



Court of Appeal allows claimants' appeal in *Município de Mariana v BHP*

Claims brought by more than 200,000 people affected by the Fundão Dam disaster in Brazil will be allowed to proceed in the English courts, following the Court of Appeal's decision in *Município de Mariana v BHP* [2022] EWCA Civ 951.

The collapse of the Fundão Dam in November 2015 has been described as the worst environmental disaster in Brazil's history. The claimants seek to establish liability for the collapse on the part of BHP, the world's biggest mining group. In July 2020, BHP succeeded in striking out the claims in the High Court, on the basis that the case was 'unmanageable'.

The Court of Appeal has overturned that decision; and also found in the claimants' favour in respect of the various jurisdiction challenges brought by BHP under Article 34 of Brussels Recast, and on the basis of *forum non conveniens*.

The single judgment of the Court of Appeal (Underhill VP, Popplewell and Carr LJ) contains important statements of principle for the approach to be taken by the English courts to large scale group litigation. It also considers the boundaries between factors going to a court's exercise of jurisdiction on the one hand and factors relevant to an evaluation of alleged abuse of process on the other.

Nicholas Harrison and Jonathan McDonagh act for the claimants, instructed by PGMBM.



Nicholas Harrison



Jonathan McDonagh

