

Oil Spills in Nigeria, Damages in the UK

On June 20, a United Kingdom Court delivered a judgment on preliminary issues raised in the legal action brought by about 15,000 members of a Nigerian community against Shell Petroleum Development Company of Nigeria, seeking compensation for damages caused by two oil spills in 2008 and 2009. The ruling comes as part of a civil claim brought by people from the Bodo community in the Niger Delta; the legal action was instituted at the High Court in March 2012, following the breakdown of talks over compensation and a clean-up package for the community. A full trial will commence next year.

The hearing took place in April 2014 before the President of the Technological and Construction Court, Justice Akenhead. The preliminary judgment rendered last week ruled that whilst Shell did not have an obligation to provide policing or military defence (which is the function of the state), it could be legally liable if it has failed to take other reasonable steps to protect the pipeline such as the use of appropriate technology (leak detection systems), a system of effective surveillance and reporting to the police and the provision of anti-tamper equipment. The ruling has thus opened the door for Nigerian claimants to demand compensation if oil leaks were a result of sabotage or theft - if the sabotage or theft was due to neglect on the part of the [licence] holder or his agents, servants or workmen to protect, maintain or repair any work structure or thing.

As regards PIL, several interesting issues were pointed out by the Judge: the significant jurisdictional problems that arise when claims relating to Nigerian land are brought in England rather than in the Nigerian courts that have jurisdiction in relation to such land; and the need to apply and therefore interpret Nigerian law (in particular, the Nigerian Oil Pipelines Act). Both will be analyzed in the main trial next year.