamp.
19. Rönnau, T. (ed.) (2019). Vor §§32 ff. In: Cirener, G. et. Al. (publ.) (2019). *Leipziger Kommentar StGB. Commentary*. Vol. 3, 13. ed. Berlin: de Gruyter.
20. Roxin, C. (1993). Strafrechtliche Bemerkungen zum zivilen Ungehorsam. In: Albrecht, P. (publ.) (1993). *Festschrift Schüler-Springorum zum 65. Geburtstag. Köln (and others); Heymann*, 441-458.
21. Satzger, H. and von Maltitz, N. (2021). Das Klimastrafrecht – ein Rechtsbegriff der Zukunft. *Zeitschrift für die gesamte Strafrechtswissenschaft*, 1/133, 1-34.
22. Schmude, J. (1985). Mehrheitsprinzip und Gewissensentscheidung. In: Broda, C. et. Al. (publ.) (1985). *Festschrift für Rudolf Wassermann zum sechzigsten Geburtstag. Darmstadt (and others): Luchterhand*, 209-216.
23. Schüler-Springorum, H. (1983). Strafrechtliche Aspekte zivilen Ungehorsams. In: Glotz, P. (publ.) (1983). *Ziviler Ungehorsam im Rechtsstaat*, 1. ed. Frankfurt am Main: Suhrkamp, 76-98.
24. Thoreau, H. D. (2008). *Civil Disobedience. Resistance to Civil Government*. Auckland : The Floating Press.

#### Case law

1. First Senate of the German Constitutional Court. 15 January 1958. Decision 1 BvR 400/51, ECLI:DE:BVerfG:1951:rs19580115.1bvr040051.
2. First Senate of the German Constitutional Court. 24 March 2021. Decision 1 BvR 2656/18, ECLI:DE:BVerfG:2021:rs20210324.1bvr265618.
3. Oberlandesgericht (higher regional court) Hamm, 30 November 2017. Decision 5 U 15/17.
4. Rechtbank Den Haag, 26 May 2021. Case C/09/571932 / HA ZA 19-379.

### Other sources

1. European Parliament. Report on the liability of companies for environmental damage (2020/2027(INI)) [online]. 2021. Available at: [https://www.europarl.europa.eu/doceo/document/A-9-2021-0112\\_EN.html](https://www.europarl.europa.eu/doceo/document/A-9-2021-0112_EN.html) [Accessed: 08 August 2022].
2. Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (publ.). Wie umweltfreundlich sind Elektroautos? Eine ganzheitliche Bilanz [online]. 2021. Available at: [https://www.bmuv.de/fileadmin/Daten\\_BMU/Pool/Broschueren/elektroautos\\_bf.pdf](https://www.bmuv.de/fileadmin/Daten_BMU/Pool/Broschueren/elektroautos_bf.pdf) [Accessed: 08 August 2022].
3. German Institute for Human Rights. *Versamlungs- und Vereinigungsfreiheit im Kontext von Klimaprotesten. Eingabe vom Mai 2021 an den Sonderberichterstatter der Vereinten Nationen für seinen Bericht an die 76. Sitzung der Generalversammlung* [online]. 2021. Available at: [https://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/Weitere\\_Publikationen/Eingabe\\_Versamlungs\\_und\\_Vereinigungsfreiheit\\_im\\_Kontext\\_von\\_Klimaprotesten.pdf](https://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/Weitere_Publikationen/Eingabe_Versamlungs_und_Vereinigungsfreiheit_im_Kontext_von_Klimaprotesten.pdf) [Accessed: 08 August 2022].