Grantham Research Institute on Climate Change and the Environment

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# Integrating climate considerations into environmental impact assessments:

## Lessons from Latin America and Asia

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Policy report

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# Contents

# Summary

**Environmental impact assessment (EIA) is a central feature of environmental governance and a growing focus of states' international climate obligations.** EIAs are now embedded in more than 180 legal systems worldwide and are recognised by international courts and tribunals as a core tool in states' due diligence obligations to prevent significant environmental harm, including harm to the climate system.

**However, the question of how cumulative and global climate concerns should be integrated into the practice of EIA is a challenging one.** Much of the existing research has focused on jurisdictions in the Global North. Far less has been written about regimes in the Global South, including middle- and low-income countries in Latin America and Asia. Nevertheless, EIAs play a central role in those countries in shaping decisions and policies that inform climate-relevant decision-making.

**To address this gap in geographical focus, this report examines EIA regimes in 20 major economies across Latin America and the Caribbean (LAC), and East, South and Southeast Asia (ESSEA).** We evaluate whether and how climate change is integrated into these regimes by determining whether proponents must assess a project's climate change impacts (i.e. mitigation or adaptation-related impacts) across different stages of the EIA process, whether a project's greenhouse gas emissions are assessed cumulatively, and, where relevant, whether Scope 3 emissions must form part of this emissions assessment. We also provide an overview of the role litigation plays in these countries to clarify or enforce climate assessment obligations where laws are 'silent' or weak on the subject.

**The analysis finds uneven and often limited integration, with climate concerns frequently treated narrowly and late in decision-making.** However, some regimes offer guidance on how climate change can be more comprehensively embedded in impact assessment processes worldwide.

**It is also evident that clearer statutory requirements and better technical guidance on climate impact assessments are needed** to improve decision-making, reduce legal risk and align project approvals with countries' national and international climate commitments. Further, the importance of international dialogue is clear, as policymakers, agencies and judges continue to face similar challenges around the world.

### Key insights

Based on our analysis, we identify key insights for EIA practitioners, regulators, project proponents and finance providers looking to understand how EIA regimes are integrating climate concerns across Latin America and Asia and where gaps in integration remain:

- Across the 20 jurisdictions examined, approaches to integrating climate impact assessment vary substantially. Only a few jurisdictions have adopted comprehensive approaches, while one-third of the countries (7 out of 20) reviewed do not incorporate any form of climate impact assessment in their EIA frameworks.
- Most jurisdictions lack specific guidance on whether climate impacts must be assessed cumulatively, and how such assessments should inform the determination of the significance of a project's environmental impact.
- Most EIA regimes focus primarily on assessing a project's *direct* greenhouse gas emissions. Very few EIA regimes expressly require the assessment of Scope 3 emissions (those produced by combusting the fossil fuel downstream) leaving a major gap in decision-making on fossil fuel projects.
- Only a few jurisdictions provide detailed guidance on incorporating adaptation considerations throughout different stages of the assessment process.

- For EIAs to effectively address climate impacts, climate considerations need to be integrated into monitoring and follow-up stages. However, these stages often lack clear legal requirements and operational guidance.
- Climate litigation increasingly challenges both project-level approvals and broader laws or policies for failing to adequately consider climate impacts. Across the jurisdictions examined, most cases focus on project-level EIAs (57 cases), though policy-level cases (14) can also influence how climate considerations are integrated into environmental governance.
- Most of the EIA-related climate litigation targeting projects identified in the study has occurred in the LAC region (43 cases) with fewer cases in ESSEA jurisdictions (14 cases).
- Although most project-level cases target fossil fuel projects (38 out of 57 project-level cases), an increasing number of challenges (at least 19 cases) have been filed against other large-scale infrastructure projects such as airports, highways and data centres.
- Rights-based challenges are pushing courts to require stronger consideration of climate impacts: most project-level cases (52 out of 57) involve at least some constitutional arguments, including the right to a healthy environment. This trend is particularly strong in the LAC region. Judicial decisions have sometimes influenced environmental governance or prompted policy reconsideration, even when claims are not fully successful.

**Recommendations**

We make the following recommendations to support legislators, regulators and relevant public authorities, project proponents, project finance providers and judges in aligning EIA regimes, projects and policies with national and international climate commitments:

- **Legislators** should adopt or amend EIA legislation and implementing regulations to explicitly require assessment of climate impacts. At a minimum this should include obligations to assess a project's greenhouse gas emissions, its contribution to climate change, and its exposure and vulnerability to climate-related risks. This would help to reduce uncertainties and inconsistent applications of standards across projects and sectors. Legislators can learn from other jurisdictions, tailoring best practices to national contexts.
- **Regulators and relevant public authorities** should develop detailed regulations and technical guidance that operationalise climate impact assessment across the EIA process. These methodologies, aligned with global best practice while sensitive to national socioeconomic, political and institutional contexts, should clarify how significance is measured and how mitigation and monitoring obligations are defined. Regulatory reforms should prioritise sectors with the greatest climate relevance and, where appropriate, this should include Scope 3 emissions.
- **Project proponents** should seek clarity from competent authorities at the scoping stage of the impact assessment process, where climate assessment obligations are ambiguous. Project proponents should document estimated emissions through transparent assessment methodologies, including the treatment of indirect effects and cumulative impacts. This will help reduce the risk of litigation and potential project delays.
- **Project finance providers** should treat climate impact assessment as a core element of environmental and human rights due diligence and require evidence that EIAs address material emissions and climate risks (including, where relevant, indirect emissions and resilience-building measures). Clear risk mitigation, monitoring and disclosure commitments should be treated as essential conditions of project financing.
- **Judges** who are faced with questions about the interpretation of EIA obligations should interpret EIA legislation considering its purpose: to identify, prevent and mitigate environmental impacts before they occur. This requires consideration of the full range of climate-related impacts. Judges should also consider evolving climate-related due diligence standards (including those from overseas courts), ensuring that decision-makers meaningfully consider foreseeable and potentially significant climate impacts.

# 1. Introduction

**This report examines how climate-related impacts are integrated into the environmental impact assessment (EIA) regimes of 20 countries across Latin America and the Caribbean (LAC) and East, South and Southeast Asia (ESSEA). The report includes an analysis of EIA-related litigation in these countries and draws out policy recommendations for legislators, regulators, project proponents, finance providers and judges on aligning EIA regimes with international best practice and climate mitigation goals.**

EIA is an essential due diligence tool in environmental governance. At its core, it ensures that decision-makers understand a project's environmental effects before approving it (see Box 1.1 for the definitions used in this report). Increasingly, EIA is being used as a crucial component of climate mitigation and adaptation efforts. First introduced under the United States' National Environmental Policy Act in 1969, EIA is now embedded in more than 180 legal regimes worldwide (Nelson and Shirley, 2022; Yang, 2019). Recent Advisory Opinions from the International Tribunal for the Law of the Sea, the Inter-American Court of Human Rights and the International Court of Justice have affirmed that EIAs are a core element of states' due diligence obligations to prevent significant environmental harm, including harm to the climate system. Yet at the domestic level, relatively few EIA laws explicitly reference climate change, and the degree to which climate impacts are considered in practice remains inconsistent.

One reason for the poor record of EIAs in relation to climate change is that it presents several challenges for traditional EIA methodologies. It can be difficult to quantify the climate-related effects of a single development project, such as its contribution to global greenhouse gas emissions. How such effects are assessed will often vary depending on the EIA methodology applied. Some states are gradually enacting domestic legal requirements to assess greenhouse gas emissions in the EIA process. But in many countries, legislation governing EIA processes does not specify the methodology or precisely how and when climate impacts should be considered. Courts and regulators are often required to fill this legislative gap.

It is important to develop a robust and accurate methodology for the assessment of climate-related impacts. The method used to assess climate impacts can be highly consequential. Take for instance a decision about whether to permit offshore oil exploration in Brazil or the development of airports in South Korea and India. When deciding whether to allow the development, should a decision-maker be required to consider only the immediate climate impacts of exploration or construction, or also the likely 'downstream' impacts, such as the increased supply of oil or air traffic? How should such impacts be measured and calculated? The downstream impacts of these activities are often far more substantial than their direct impacts. As such, it is important that they are accounted for and that a decision-maker has all the information available.

Despite the growing recognition that climate change poses similar challenges for EIAs across the world, much of the existing research on the integration of climate concerns into EIA regimes has focused on Global North jurisdictions, particularly the US, Canada, the European Union and Australia (Burger and Wentz, 2017; Lubchenco, 2025; Hetmanchuk, 2020; Romanach et al., 2024; Mayembe et al., 2023; Retief et al., 2025). Far less has been written about regimes in the Global South, including middle- and low-income countries in Latin America and Asia.

Engagement with these jurisdictions is important. EIAs play a central role in shaping climate-related decisions and policies across the globe. Policymakers, regulators and judges in all jurisdictions are facing similar challenges and discovering creative ways to adapt existing EIA regimes in light of the climate crisis. Comparative analysis therefore allows policymakers to learn from one another, so that they can identify good practices and areas for improvement.

This report supports this process by focusing on how climate impacts have been integrated into the EIA regimes of 20 of the largest economies across two regions: Latin America and the Caribbean (LAC) and East, South and Southeast Asia (ESSEA) (see Table 1.1). We focus on the largest economies because they are most likely to be the sites of greenhouse gas-intensive

activities — particularly in energy production and consumption. We also provide an overview of the role litigation is playing in these countries, clarifying how climate impact assessment obligations have been interpreted where laws are weak or absent, and to examine how such obligations are enforced when regulators or proponents fail to comply.

In doing so, we provide legislators, regulators and relevant public authorities, project proponents, project finance providers and judges across the world with recommendations, drawn from a broader set of contexts, on how to effectively integrate climate considerations into EIA processes. As a widely used and flexible instrument in the environmental regulatory toolkit, EIA is well-suited for meeting the challenge of addressing climate change. Effective EIA processes can aid the decarbonisation of economies and improve adaptation to climate impacts such as sea-level rise. As we show, there is much scope for improving the use of EIA worldwide and the challenges of adapting EIAs to address climate change are not insurmountable.

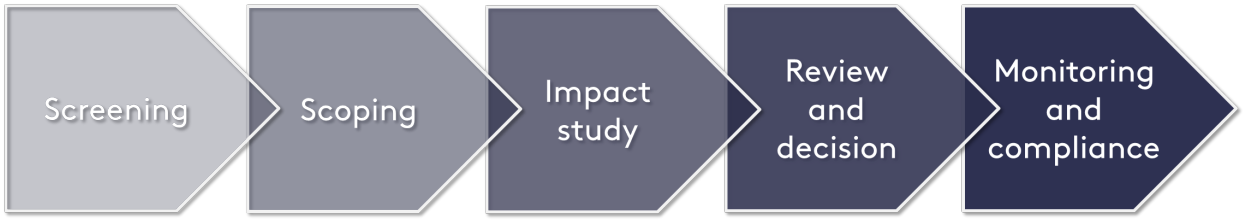
**Table 1.1.** Jurisdictions covered in this report (in alphabetic order)

| LAC | ESSEA |
|---|---|
| Argentina | Bangladesh |
| Brazil | China |
| Chile | India |
| Colombia | Indonesia |
| Dominican Republic | Japan |
| Ecuador | Philippines |
| Guatemala | Singapore |
| Mexico | South Korea |
| Peru | Taiwan |
| Venezuela | Thailand |

## Climate change across key EIA stages

EIAs typically involve several stages of assessment. Figure 1.1 outlines a simplified version of a typical EIA process.

**Figure 1.1. Stages of the EIA process**




Proposed projects are evaluated to determine whether they require a full EIA.

The impacts that must be evaluated in the impact study are identified.

Proponents undertake a study and prepare a report summarising the project's impacts and propose mitigation measures to avoid, reduce or offset these impacts.

The regulatory agency reviews the impact assessment report before deciding whether the project should be authorised.

If approved, the proponent's compliance with conditions or terms set by the regulatory agency is monitored.

*Note: For further detail on the various stages of the assessment process, see Appendix 3.*

*Source: Authors, adapted from Mayer (2024), Byer et al. (2018) and Mayembe et al. (2023)*

Well-designed EIAs can be effective tools for helping to achieve climate commitments. Some states have designed EIA processes to enhance climate change mitigation, requiring that project assessments include analysis of greenhouse gas emissions and potential measures to mitigate these emissions (Mayer, 2025). Such assessments are particularly important for projects from high-emitting sectors, where poorly designed EIA processes can lock economies into carbon-intensive development pathways. For example, for fossil fuel extraction projects, downstream Scope 3 emissions — or the emissions that are produced by combusting the fossil fuel — are highly significant, and can account for 80–95% of the project's total greenhouse gas emissions (Higham and Parekh, 2024). Failing to consider Scope 3 emissions in EIAs can therefore substantially underestimate the negative climate impacts of a project and shape approval decisions.

Although less widely recognised in EIA processes, adaptation to climate change is an equally important issue that should be considered by project proponents and policymakers. Incorporating forward-looking information on physical climate risks is highly relevant for infrastructure projects, given both the long timelines associated with developing projects and the length of time a project is expected to endure. For example, assessing a project's vulnerability to changing temperatures and various climate scenarios (such as drought or flood risk) is essential for ensuring that infrastructure is resilient to climate shocks.

### Assessing integration of climate change in EIA legal regimes

To enable a systematic and comparative assessment, this report examines five aspects of each country's EIA regime:

1. Whether there is a mandatory requirement to assess the impacts a project may have on climate change.
2. The stage(s) of the EIA process at which these climate change impacts must be evaluated.
3. Whether the impact assessment includes consideration of both climate change mitigation and climate change adaptation.
4. Whether the project's greenhouse gas emissions are assessed cumulatively with other existing, approved or planned projects.
5. Whether a project's Scope 3 emissions must be quantified as part of the impact assessment.

Our analysis draws primarily on country reports prepared by law firms in each of these countries, supplemented by desk-based research where necessary (see Appendix 1 for methodological notes and Appendix 2 for the memo template sent to firms). Given the importance of regulations and guidance as 'key drivers' of implementation of EIAs (Sok et al., 2011; Mayembe et al., 2023), we looked beyond statutory legislation and also reviewed regulations and guidance that have been produced by national governments to operationalise their EIA regimes.

Based on this analysis, we classify each country according to the degree to which climate change has been integrated into its EIA regime:

- **High integration:** climate impact assessment is required by law across multiple stages of the EIA process and/or is operationalised through detailed guidelines.
- **Moderate integration:** assessment of emissions is expected for at least high-emitting or fossil fuel-related projects and is only operationalised through guidelines (which are less comprehensive than those of high integration regimes).
- **Low integration:** climate considerations may be mentioned but apply only to a narrow range of sectors and are limited in guidance on how they are operationalised.
- **Absence of integration:** there is no clear requirement or expectation to assess climate impacts from any sector at any stage.

See Appendix 1 for further details on our classification and methodology.

**Box 1.1. Definitions used in this report**

**Environmental impact assessment (EIA):** EIA occurs prior to an approval or permitting decision being taken and is the process of identifying, predicting, evaluating and mitigating the biophysical, social and other relevant effects of projects or development proposals **on the environment** (adapted from the International Association for Impact Assessment, n.d.). **Strategic environmental assessment** is a similar impact assessment process undertaken at the policy level.

**Climate impact assessment:** Climate impact assessment is undertaken prior to an approval or permitting decision being taken and is the process of identifying, predicting, evaluating and mitigating the impacts a project or development proposal may have on **climate change, climate mitigation and/or adaptation efforts**. In this report, 'climate impacts' and 'climate effects' are used interchangeably to refer to the impacts evaluated in climate impact assessments.

**Cumulative impact assessment:** This takes into account the total exposure to an environmental stressor and evaluates the total (or cumulative) impact of exposure to this stressor. This is sometimes referred to as identifying the "past, present, and future" impacts of an effect (Nelson and Shirley, 2022). Cumulative impact assessment requires consideration of how a particular project's impact relates to impacts generated by other sources.

**Scopes of emissions:** As defined by the Greenhouse Gas Protocol, **Scope 1** greenhouse gas emissions are direct emissions from a company's operations; **Scope 2** emissions are indirect emissions from the generation of purchased or acquired electricity consumed by the company; and **Scope 3** are all indirect emissions (not included in Scope 2) that occur in the company's value chain.

**Structure of the report**

- **Section 2** explores whether and how EIA legal frameworks across Latin America and the Caribbean and East, South and Southeast Asia have integrated climate considerations into domestic EIA laws.
- **Section 3** examines climate change litigation related to EIAs, drawing on cases identified primarily through the Sabin Center for Climate Change Law's Climate Litigation Database and additional cases identified in the jurisdictional reports (see Appendix 1 for methodological notes on case identification). The section highlights how courts are shaping the interpretation and enforcement of climate-related EIA obligations.
- **Section 4** concludes with targeted recommendations for legislators, regulators and relevant public authorities, project proponents, project finance providers and judges. These recommendations are aimed at aligning EIA regimes with the objectives of the Paris Agreement, supporting credible investment and financing decisions, and reducing legal uncertainty and litigation risk.

# 2. Climate impacts in EIA legal regimes

This section provides an overview of how climate impacts are accounted for during environmental impact assessment processes across Latin America and Caribbean and East, South and Southeast Asian countries (summarised in Table 2.1). Key trends across the two regions are highlighted, drawing out recommendations for key stakeholders involved in the design and implementation of EIAs.

### Countries display a wide variety of approaches to assessing climate impacts

While most countries have had EIA frameworks in place for decades, the incorporation of explicit climate considerations is a more recent phenomenon. Within the scope of this report, **Colombia** was the first jurisdiction to incorporate EIA into its Natural Resources Code in 1974. Over the subsequent two decades, the majority of countries we examine introduced EIA frameworks, with the latest country being **Singapore** in 2008 (Acerbi et al., 2014; World Bank, 2006). Climate impact assessment practices can emerge in several ways. First, they can be legislated or regulated as a mandatory exercise. Second, they can emerge through voluntary guidelines or common practices. Finally, judges may interpret more general EIA directives to clarify that they include climate considerations.

In the countries examined in this report, mandatory requirements to conduct climate impact assessments are not commonly found in legislation. The earliest adoption of such a directive at the national level took place in **Brazil**, which in 2010 enacted Normative Instruction No. 12/2010, promulgated by the Brazilian Institute of Environment and Renewable Natural Resources (IBAMA), Brazil's federal environmental agency. Only four other countries introduced mandatory requirements in later years (see Table 2.1).

Our review confirms that there is wide variation in how regimes approach the assessment of climate impacts. Some countries have adopted highly codified and comprehensive approaches. **South Korea**, for example, has introduced mandatory requirements on climate impact assessment through its climate change framework law, the Carbon Neutral Green Growth Framework Act. Article 23 of the Framework Act requires proponents to assess both the project's impacts on climate change (which includes a quantification of Scope 1 and, where relevant, Scope 3 emissions) and the impacts of climate change on the project, including vulnerabilities to sea-level rise, extreme rainfall, heatwaves and other climate hazards. The Framework Act's Enforcement Decree operationalises these duties by identifying high-emitting sectors that automatically require climate impact assessment and by specifying required technical components, such as an evaluation of the project's consistency with national emissions reduction targets.

However, most countries have only established limited or voluntary climate assessments. In **Japan**, for example, it is at the discretion of the project proponents whether carbon dioxide emissions are considered. Regimes in **Mexico** and **Taiwan** adopt a narrower view on the kinds of climate impacts to be assessed, only focusing on the mitigation of greenhouse gas emissions at limited stages of the assessment process. See Table 2.1 at the end of Section 2 for a summary of the findings from our comparative assessment.

### One-third of the countries reviewed (7 out of 20 countries) do not incorporate climate impact assessment at all in EIA regimes

Where EIA regimes are 'silent' on climate assessment, some countries may rely on judicial interpretation to clarify application of the EIA regime to climate impacts. For example, although the federal **Indian** EIA regime is effectively silent on climate change, Indian jurisprudence has provided a different interpretation. In *Ridhima Pandey v. Union of India*, the courts determined that existing statutory obligations in the current EIA regime cover climate change (see further discussion on the role of the courts in Section 3). While the outcome of this case sets a positive

precedent for how decision-makers should interpret their assessment obligations under the current **Indian** regime, in practice it may require individual lawsuits to be brought to enforce this decision on a project-by-project basis.

There are a few promising instances of countries introducing more stringent requirements to better integrate the assessment of climate impacts into EIAs. According to the country report prepared for this analysis, draft 2023 guidelines from **China's** Ministry of Ecology and the Environment encourage proponents to undertake adaptation impact analyses for major construction projects in ecologically fragile zones. In 2025, the **Peruvian** Ministry of the Environment published draft regulations that sets out guidelines for incorporating climate mitigation and adaptation measures into the impact assessment process, including climate vulnerability assessments. Likewise, new guidelines are under development in **Colombia** that would require proponents to submit a climate change management plan alongside their impact statement. This improvement to the existing regime is a direct result of a 2024 ruling from **Colombia's** Constitutional Court (see Box 3.4 in Section 3 for further discussion).

However, compliance with, and enforcement of laws remain a challenge. In **Argentina**, for example, federal and state laws stipulate that Climate Action Plans must contain guidelines on incorporating climate change into EIA processes, but many of these guidelines have not yet been produced by various state governments. In **Brazil**, critical shortcomings have been identified in how environmental impact statements are produced for projects in practice (Almeida et al., 2025). Impact statements have been found to lack consistent estimates of greenhouse gas emissions and have omitted mitigation or compensation measures for greenhouse gas emissions, despite there being federal requirements to include them (ibid.). New legislation has also amended the existing licensing regime to effectively fast-track projects that are aligned with the government's strategic development priorities (see Box 2.1 for further discussion), leading to concerns that this could facilitate oil development in ecologically sensitive areas.

### Most jurisdictions lack specific guidance on whether climate impacts must be assessed cumulatively, and how such assessments should inform the determination of the significance of a project's environmental impact

A key element of EIA processes is the determination of the significance of a project's environmental impacts. This occurs at two stages. During screening and scoping, significance thresholds help determine whether a full impact assessment is required. Later, during decision-making, this baseline informs whether the magnitude of the identified impacts is sufficiently significant to warrant mitigation measures or conditions attached to project approval. Yet, many environmental problems are cumulative in nature. A small quantity of a pollutant may cause little harm on its own, but when combined with pollutants released previously, its cumulative effect may become significant. For this reason, some EIA regimes require cumulative impact assessments, which account for the combined effects of multiple environmental stressors within a given area as an additional basis for evaluating a project's significance (Eccleston, 2010).

Greenhouse gas emissions share this cumulative character. Although the contribution of a single project to global warming may appear relatively small in isolation, it is important to consider emissions in terms of their cumulative contribution to climate change (Mayer, 2024; Eccleston, 2010). Assessing the effects of a single project's greenhouse gas emissions requires decision-makers to consider how those emissions interact with greenhouse gases emitted across the country and around the world. As a result, evaluating a project's climate impacts in isolation may fail to capture the full extent of its climate-related consequences.

Equally important is the benchmark against which a project's emissions are evaluated. While this usually entails a degree of normative decision-making, recent best practice guidance has been produced by the United Kingdom's Department for Energy Security and Net Zero (DESNZ), which recommends evaluating a project's emissions in light of "the current state of climate and global emissions-reduction pathways" (DESNZ, 2025).

**Box 2.1. 'Rolling back' environmental impact assessments (EIAs) — an emerging trend?**

As the climate crisis deepens, governments must grapple with ensuring that their economies undergo rapid decarbonisation, while also ensuring that these efforts do not produce other ecological, environmental and potential climate harms. However, in the sphere of environmental and planning regulations, a concerning trend is on the rise: many governments are choosing to eliminate more stringent environmental protections on the grounds of streamlining development processes. Some of these regulatory 'carveouts' are being justified on climate-adjacent grounds — by speeding up the licensing process, renewable energy projects may be brought 'online' faster — while others are framed as contributing to development, economic growth or energy security. However, where these reforms bypass crucial stages such as impact assessment and public consultation, they may be subject to legal challenge, on the basis that they curtail other procedural rights, such as access to information and public participation in decision-making.

In 2025, the Brazilian Congress approved Law Nos 15,190/2025 and 15,300/2025, both of which include significant revisions to **Brazil's** existing environmental licensing process. Although these revisions were originally vetoed by the Brazilian president, they have since been reversed by the Brazilian Congress and have now entered into law (BNAmericas, 2025). Notably, Law No. 15,190/2025 loosens key compliance mechanisms for proponents: developers for projects holding a 'medium environmental impact' would only need to submit a form pledging their compliance with regulations, rather than submitting their project proposal for technical review by regulators (IEA, 2025a). In a similar vein, Law No. 15,300/2025 establishes a fast-track licensing process for 'strategic' (or national interest) projects, although the criteria for determining what constitutes a strategic project remain unclear (Conectas Human Rights, 2025; Bezerra et al., 2025). Concerns remain around whether this fast-track process will facilitate oil development in ecologically sensitive areas (Agence France-Press, 2025). Newly granted licences, which would permit drilling in the Amazon basin, have since been contested in the courts (Observatório do Clima, 2025). Both laws are also being challenged by three Direct Actions of Unconstitutionality (ADIs) on the basis that they create potential conflicts with Brazil's Constitution, while also contributing to legal uncertainty around the aspects that still need to be evaluated in EIAs (ClimaInfo, 2026; Sinimbú, 2026).

In this regard, Brazil is not unique: elsewhere in the LAC and ESSEA regions, applicants have also challenged perceived deregulation efforts (see Section 3 for further discussion).

In terms of assessing a project's cumulative climate impacts, various approaches have been proposed to reconcile the transboundary, cumulative nature of greenhouse emissions with EIA, which was originally developed to assess a project's localised impacts (see Box 2.2). In practice, however, relatively few regimes worldwide currently incorporate cumulative climate impact assessment in a clear and comprehensive manner (Joseph et al., 2022). The jurisdictions examined in this report are no exception. Across most regimes, the significance of a project's cumulative climate impacts remains an under-operationalised and ambiguous area.

**Brazil** illustrates some of these challenges. CONAMA Resolution No. 001/1986 regulates EIAs and requires proponents to adopt a comprehensive approach to impact assessment, taking into account direct and indirect impacts as well as short-, medium- and long-term effects. Climate considerations are incorporated into the federal-level EIA regime through Normative Instruction No. 12/2010, which introduces a mandatory requirement to assess greenhouse gas emissions and identify mitigation measures for relevant activities falling under federal jurisdiction. However, neither the Resolution nor the Normative Instruction clearly stipulate that Scope 3 emissions must be accounted for in a project's cumulative impact assessment, even for high-emitting fossil fuel extraction projects. Instead, the question is largely left to project proponents, regulators and

occasionally the courts to interpret whether a project's Scope 3 emissions should be treated as an indirect 'medium-' or 'long-term effect'.[1]

**Box 2.2. Rethinking 'significance' in climate impact assessments**

When deciding whether to approve a project, decision-makers are often granted wide discretion in how they weigh a project's potentially significant impact on climate change and the environment against other policy objectives. Within this decision process, the assessment of significance presents its own series of challenges.

Even where laws mandate that greenhouse gas emissions must be included as a potential impact, proponents may only need to provide an estimate of the emissions resulting from a particular stage within the longer licensing process. For example, a proponent may be granted a licence to start exploring for offshore oil reserves without needing to submit an assessment of potential emissions, as emissions are likely to be negligible — or insignificant — at this stage and would not meet the higher thresholds for impact assessment that many regimes establish. Said proponent may then only need to produce an EIA when applying for a licence to develop a subsequent project, at a later stage in the licensing process.

However, this staggered approach to impact assessment, and determining significance, means that regulators are not considering the full impacts of a project when approving licences for earlier stages — and may only have to do so once resources have been sunk and momentum has built around developing the project (see Section 3 for a discussion of relevant litigation).

In light of this, alternative methodologies for assessing the significance of a project's cumulative impact have been proposed which include accounting for all scopes of emissions — particularly relevant for projects from high-emitting sectors, such as fossil fuel production, construction and industrial agriculture — or accounting for a project's 'lifecycle' impacts (across all licensing stages) to determine the magnitude of its emissions (Kim and Kim, 2021).

One novel approach takes this a step further: the Committed Remaining Global Carbon Budget (or CRGCB) approach assesses the climate impact of fossil fuel extraction projects by comparing their full lifecycle emissions, including Scopes 1, 2 and 3, alongside the emissions that are 'committed' from existing or previously approved fossil fuel projects around the world (Green, 2025). This is then compared to the remaining global carbon budget to produce a ratio that clearly demonstrates that the remaining carbon budget has already been surpassed by existing and committed fossil fuel projects (ibid.). As such, rather than only contributing to a 'drop' in the proverbial bucket (or remaining carbon budget), any new fossil fuel development contributes to an already-overflowing bucket and materially worsens climate risk (ibid.).

The CRGCB approach provides a pragmatic alternative to assessing significance, by firmly situating the emissions from projects within a shrinking — and 'over-committed' — remaining global carbon budget. New supplementary guidance produced by the UK's Department for Energy Security and Net Zero in June 2025 on the assessment of Scope 3 emissions in EIAs reflects elements of the CRGCB approach: EIAs for fossil fuel extraction projects "must consider the cumulative effects of the proposed project with other existing and planned future projects, in a global context" and should consider "how the [greenhouse gas] emissions associated with a proposed project impact climate" at both a global and national level, likely involving the "assessment of the project's emissions against global climate objectives ... as well as against national objectives and targets, where appropriate" (DESNZ, 2025).

[1] See for example, *Federal Public Prosecutor's Office v. Federal Government, ANP, and IBAMA (Auction of the 5th Cycle of Permanent Offering and blocks in the Amazon River mouth)*.

**Very few EIA regimes clearly require the assessment of Scope 3 emissions, leaving a major gap in decision-making on fossil fuel projects**

For fossil fuel production projects, including Scope 3 emissions in EIAs is essential for understanding the full impact of the project's emissions. Such emissions will often comprise the majority of the emissions that will result from a single project. An application to establish an oil well, for instance, will involve some emissions released in the development of the project. But many more emissions will result from the oil that is subsequently extracted, transported, sold and combusted. Yet among the countries reviewed, very few regimes refer to emissions beyond those directly produced by a project (otherwise known as Scope 1 emissions). A few regimes, such as **Argentina** and **Peru**, refer to the assessment of indirect impacts (or effects) but this terminology remains ambiguous. By not specifying whether the project's indirect effects include Scope 3 emissions, regulators leave room for proponents to adopt a discretionary approach, or for courts to fill this definitional gap, as has occurred in the UK Supreme Court's ruling in *Finch v. Surrey County Council*.

Of all the countries reviewed, **South Korea** is the only one to specifically require that Scope 3 emissions be included by proponents in their climate impact assessments. Yet the role that emissions play in determining a project's significance — and the steps required when a project is found to have significant impacts — remains unclear and underexplained. **Chile's** regime illustrates both progress and significant gaps. Guidelines issued in 2024 and 2025 provide methodological direction on cumulative climate assessment and on calculating greenhouse gases and short-lived climate pollutant emissions for impact assessment inventories. However, they do not cover key emitting sectors, such as biofuels or agriculture, and appear to address only Scope 1 and Scope 2 emissions, leaving ongoing ambiguity around whether Scope 3 emissions should be considered as indirect effects.

Considering this guidance and recent jurisprudence in the UK and Europe, as well as Advisory Opinions from international courts (see Box 3.2), regulators from LAC and ESSEA jurisdictions should ensure that assessment guidance includes clear and explicit guidelines on the assessment of Scope 3 emissions. This is particularly significant for high-emitting fossil fuel extraction projects. As the UK regulator has done, regulators should consider adopting a global, Paris-aligned benchmark, such as the remaining global carbon budget, against which to evaluate a project's emissions — including its Scope 3 emissions.

**Climate change adaptation considerations remain underdeveloped across most EIA regimes, even as physical climate risks intensify**

Climate impact assessment has historically been skewed towards evaluating and proposing measures to counter mitigation-related impacts, such as a project's greenhouse gas emissions (Mayembe et al., 2023). Yet, as some of the impacts from global warming become unavoidable, it is increasingly important that adaptation is also incorporated into impact assessment, although very few countries around the world have done so. Assessing adaptation-related impacts is particularly significant for projects that are developed along longer timeframes, or which are expected to remain in operation over decades, such as infrastructure and energy projects. It is important that regulatory authorities ensure adaptation aspects are incorporated into the guidelines and methodologies that stipulate what assumptions and baseline models to rely on to ensure that projects are resilient to potential future climate shocks (Agrawala et al., 2012).

While many regimes examined for this report have incorporated some degree of adaptation assessment, very few have done so comprehensively or have required an assessment of adaptation at multiple stages of the impact assessment process. Two regimes which present high degrees of adaptation assessment are worth highlighting: the **Philippines**, through its Technical Guidelines on adaptation and disaster risk reduction, and the **Dominican Republic**, through its dedicated methodological guide on adaptation.

In 2011, the **Philippines** produced technical guidelines on mainstreaming disaster risk reduction and adaptation into EIAs from the pre-screening to monitoring and compliance stages. At the

pre-screening stage, when proponents are setting out a basic outline of what the project entails, proponents are encouraged to adopt a precautionary approach to incorporating potential climate impacts to avoid postponing risks to later stages of the project. At the review stage of the impact statement, regulators must ensure that proponents have identified and developed adequate mitigation measures, including adaptation and disaster risk reduction, based on the risk evaluations undertaken during the screening and scoping processes. At this stage, project proponents must also commit to implementing these measures in the project design.

The **Dominican Republic** also provides clear guidance on how adaptation should be considered in EIAs through its dedicated guide from 2024 on incorporating adaptation considerations into the EIA process. The guide identifies methodologies for identifying project-specific climate risks, such as rising temperatures, sea-level rise, shifting precipitation patterns, drought frequency or storm intensity, and for designing corresponding adaptation measures that reduce project vulnerability.

Both regimes serve as good practice examples for how adaptation-related impacts can be incorporated into existing EIA frameworks along multiple stages of the assessment process. As the damages from climate change mount, and resilience-building measures acquire even greater urgency, regulators from LAC and ESSEA — and countries beyond these regions — must develop improved and comprehensive methodologies to ensure projects are well-adapted to the impacts from climate change.

### Climate impact assessments require effective monitoring and enforcement

For EIA to play an effective role in countries' climate responses, climate impacts should be integrated across multiple stages of the assessment process — including at the monitoring stage. Monitoring proponents' compliance with the terms of their project approval and the ongoing management of potential risks are essential aspects of EIA governance. Yet these areas may be susceptible to weak enforcement, particularly where an EIA regime does not include specific legislative provisions detailing what steps must be undertaken (He and Ouyang, 2023; Swangjang, 2018). Unlike earlier stages in the EIA process (from screening to the impact assessment stage), far less guidance has been produced detailing how these 'follow-up' stages could be approached, both at the domestic level and by international associations (Smith and Morrison-Saunders, 2025).

To support the implementation and transparency of follow-up stages, legislators should consider: enacting requirements that specify follow-up requirements for a project's full lifecycle and clearly assign responsibilities to key parties (such as the proponent and the regulator). Competent public authorities should also consider establishing clear performance indicators to evaluate follow-up outcomes, and ensure that adequate resources are allocated to undertake the follow-up processes (Morrison-Saunders et al., 2021; Smith and Morrison-Saunders, 2025).

Table 2.1. Assessment of climate impacts by EIA regimes in Latin America and the Caribbean and East, South and Southeast Asia — summary

| Country and level of integration of climate considerations (from high [green] to absent [red])[a] | Is climate impact assessment mandatory? | How is climate impact assessment operationalised? | At what stage are climate impacts assessed for a proposed project? | | | | Does climate impact assessment concern mitigation and adaptation? | Are a project's emissions assessed cumulatively? | Does the climate impact assessment include Scope 3 emissions? |
|---|---|---|---|---|---|---|---|---|---|
| | | | Screening | Scoping | Impact study | Management plan and monitoring | | | |
| Brazil (F) | Yes | Normative instruction (administrative act) | Yes | Yes | Yes | No | Mitigation | Not specified | Not specified |
| Chile | Yes | Rules and guidelines | Yes | Yes | Yes | Yes | Both | No | No |
| Dominican Republic | Yes | Resolution and guidelines | Yes | Yes | Yes | Yes | Adaptation | Not applicable | Not applicable |
| Philippines | Yes | Technical guidelines | Yes | Yes | Yes | Yes | Both | For solar photovoltaic (PV) projects only | For solar PV projects only |
| South Korea | Yes | Statute and guidelines | Yes | Yes | Yes | Yes | Both | Not specified | Yes |
| Argentina (F) | No; non-binding recommendations | Guidelines | Not specified | Yes | Yes | Yes | Both | Not specified | Not specified |
| Colombia | No; guidance currently under consultation | Guidelines (to be approved by resolution) | Yes | Yes | Yes | Yes | Both | No | No |
| Mexico (F) | No; non-binding recommendations | Guidelines | No | No | Yes | No | Both | No | No |
| Peru | No; non-binding and excludes key sectors | Guidelines (approved by resolution) | No | Yes | Yes | Yes | Both | No | Not specified |

| Country and level of integration of climate considerations (from high [green] to absent [red])[a] | Is climate impact assessment mandatory? | How is climate impact assessment operationalised? | At what stage are climate impacts assessed for a proposed project? | | | | Does climate impact assessment concern mitigation and adaptation? | Are a project's emissions assessed cumulatively? | Does the climate impact assessment include Scope 3 emissions? |
|---|---|---|---|---|---|---|---|---|---|
| | | | Screening | Scoping | Impact study | Management plan and monitoring | | | |
| China | Yes, but only some sectors | Guidelines | Yes | Yes | Yes | Yes | Mitigation | Yes[b] | Not specified |
| Indonesia | Only assessed at strategic environment assessment level[c] | Regulation | Not applicable | Not applicable | Not applicable | Not applicable | Not applicable | Not applicable | Not applicable |
| Japan | No; voluntary carbon emissions assessment | Ministerial order and guidelines | No | No | Yes | Not specified | Mitigation | No | No |
| Taiwan | Yes, but only greenhouse gases for some projects | Regulation | Not specified | Not specified | Yes | Not specified | Mitigation | No | No |
| Bangladesh; Ecuador; Guatemala; India (F); Singapore; Thailand and Venezuela | There is no requirement, whether mandatory or voluntary, to consider climate change or climate impacts. | | | | | | | | |

*Notes: Countries shaded in green indicate high (mandatory) integration of climate considerations, yellow indicates moderate integration, orange indicates low integration; and red indicates an absence of integration.*
*a. Countries marked with '(F)' have a federal governance system.*
*b. Some types of construction projects and industrial parks require proponents to produce a carbon emissions assessment, as part of the EIA process. This generally requires an analysis of whether a project complies with national, regional and sector-specific 'peak carbon' and 'carbon neutrality' goals or action plans, among other laws and regulations governing greenhouse gas emissions reductions, including a determination of what a project's 'contribution' to these goals is. As such, projects undergoing assessment, at least in theory, are evaluated with a degree of cumulative assessment.*
*c. Unlike traditional EIAs, which focus on project-level impacts, strategic environmental impact assessment (or SEA) takes place at the policy level to evaluate the impacts of a proposed plan or policy in its entirety.*

# 3. Climate impact assessments in litigation

Where environmental impact assessment laws and regulations are unclear or silent on the assessment of climate impacts, or where they are not being adequately implemented, lawsuits have been filed to clarify legal obligations and enforce accountability. This section explores the role of such litigation across the Latin America and Caribbean and East, South and Southeast Asian regions.

### Climate change litigation can contest specific project approvals or challenge entire laws or policies for failing to adequately consider climate impacts

In the jurisdictions we examined, we identified a total of **57 cases**, filed up to the end of December 2025, that have challenged the lack of consideration for climate change and climate impacts in EIAs issued for **specific projects** (we refer to these as '**project-level**' cases). Claimants in these cases might argue that an approval was invalid either because no EIA was performed, or because the relevant EIA was deficient. These cases can have far-reaching consequences beyond the project being challenged. In **Argentina**, for instance, a recent project-based case was unsuccessful in court, yet it led to several recommendations related to reforestation and the incorporation of climate considerations into regional planning laws (see *Municipality of Yala v. Guerrero C. y Echeverría M*).

In parallel with project-level cases, we also identified **14 cases** that challenge how climate change is considered at the **policy level**, on the basis that a given policy does not align with a government's overarching climate commitments (we refer to these as '**policy-level**' cases[2]). We treat policy-level cases as distinct from cases filed at the project level, as the subject of the challenge will differ significantly. For example, a policy-level case may challenge a strategic environmental assessment or the constitutionality of a law, whereas a project-level case will challenge the EIA process for an individual project.[3] Despite the differences between policy- and project-level cases, policy-level cases are important to discuss as they can have important implications for climate impact assessment. Many of these cases shed light on whether policymakers adequately account for the impacts of climate change in their decision-making. Cases can also highlight where greater efforts are needed to coordinate policy responses between levels of government to ensure that policies collectively support national climate objectives. We therefore weave in a discussion of policy-level cases throughout Section 3, although most of our analysis centres on developments and trends at the project level.

### Distribution of EIA-related climate cases

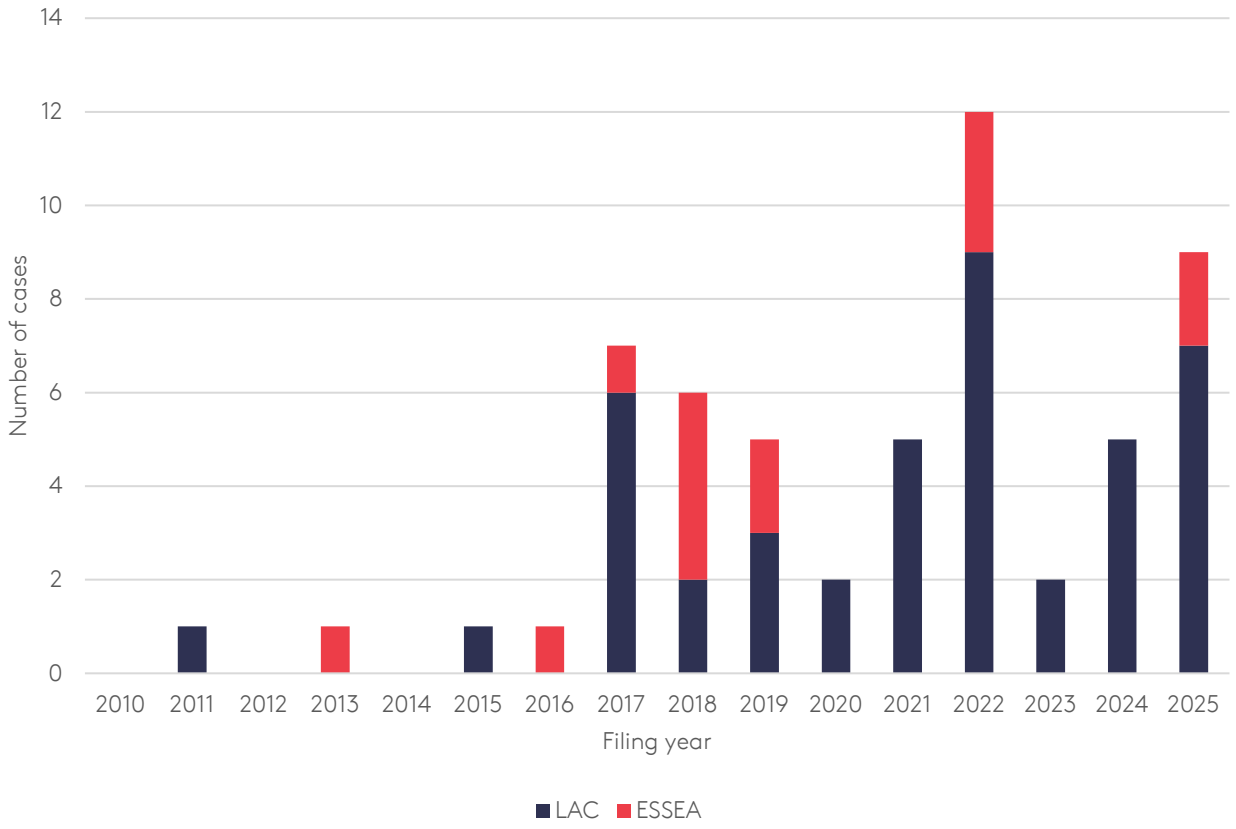
At the regional level, we see that most project-level cases originate in LAC countries (see Figure 3.1), with just over two-thirds of **project-level** cases brought in LAC countries (43) compared to ESSEA countries (14). This discrepancy may be partially driven by the relative longevity of EIA regimes: in LAC countries, EIA frameworks are generally more established and entrenched within environmental governance than in ESSEA countries, with a few exceptions (World Bank, 2006; Acerbi et al., 2014). As EIA regimes in ESSEA mature, it is possible that we will see more project-level litigation that challenges the operationalisation of procedural requirements. They may also reflect relative institutional or doctrinal barriers to accessing the courts, or whether an 'adversarial' legal culture exists which channels dispute resolution towards judicial mechanisms

[2] The full list of these 14 cases can be found in Appendix 5.

[3] These two categorisations can also overlap. For example, some cases, like *Instituo Preservar, AGAPAN and Núcleo Amigos da Terra v. Federal Union and others* challenge both the public authority's overall environmental licensing procedures and the environmental licensing of specific mining or energy projects. Although these cases may have project-level elements, for simplicity, we classify overlapping cases as policy-level ones, given the broader scope of what applicants are targeting through the case. Both examples of overlapping cases, including *Instituto Preservar*, are indicated in Appendix 5.

(Kagan, 2019). The distribution of cases across countries may also be a consequence of how data on climate litigation cases is defined and collected (see our methodology in Appendix 1).

**Figure 3.1. Number of project-level cases filed over time in Latin America and Caribbean and East, South and Southeast Asian countries**



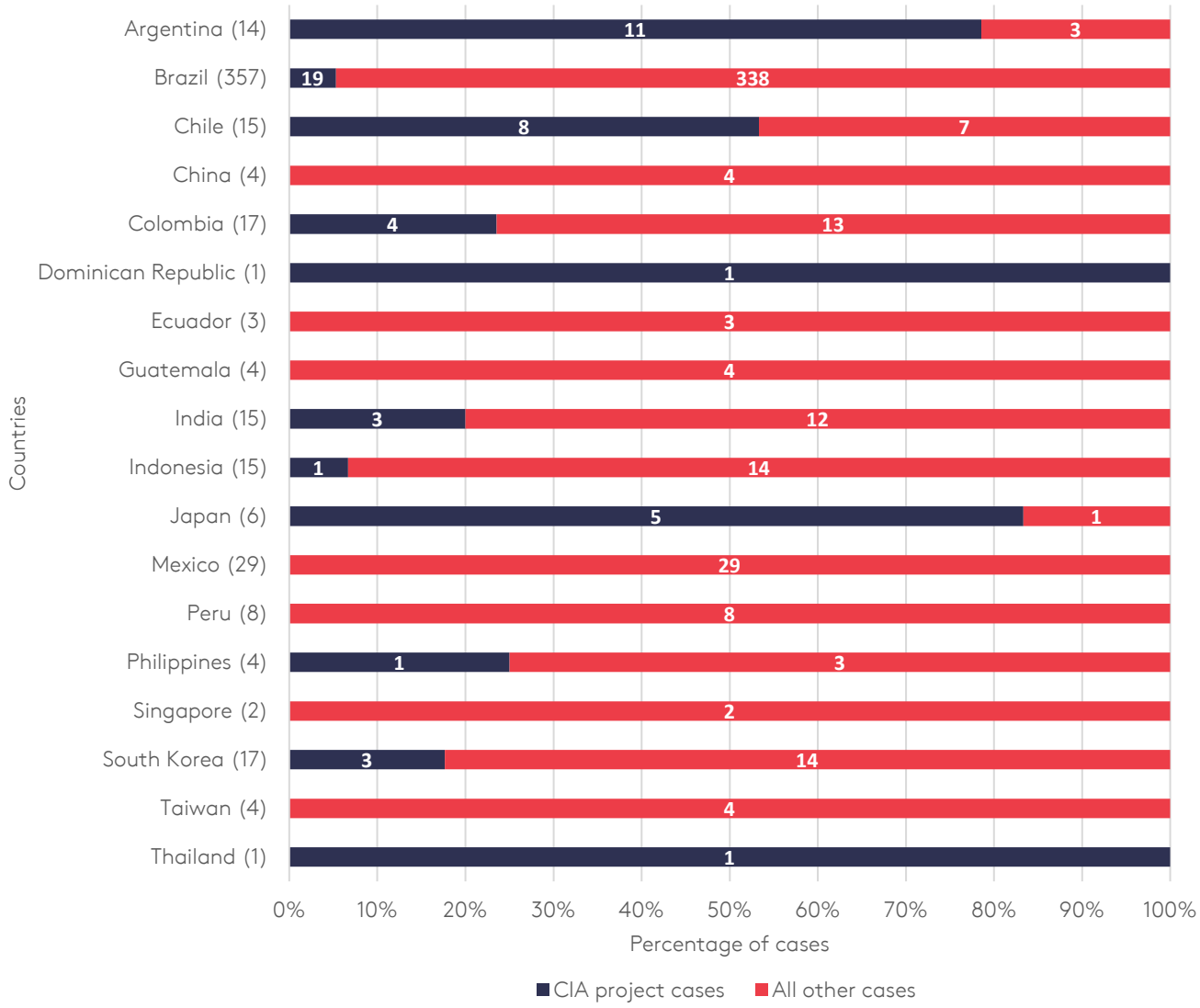

*Source: Authors*

At the country level, **Brazil** has the highest number of cases filed at the project level (19 cases), followed by **Argentina** and **Chile** (11 and 8 cases, respectively). In some countries, like Brazil, project-level cases make up a very small proportion (around 5%) of all climate cases filed.[4] This could, in part, be influenced by the 'rights-based turn' in climate litigation which has seen an expansion in constitutional and human rights-based claims over time that directly challenge a state's overall response to climate change, rather than targeting EIA regimes (Peel and Osofsky, 2018; Savaresi and Setzer, 2022).

In some countries (e.g. **Mexico** and **Guatemala**), no relevant EIA-related climate cases were identified, although other types of climate litigation, which are outside the scope of this report, have been filed. By contrast, in some jurisdictions, like **Japan** (5 cases out of 6) and **Thailand** (1), almost all known climate litigation are EIA challenges to fossil fuel projects over their impacts on climate change (see Figure 3.2). Yet the EIA regimes in both countries require little to no consideration of climate change in the impact assessment process, and, of the cases we examined, none have so far proven successful on climate change grounds (see Box 3.1 for a discussion of the Thai case). In two of the countries we examined, **Bangladesh** and **Venezuela**, no climate litigation has been identified at all.

[4] It is worth noting that Brazil is an outlier compared to the other jurisdictions we reviewed for this report, with 358 cases currently recorded in the Sabin Center's Climate Litigation database as having been filed up to the end of December 2025. Of these cases, 195 were filed by the Federal Prosecutor's Office (the MPF), using identical arguments to target a range of defendants who have participated in illegal deforestation of the Amazon. According to Moreira et al. (2025), this set of 195 cases is "part of the fourth phase of the Amazônia Protege project, conceived by the MPF to combat illegal deforestation in the Amazon Rainforest".

Figure 3.2. Proportion of EIA project cases relative to non-EIA project climate cases by jurisdiction




*Notes: The number of 'all other cases' is sourced from the Sabin Center's Climate Litigation Database, which tracks judicial cases, selected administrative and investigatory proceedings, investor-state disputes and certain proceedings before United Nations and regional bodies, where climate change law, policy or science is a material issue. No climate cases have been recorded in Bangladesh and Venezuela. The number of climate-related EIA cases comes from the Climate Litigation Database, in addition to a review of cases that were identified by law firms in their jurisdictional memos (if the case is not currently included in the Climate Litigation Database) and through additional data sources. See Appendix 1 for further details.*

### Although most project-level cases target fossil fuel projects, an increasing number of challenges have been filed against other large-scale infrastructure projects such as airports, highways and data centres

Given that emissions from fossil fuels are the largest driver of climate change, it is unsurprising that the vast majority (38 out of 57) of project-level cases have been filed against fossil fuel extraction and energy-generation projects. For example, in Argentina, one of Latin America's largest fossil fuel producers, multiple cases have been brought against government issuances of blocks of licences for oil and gas exploration, on the basis that expanding oil and gas production is incompatible with the remaining global carbon budget and commitments under the Paris Agreement. Similarly, at least three cases have been filed against the Guaíba mining project — an open-pit coal mine — in Rio Grande do Sul, **Brazil**, with cases often brought on grounds related to climate-compatibility and lack of adequate public consultation with communities directly affected by the mining project (see Box 3.1 on public participation).

**Box 3.1. Project cases often combine climate impact and public participation-related arguments**

Public participation is widely recognised as an essential — and valuable — feature of EIA regimes, allowing communities to participate in public decision-making processes (Glucker et al., 2013; O'Faircheallaigh, 2010). In the jurisdictions reviewed for this report, almost all regimes set requirements around how communities affected by a potential project must either be provided with information about the project or consulted with as part of the project's approval process. Yet, proponents and decision-makers may not always adhere to these requirements when proposing and evaluating projects; where they fail to do so, litigation has served as a strong corrective to enforce rights to participation and access to information.

In many of the project cases we identify, applicants have challenged a project's EIA on grounds relating to both deficient climate impact assessment and inadequate public consultation. In **Thailand**, for example, Indigenous communities have successfully challenged the approval of a coal mine in Thailand's Omkoi District on the basis that the mine had exposed the community to a variety of harmful impacts, including by contributing to global warming through its emissions. The applicants also alleged that parts of the project's original EIA had been falsified, including the forging of signatures of community members, and that public participation procedures had not been adhered to by proponents (see *Residents of Omkoi v. Expert Committee on EIA Consideration and the Office of Natural Resources and Environmental Policy and Planning*).

Although the court did not engage directly with the climate arguments advanced by the applicants in its ruling, it did recognise that communities, including traditional communities "have the right to conserve and participate in the management, maintenance and sustainable use of natural resources and the environment", and urged the relevant agencies to "ensure that individuals have the right to participate in the decision-making process of state officials in administrative actions that affect or may affect their rights and freedoms" (see ibid.).

This case highlights the important role that the courts have played in enforcing procedural rights, such as the right to public participation or access to information, to help ensure that the voices and interests of those most affected by a project are considered by decision-makers — particularly where decision-makers fail to do so in the first instance. To mitigate legal risk, proponents and decision-makers should take great care to ensure that they have fulfilled the requirements around public participation in decision-making by engaging in comprehensive and meaningful stakeholder engagement with affected communities and providing clear and transparent information around the impacts a proposed project may have on a community, in addition to any measures that are being proposed to offset any potential impacts.

However, relatively few cases have sought to challenge such projects' downstream Scope 3 emissions. This holds true for most jurisdictions around the world, although recent jurisprudence in the UK and various regional and international courts has recognised that downstream Scope 3 emissions must be included as part of the assessment of a proposed fossil fuel project's indirect effects (see Setzer and Higham, 2025).

An exception in our dataset of LAC and ESSEA jurisdictions, although ultimately not successful, is the **Brazilian** case brought in 2025 by the Federal Public Prosecutor's Office (the MPF), Brazil's independent public prosecutor body, to challenge the auctioning of exploratory licences for oil production in the Amazon River basin. In comparison to the other jurisdictions examined for this report, public authorities such as the MPF are the most active claimants in Brazilian climate cases (Moreira et al., 2025). Citing the UK Supreme Court's decision in the *Finch* case as reinforcement, the MPF argued that a climate impact assessment should have been conducted prior to granting the exploratory licence — including an account of the oil's Scope 3 emissions, associated with combusting the fuel. In September 2025, the Federal Court of Pará denied the MPF's request to suspend the exploratory licences, finding that a climate impact study can only take place at a

later stage in the licensing process, and the decision remained silent on the consideration of Scope 3 emissions in the impact study. Whether Scope 3 emissions must be assessed as part of a project's "significant cumulative and indirect effects" thus remains open to interpretation under **Brazil's** CONAMA EIA regulations (see Table 2.1).

It is likely that the number of cases challenging government approvals for new fossil fuel projects will continue to increase, in light of the spate of recent international advisory opinions clarifying states' legal obligations in the context of climate change (see Box 3.2), and growing evidence that supply-side fossil fuel measures (such as restrictions on oil production) can be effective levers for reducing greenhouse gas emissions (Prest et al., 2024; Fæhn et al., 2017).

**Box 3.2. International advisory opinions have clarified how states acting with due diligence must consider climate impacts in EIAs**

International courts have long recognised that in some cases, states have a duty under international law to carry out an EIA. In 2010, the International Court of Justice (ICJ) observed that "it may now be consider[ed] a requirement under general international law to undertake an environmental impact assessment where there is a risk that the proposed industrial activity may have a significant adverse impact in a transboundary context" (*Argentina v. Uruguay, 2010*). More recently, several advisory opinions issued by international courts and tribunals have clarified international legal EIA obligations in the context of climate change.

In May 2024, the International Tribunal for the Law of the Sea (ITLOS) recognised greenhouse gas emissions as a form of marine pollution, finding that any activity which is likely to result in "substantial pollution to the marine environment ... through anthropogenic [greenhouse gas] emissions, including cumulative effects", must be subject to an EIA (ITLOS Advisory Opinion No. 31).

In May 2025, the Inter-American Court of Human Rights (IACtHR) clarified a detailed set of requirements for EIAs, derived from the American Convention on Human Rights. The Court stressed that such assessment must include projects led by private actors (such as fossil fuel-related projects), and "must cover the cumulative impact, include the participation of interested parties, respect the traditions and culture of Indigenous Peoples, and be based on the best available science" (IACtHR Advisory Opinion AO-32/25). While the Court's opinion formally applies only to those states which have ratified the American Convention on Human Rights, the Opinion sets a benchmark for human rights-consistent EIAs.

In July 2025 the ICJ issued its *Advisory Opinion on the Obligations of States in Respect of Climate Change*. The Court emphasised its earlier decision in *Argentina v. Uruguay* and stressed that it also applied in the context of climate change. The Court observed that climate-related EIAs must be tailored to their specific context and level of risk. Although climate-related EIAs may be a complicated exercise, the Court nevertheless stressed that all states should "provide for and conduct EIAs with respect to particularly significant proposed individual activities contributing to [greenhouse gas] emissions to be undertaken within their jurisdiction or control, on the basis of the best available science". This clear statement from the ICJ is particularly significant: the Court has a broad jurisdiction applicable to many states. Although the Court's Advisory Opinion is not a formally binding ruling, it is viewed by many states and other actors as a highly persuasive statement of international law.

Lastly, in October 2025 the European Court of Human Rights (ECtHR) issued its opinion in *Greenpeace Nordic v. Norway*. The ECtHR found that EIAs for fossil fuel projects should account for the impacts of Scope 3 emissions domestically and abroad and ensure public consultation at an early and meaningful stage.

Outside of the fossil fuel sector,[5] there are at least 19 cases in LAC and ESSEA jurisdictions where applicants have requested that projects relating to infrastructure and industrial development, non-fossil fuel mineral mining (such as copper), and agriculture and land use be reviewed over their inadequate consideration of climate impacts in EIAs. More than half of these cases have been filed in the last five years, between 2020 and 2025.

For example, in **Brazil**, highways have been challenged on the basis that deforestation resulting from the highway's construction would degrade carbon sinks provided by the Amazon rainforest, which had not been accounted for in the project's EIA. In the case challenging the licensing of Highway BR-319 (*Observatório do Clima v. IBAMA and the National Department of Infrastructure and Transportation*), the Amazonas Federal Court issued an injunction against the project citing a deficient climate impact assessment among other grounds, although relief was granted largely in relation to inadequate consultation with affected Indigenous groups.

Looking to the ESSEA region, in **South Korea**, the approval of a new airport is being challenged on the basis that the planned construction site will destroy the last remaining tidal flats in the Saemangeum area, which act as an important carbon sink and play a crucial role in achieving Korea's legislated net zero target. The applicants further state that this reclamation violates constitutional duties to protect the environment for the benefit of present and future generations (see *Yeon-Tae Kim et al. v. Minister of Land, Infrastructure and Transport*). A decision has not yet been issued by the courts.

Similarly, in *Hanuman Laxman Aroskar v. Union of India*, the Supreme Court of **India** ordered the suspension of a permit that had been granted to the State of Goa to construct an airport. The Court found that the EIA had not adequately assessed the impact the project would have on nearby forests and ecologically sensitive zones, while citing the UN Sustainable Development Goals (SDGs) and India's commitments under the Paris Agreement as informing India's environmental governance framework and the rule of law. When submitting an application for a new environmental permit, the project proponent (the State of Goa) committed to making the airport a "zero carbon airport operation". The ruling, integrating climate considerations, is notable given that the laws that govern India's EIA regime are effectively silent on climate change.

New technologies such as artificial intelligence (AI) have also faced legal challenges, considering AI's growing carbon footprint and potential impacts on water-stressed areas (see Box 3.3).

### From project approvals to national policy, rights-based challenges are pushing courts to require stronger consideration of climate impacts

In both the LAC and ESSEA regions, most project-level cases (52 out of 57) involve at least some constitutional arguments. Claimants have particularly relied on the right to a healthy environment, which has been incorporated into the constitutions of many of the countries we examined.[6] In **Brazil** for example, almost all Brazilian project cases (18 out of 19) identified invoke Article 225 of the Constitution to argue that inadequate or absent climate impact assessment constitutes a violation of the right to an ecologically balanced environment. Moreira et al. (2024) note that this is a common feature of climate litigation in Brazil, with Article 225 being one of the most commonly invoked legal norms across all types of cases, including project-level ones. Outside of Brazil, project-level cases have invoked constitutional rights to challenge a range of projects from the construction of coal-fired power plants in **Japan**, an industrial complex for semiconductors in **South Korea**, licences for fossil fuel exploration in **Argentina**, and the approval of a coal mine in **Thailand** (discussed in Box 3.1), among many others. Yet, the invocation of constitutional rights does not guarantee that a case will be successful: of decided project-level

[5] For the purposes of this report, we define fossil fuel sector projects as those that seek to develop (produce or extract) fossil fuels, in addition to energy generation projects that rely on fossil fuels (e.g. a coal-fired thermoelectric plant).

[6] At the project level, 44 out of 57 cases cite the right to a healthy environment as a ground for bringing the case. More specifically, 36 out of 43 cases filed in LAC countries and 8 out of 14 cases filed in ESSEA countries do so.

cases that invoke constitutional arguments, slightly more cases have received decisions that are unfavourable to climate action (16 out of 52) rather than favourable (13 out of 52).[7]

**Box 3.3. As data centres rapidly expand, regulators must consider climate impacts**

The rapid development of AI is accelerating the expansion of new facilities and electricity consumption by data centres. In the race to expand, data centres are largely being connected to whatever power sources are available, including fossil fuels; in some instances, fossil fuel projects are being opened to supply future data centres (Muir, 2025; IEA, 2025b; Skidmore, 2025). Yet, emissions are not the only risk data centres present in a warming world: for their energy and operating processes, data centres must withdraw and consume large amounts of water, much of which comes from freshwater or other potable water sources (Li et al., 2025).

Considering these climate and environmental impacts, approvals for data centres are being challenged in the courts. While the majority of these cases are unfolding in the US (Data Center Watch, 2025), one of the earliest cases to challenge a data centre on climate grounds was filed in **Chile**. In the Chilean case, *Municipality of Cerrillos v. Evaluation Commission of the Metropolitan Region*, the Municipal government and residents of Cerrillos applied for judicial review of the approval of a Google data centre in Santiago in 2020. As part of the project's initial environmental assessment, it was estimated that the centre would require the extraction of 169 litres of water per second to cool the centre's servers. Beset by a megadrought for over a decade, Chile has experienced multiple water crises, including in 2019 when an agricultural emergency was declared in 17 municipalities relating to water shortages (NASA Earth Observatory, 2020; Herrera, 2019).

In September 2024, the Second Environmental Court concluded that the decision to exempt the project from a full EIA process and its resolution approving the project were unlawful, as the assessment did not adequately rule out the significant impacts of the project on water resources. The Court ordered the suspension of the project until the full effects the project's cooling system would have on Chile's aquifer were modelled, taking into account the impacts of climate change on the country's vulnerability to water stress. In response to the ruling, Google later announced that it would surrender its original 2020 permit to incorporate better water-efficiency measures into the project's design (Tironi and Albornoz, 2025). This case highlights how the Chilean courts have played an important role in bringing climate considerations to the forefront of decision-making in instances where it may be absent.

Chile is not the only country to be affected by droughts, which are expected to become more frequent and intense with increased global temperatures (Gebrechorkos et al., 2025; Seneviratne et al., 2023). Project proponents should consider how their project may exacerbate the negative localised impacts communities may already be experiencing as a product of climate change, and how their project might be affected by climate impacts (such as droughts).

On the other hand, constitutional challenges have been successful in driving EIA policy reforms (see Box 3.4). To advocate for increased stringency of EIAs, claimants have also used constitutional grounds to challenge deregulation or modification of permitting regulations. For example, in *Decision C-298/16 of June 8, 2016* a group of citizens challenged the constitutionality of articles 20 and 173 of Law 1753, which authorised the **Colombian** government to designate certain projects as being in the national interest and allowed the mining authority "indefinite" power to designate strategic areas for mining exploitation, including in fragile unique ecosystems (known as *páramos*). The Constitutional Court ultimately struck down parts of the legislation, finding that this violated the right to a healthy environment and the enjoyment of natural resources for present and future generations, both of which are protected under the Constitution.

[7] Note that 23 of the 52 cases which invoke constitutional rights are still pending before the courts.

**Box 3.4. From litigation to EIA policy reform: a successful case in Colombia**

In 2023, a group of citizens filed a case before Colombia's Constitutional Court, challenging the constitutionality of Article 57 of Law 99 of 1993. Article 57 sets out the criteria for EIA in **Colombia**. The claimants argued that by not including impacts associated with climate change and human rights, Article 57 could be interpreted in such a way that it would cause EIAs to be non-compliant with the Colombian constitution and international climate commitments. The claimants requested that Article 57 be formally reinterpreted to include consideration of climate change and human rights impacts as part of the mandatory criteria required to be assessed in the EIA process.

In its interim decision, the Constitutional Court deemed the case admissible in relation to the constitutional arguments made and ordered the Ministry of Environment and Sustainable Development, as well as several non-governmental organisations (NGOs), to provide comments on the impacts of climate change on Article 57, as they regard to the right to a healthy environment. In its ruling in July 2024, the Court determined that Article 57 must be interpreted to include climate change among the evaluation criteria for EIAs for the provision to be constitutional. Failing to do so would amount to a violation of the Colombian Constitution, including protected rights such as the right to a healthy environment and sustainable development. The Court ordered the Ministry of the Environment and Sustainable Development to update the EIA's terms of reference accordingly.

As we have seen in Section 2, in November 2024, the Ministry of the Environment and Sustainable Development published draft guidelines to revise the existing requirements of what impacts must be accounted for when conducting an EIA study. Although these guidelines have yet to be formally adopted, they set out a more holistic process for assessing climate impacts, particularly in relation to assessing a project's adaptation requirements considering climate change. This case highlights how litigation can be used to improve the mainstreaming of climate change into policymaking, and the role of the courts in compelling governments to improve administrative processes that conflict with constitutionally protected rights, such as, in this instance, the right to a healthy environment.

Where integration of climate impacts in EIA legislation or EIA guidance is weak or absent, litigation can provide an impetus for change, even in sectors outside of climate or environment. For example, in the case of *Association for Protection of Democratic Rights v. The State of West Bengal and Others*, the Supreme Court of India ordered the establishment of an expert committee to develop new policy guidelines to support the **Indian** government's decision-making on tree removals for development projects. This followed from a petition challenging whether the government of West Bengal's plan to cut down hundreds of trees to progress infrastructure projects was in accord with the constitutional right to a healthy environment. In its ruling, the Court addressed the potential impact West Bengal's plan would have on exacerbating climate change through deforestation and the loss of carbon sinks. The Court specifically noted that climate change was a significant factor that should be considered to ensure that plans and policies are aligned with the right to a healthy environment and India's commitments under the Paris Agreement and the SDGs.

Even when unsuccessful in court, litigation can still play an important role in policy reform. For example, in an 'amparo' action (a constitutional challenge) filed by the Municipality of Yala in Argentina over deforestation and land clearance activities, the Environmental Court of the Province of Jujuy rejected the request, determining that an EIA was not necessary as the land area was too small to meet EIA threshold criteria. Nevertheless, the Court suggested that the defendants, a group of individuals, reforest the area under dispute and noted that the Provincial Constitution requires municipalities to enact urban and territorial planning codes that consider mitigation and adaptation to climate change. Recognising that no such planning had yet been implemented in Yala, the Court also requested the Municipality (the claimant in this case) to take measures to integrate environmental and climate variables into its territorial planning code (see

*Municipality of Yala v. Guerrero C. y Echeverría M*). These cases illustrate that litigation can be a key platform on which to elevate climate considerations publicly.

**Impact assessments help decision-makers and those involved in project finance to balance climate considerations with other environmental and social objectives. This remains important for 'green' projects or policies approved based on their contribution to the low-carbon transition**

Assessing climate and other environmental and social impacts is also crucial to approvals for projects in line with the clean energy transition. As renewable energy projects are scaled up, global demand for energy transition-related minerals is also on the rise. This can lead to tensions between different environmental objectives, such as between climate mitigation and biodiversity protection. A project intending to further the energy transition may, for instance, also contribute to maladaptive outcomes in fragile or highly vulnerable ecosystems. For example, in 2017, applicants successfully contested the failure to include the impact a copper mining project in **Chile** would have on groundwater resources and related surface ecosystems. The Court ordered the project proponent to reassess mitigation measures regarding the extraction of groundwater in light of climate change, which has exacerbated the extreme megadrought in Chile (see *Jara Alarcon Luis v. Environmental Assessment Service*).

The emergence of 'just transition' litigation is an important reminder that poorly designed climate measures can sometimes generate social harms (Savaresi et al., 2024; Urzola et al., 2024). Alongside challenging the lack of consideration for environmental impacts, litigants have challenged the design and implementation of climate policies and projects for negatively impacting a wide array of socioeconomic rights, including the rights to an adequate standard of living, food, housing, water and sanitation, as well as rights to land, self-determination and cultural integrity (Business and Human Rights Resource Centre, n.d.; Vélez-Echeverri and Chan, 2024). In **Chile**, a case was filed by the regional government of Atacama against Chile's Ministry of Mining and its bid for a tender to increase lithium production in areas around Chile's salt flats, potentially including those around Atacama (*Regional Government of Atacama v. Ministry of Mining and Other*). Although the regional government recognised in its petition that lithium is an essential resource for the energy transition and decarbonisation, it nonetheless argued that the tender bid and any awarded contracts should be suspended until an adequate assessment of the lithium mining's potential social and environmental impacts (such as access to water and impacts on livelihoods) was undertaken by the Ministry of Mining. Although the Court of Appeals of Copiapo granted the regional government's request for interim relief and temporarily suspended the awarded contracts, the regional government eventually withdrew its petition in light of the Chilean Supreme Court's rulings in other cases which ordered the nullification of the awarded lithium mining contracts due to the lack of public consultation with Indigenous peoples living near the salt flats.

These cases highlight the complex array of impacts and competing interests that policymakers must consider in their decision-making. The urgency of phasing out fossil fuel-dependent economies and approving new climate-aligned projects should not marginalise communities. Adopting a human rights-based approach to impact assessment is crucial to implementing inclusive energy transitions with public buy-in and support. Although policymakers may have broad discretion in deciding to approve a project or enact a policy once all considerations have been assessed, transparency and public engagement on the evaluation of such considerations can help to reduce future risk of litigation and community backlash.

**Finance lenders and investors should take account, and support the development, of climate impact assessment frameworks**

Community support and buy-in is also important for project finance lenders and investors. Although none of the cases we reviewed for this report have targeted financial lenders directly (as lenders would likely not be applying for a project's approval), legal challenges to a project can directly increase reputational and legal risk for a project's finance providers. This is particularly

relevant for the financing of emissions-intensive activities or projects: under customary international law, multilateral development banks (MDBs) and financial institutions are under legal obligations to undertake due diligence to prevent harm to the climate system (Lorenzo and Lin, 2025).

While MDBs such as the World Bank and the Asian Development Bank have adopted guidelines to assess projects' climate risks, assessment methodologies must be updated to reflect the "best available science" on climate change (Lorenzo and Lin, 2025). As part of prudent risk management, lenders should ensure that a project's climate-related risks are assessed at an early stage of the impact assessment process, independent of reporting by project proponents. Financial lenders should seek to prioritise the financing of low-carbon alternatives over more emissions-intensive projects (such as fossil fuel projects), in order to comply with emerging and evolving due diligence obligations, and to minimise the risk of litigation being brought against projects receiving financial support (ibid.)

# 4. Conclusion and recommendations

Environmental impact assessment is intended to ensure decision-makers understand a project's environmental effects before approving it. Our analysis has revealed that, in Latin America and the Caribbean and East, South and Southeast Asia, EIA laws are gradually requiring greater consideration of climate impacts; however, integration of climate impacts is still uneven across EIA regimes. About a third of the countries assessed do not clearly require climate impacts to be considered, and many others rely on limited assessments from a narrow range of sectors. This contributes to uneven decision-making regarding whether climate concerns are factored into project approvals.

Where climate change is considered, approaches differ widely in what is assessed and when. Some EIA regimes require emissions inventories and mitigation measures, but many still treat climate as a narrow issue — focusing mainly on a project's direct, Scope 1 emissions, considered at a late stage in the assessment, and rarely assessed cumulatively). Adaptation is also frequently missing: most EIA regimes do not require proponents to assess how emerging and evolving climate hazards (such as extreme heat, floods, droughts or sea-level rise) will affect a project's performance over time. They also do not oblige project proponents to determine what resilience measures a project may require over the course of its operation.

Courts are playing a growing role in filling these gaps and clarifying obligations. Litigation across these regions has been impactful at the project, policy and political levels. In the LAC region, many cases draw on constitutional rights. Most project-level cases target fossil fuel extraction projects, but challenges are spreading to other large-scale infrastructure projects, such as industrial complexes and data centres, in addition to mineral mining projects. In some jurisdictions, courts have clarified where and how climate impacts need to be incorporated — at both the policy and project levels — but many claims fail on procedural grounds, reinforcing the need for clearer laws and guidance. Clarity on how climate change and its impacts are integrated into EIAs can improve decision-making, and reduce legal uncertainty and investment risk. More empirical research documenting the potential impact of EIA-related litigation and investment and asset allocation is also urgently needed.

Our analysis has demonstrated the value of an international global dialogue on climate impact assessment. There is much that lawmakers, regulators and judges can learn from the experience of these two regions, and likewise much that actors in the LAC and ESSEA regions can learn from developments elsewhere.

### Recommendations

We make the following recommendations to support legislators, regulators and relevant public authorities, project proponents, project finance providers and judges in aligning EIA regimes, projects and policies with national and international climate commitments:

- **Legislators** should adopt or amend EIA legislation and implementing regulations to explicitly require the assessment of climate impacts. This should include, at a minimum, obligations to assess a project's greenhouse gas emissions, its contribution to climate change, and its exposure and vulnerability to climate-related risks. Embedding these as binding legal requirements would help to reduce uncertainties and inconsistent applications of standards across projects and sectors. Legislators can look beyond their own jurisdictions to identify best practices which can be tailored to national contexts.
- **Regulators and relevant public authorities** should develop detailed regulations and technical guidance that operationalise climate impact assessment across the EIA process. These methodologies should clarify how significance is determined and how mitigation and monitoring obligations are defined. While aligned with best practice (which can be identified from other jurisdictions), these methodologies should be tailored to national socioeconomic, political and institutional contexts.

  - Regulatory reforms should prioritise sectors with the greatest climate relevance, including fossil fuel and energy production, agriculture, and the industrial and infrastructure sectors.
  - Where appropriate, particularly for fossil fuel extraction and high-emitting industrial projects, this should include Scope 3 emissions. Regulators should consider adopting carbon budget-based or similar cumulative approaches to significance, situating individual projects within national or sectoral decarbonisation pathways.

- **Project proponents** should seek clarity from competent authorities at the scoping stage of the impact assessment process, where climate assessment obligations are ambiguous, and transparently document assessment methodologies, including the treatment of indirect effects and cumulative impacts. This will help proponents to reduce the risk of litigation and potential project delays.
- **Project finance providers** should treat climate impact assessment as a core element of environmental and human rights due diligence and require evidence that EIAs address material emissions and climate risks (including, where relevant, indirect emissions and resilience-building measures). Clear risk mitigation, monitoring and disclosure commitments should be treated as essential conditions of project financing.
- **Judges** who are faced with questions around the interpretation of EIA obligations should interpret EIA legislation considering its purpose: to identify and prevent environmental impacts before they occur. Judges should also consider evolving climate-related due diligence standards (including those from overseas courts), ensuring that decision-makers meaningfully consider foreseeable and potentially significant climate impacts.

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# Appendix 1. Methodological notes

### Jurisdictions covered in this report

In this report, we examine environmental impact assessment (EIA) regimes and EIA-related litigation in 10 of the largest economies in Latin America and the Caribbean (LAC) and 10 of the largest economies in the region comprising East, South and Southeast Asia (ESSEA). We use the World Bank's 2024 gross domestic product data (the most recent available year) to identify the largest economies in both regions, while also ensuring that there is geographic representation across the region (e.g. South Asia within ESSEA). See Table 1.1 for the list of countries examined.

The methodology for Sections 2 and 3 of the report is set out below.

### Section 2: Climate impacts in EIA legal regimes

#### Data collection

We collaborated with the Cyrus R. Vance Center for International Justice (the Vance Center) to identify and engage law firms that would provide pro bono legal research on the EIA regimes set out in Table 1.1. A total of 18 law firms were engaged on a pro bono basis to provide information on a country's EIA regime, with particular emphasis on whether climate impacts are evaluated in the EIA process. To help standardise responses, the authors developed a questionnaire template and distributed it to each of the country offices. See Appendix 2 for the list of questions.

We conducted desk-based research on the EIA regime in the Philippines, as no firm was available to provide pro bono advice for this country. More specifically, we consulted the Philippines' Department of Environmental and Natural Resources website to identify the relevant laws and regulations that establish the Philippines EIA regime and incorporate climate impact assessment. We then conducted an online search and reviewed relevant policy literature to identify relevant documents. Finally, we used ChatGPT and Claude to produce a list of relevant laws, regulations, policies and methodological guidance, to supplement and validate our research. We provided ChatGPT and Claude with technical guidelines on the integration of disaster risk management, an example that had been identified for the Philippines via a Google search and a policy briefing document, and requested that additional documents be identified, briefly summarised, and that a link to each document be provided. All documents identified by these digital tools were reviewed by the authors, who take full responsibility for the content of this report.

We thank the below law firms, as well as two law firms who chose to assist anonymously. Please note that the findings and recommendations in this report do not represent the views of these law firms.

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- Mattos Filho (Brazil)
- Barros & Errázuriz (Chile)
- Orrick (China, Japan, and Singapore)
- Pérez-Llorca, Gómez-Pinzón (Colombia)
- Headrick (Dominican Republic)
- Moller Law (Guatemala)
- Khaitan & Co (India)
- Kartika Rouly (Indonesia)
- Galicia (Mexico)

- Payet Rey Cauvi Pérez (Peru)
- A&O Shearman (South Korea)[8]
- Lee & Li (Taiwan)
- Tilleke & Gibbins (Thailand)
- Baker McKenzie (Venezuela)

### Scope and definitions

We focused on national- or federal-level laws, rules and guidance that have been developed for EIA processes at the project level. Some country offices provided information on strategic EIAs (relating to government plans or policies rather than projects) and on the operation of EIA regimes at the subnational level. As both fall outside the scope of this report, this information was not collected systematically for each country. Jurisdictions may use different terminology across their EIA regimes. For this report, we use 'environmental impact assessment', 'EIA' and 'impact assessment' interchangeably. We also use 'environmental licensing' and 'environmental permitting' interchangeably. Similarly, 'climate effects' and 'climate impacts' are used synonymously.

### Assessment framework

To compare the 20 EIA regimes, we developed a framework to analyse five aspects of each country's regime, considering:

1. Whether there is a mandatory requirement to assess the impacts a project may have on climate change
2. The stage(s) of the EIA process at which these climate change impacts must be evaluated
3. Whether the impact assessment includes consideration of both climate change mitigation and climate change adaptation — e.g. whether in addition to requiring assessment of estimated greenhouse gas emissions the EIA also considers the project's resilience to future flooding
4. Whether the project's greenhouse gas emissions are assessed cumulatively with other existing, approved or planned projects
5. Whether a project's Scope 3 emissions must be quantified as part of the impact assessment.

Findings across the 20 jurisdictions are summarised in Table 2.1.

We then classified each country's EIA regime into one of four categories that indicate the level of integration of climate impact assessment into the EIA regime, adapting Mayembe et al.'s (2023) approach which first categorises integration as 'radical', 'partial' or 'non-integration', before sub-dividing these initial categories into more granular subcategories. As we only examine 20 countries for this report, and the regimes display a wide variety in their levels of integration of climate change impacts into EIA practices, we chose to adapt Mayembe et al.'s higher level categories — 'radical', 'partial' and 'non-integration' — to our own framework, where we discern between moderate and low levels of integration, both of which might fall under Mayembe et al.'s 'partial integration' label. We also adapted the 'radical' category to indicate a high level of integration of climate impact assessment across multiple stages of the EIA process. We provide further explanation of each category in our framework below:

- **High integration:** Assessment of climate change is mandated either directly through legislation and/or operationalised through detailed guidelines issued by competent

[8] Please note that A&O Shearman does not advise on Korean law, and work product was based on publicly available sources.

authorities. This is the smallest group of jurisdictions, with only a few regimes requiring assessment of climate impacts across multiple stages of the EIA process.

- **Moderate integration:** Assessment of climate change is set out in soft-law instruments, such as through guidelines. There is no mandatory requirement in the law to assess climate impacts. The guidelines in these regimes recommend, at a minimum, that proponents assess emissions from the highest emitting sectors (i.e. fossil fuel–related projects). Additional climate considerations may also be considered by proponents at the impact statement or assessment stage, although not at the screening stage.
- **Low integration:** Climate considerations may be mentioned but only apply to a narrow range of sectors, with limited procedural guidance for implementation. Assessment of project emissions is not comprehensive and may only apply to projects from some high-emitting sectors. Adaptation-related measures (and assessing a project's vulnerability to climate change) are not clearly mentioned.
- **Absence of integration:** In these cases, there is no clear requirement to assess climate impacts or even to evaluate greenhouse gas emissions from high-emitting projects. The regime is effectively silent on issues relevant to climate change. In some instances, the judiciary may interpret an existing regime to implicitly include climate impact assessment; nonetheless, we would still categorise this regime as demonstrating an absence of climate impact assessment integration, where no laws, policies or guidelines have been produced that specify where and how climate impact assessment must be taken into account when undertaking an EIA.

In developing the above assessment criteria, we referred to the Institute of Environmental Management and Assessment's (IEMA) 2022 guide on *Assessing Greenhouse Gas Emissions and Evaluating Their Significance*, in addition to more recent guidance provided by the UK's Department for Energy Security and Net Zero on *Assessing Effects of Downstream Scope 3 Emissions on Climate* (IEMA, 2022; DESNZ, 2025). We also drew on existing literature that advocates for holistic integration from the scoping stage onwards (Kørnøv et al., 2020).

## Section 3: Climate impact assessments in litigation

### Data collection

For our initial review of cases relevant to climate impact assessment, we relied on the dataset developed for the Grantham Research Institute's annual *Global Trends in Climate Litigation Snapshot* report. We isolated cases from the 20 jurisdictions in Table 1.1, selecting those that had been classified as 'integrating climate considerations' (or ICC) cases in the 2025 report (Setzer and Higham, 2025). ICC cases are defined as cases that challenge policies and projects over their failure to properly consider or integrate climate-related considerations into decision-making processes. This dataset was last updated on 15 May 2025. See Annex 1 of the *Global Trends in Climate Litigation 2025 Snapshot* report for further detail on the process for case classification. We supplemented this list of cases with a review of those identified by the law firms described above. Two cases met our case selection criteria and were added to our dataset.

Since the relaunch of the Sabin Center's Climate Change Litigation Database in September 2025 with Climate Policy Radar, the interface of the database is now underpinned by large language models that auto-identify search terms at the passage level in case documents (see further detail on the database's FAQ page). We relied on this to update our dataset with cases that have been added since May 2025, and to identify cases that may be relevant to this report but have not been classified as ICC cases by Setzer and Higham (2025). This entailed searching for key search terms ('environmental impact assessment', 'EIA', 'impact study', 'indirect emissions' and 'scope 3') and manually reviewing the cases that were identified through the search function to determine whether they met the relevance criteria for our report. We conducted these searches at the end of November 2025 and identified 13 additional cases for our dataset.

We also conducted a manual review of new cases filed in these 20 jurisdictions at the beginning of February 2025. Of the countries examined for this report, Brazil is particularly prolific with over 350 cases recorded in the database as of the end of February 2025.[9] We cross-checked the set of Brazilian cases we identified using the Sabin Center's Climate Change Litigation Database with cases available on the Brazilian Climate Litigation Platform, a database developed by the Research Group on Law, Environment and Justice in the Anthropocene (JUMA) based out of the Pontifical Catholic University of Rio de Janeiro (PUC-Rio). During the peer review process for this report, a case in the Philippines was brought to our attention by a reviewer which fell within the scope of our case selection criteria and we have included this case in our dataset.

### Scope and definitions

In defining climate change litigation, we adhere to the definition that is widely used in the policy and academic literature (see the *Global Trends in Climate Litigation Snapshot* report series) and by the Sabin Center for Climate Change Law's Climate Change Litigation Database. This defines climate litigation as cases brought before judicial and quasi-judicial bodies where climate change law, policy or science is a material issue in the case. We refer to climate change litigation as 'climate litigation' and 'climate cases' interchangeably throughout this report.

We only include climate change litigation cases that have sought to challenge projects on the basis that climate change factors were not properly considered when approving the project. To fall within the scope of our analysis, in most instances, applicants will explicitly bring arguments challenging the lack of consideration for climate change impacts (arguing, for example, that an environmental impact assessment is deficient due to the lack or improper consideration of climate change factors, such as a project's greenhouse gas emissions). However, we also include cases where the courts determine that climate change is a material factor that must be incorporated and considered in an EIA, even if the applicants have not brought the case on climate impact assessment-related grounds.

We do not include cases where only a passing reference to an impact assessment or study is made (e.g. as part of the factual overview in the case, where passages of a law or regulation are being outlined). The impact assessment must be a material aspect of the applicants' arguments, although it should be noted that most challenges to impact assessments are brought on multiple grounds (e.g. an applicant may challenge the sufficiency of the evaluation of a project's climate impacts *and* its insufficient public consultation).

In line with our scope in Section 2 on EIA regimes, our analysis on EIA-related litigation is focused on project-level cases. However, in our discussion, we also refer to cases that have sought to challenge laws and regulations over their alleged deregulatory impacts on environmental licensing regimes. We define these cases as policy-level challenges, as the case is brought to challenge the effects of a government plan or policy, rather than a project. While these cases relate primarily to rules and regulations around strategic environmental assessment in a country, we briefly discuss policy-level cases in Section 3, given the important impacts these legal challenges can have on reforming the country's overall EIA regime and approach to climate impact assessment. This is not intended to provide a comprehensive dataset of all strategic environmental assessment-related litigation.

In Appendix 5, where we list all EIA-related litigation identified in our dataset, we also provide a list of policy cases, which we have classified as either (a) a case relating to an EIA deregulation effort; (b) a challenge to a policy over its deficient consideration of climate impacts; or (c) a case that seeks to enforce an existing law or regulation on EIA, as it relates to climate change impacts.

[9] Note that a duplicate entry in the Brazilian data available on the Climate Litigation Database was identified. As such, while the database records a total number of 358 cases, we use 357 as the total number of cases. At the time of publication, *Instituto Internacional Arayara v. IBAMA and others* also appears on the Climate Litigation Database as *Arayara International Institute v. IBAMA and others*.

# Appendix 2. Memo template

We provided country offices with a list of questions to assist in the structuring of their legal memos on their jurisdiction's EIA regime, assessment of climate impacts and inclusion of relevant laws, policies, guidelines and litigation cases.

- Is an EIA mandated by your country's laws? If so, please provide a basic summary of the EIA process.
  - This section should include the primary piece(s) of legislation that set out these requirements.
  - If the country is a federation, please outline the kinds of projects that are assessed at the federal and subnational levels.
- Are climate change impacts mandatory considerations under your jurisdiction's EIA laws?
  - If so, are these considerations mandated by statute or regulation?
  - Has a regulatory body issued technical guidance to facilitate the assessment of these potential impacts?
  - Have any cases been brought before the courts that relate to the assessment of climate impacts under EIA laws?
- If climate impacts are a mandatory EIA consideration, please supply a description of any methodology set forth in your jurisdiction's EIA laws (or statutes, regulations or jurisprudence) regarding how climate impacts should be considered and accounted for.
  - Please include a link to each methodology referred to in this section.

In an Appendix to the memorandum, please include the following:

- Please list all EIA-relevant legislation referred to in the memorandum, including:
  - The title of the legislation
  - A short summary of the legislation
  - A link to the original source document.
- Please list all EIA-relevant litigation referred to in the memorandum, including:
  - The case name and parties involved
  - A short summary of the case
  - Links to the case documents.

# Appendix 3. Outline of the EIA process

EIAs typically involve several stages of assessment:

### Screening

In an initial screening stage, proposed projects are evaluated to determine whether they require a full EIA (and, where there are different levels of impact assessment, which type of assessment needs to be undertaken). In many systems, projects deemed to have minimal environmental impact are excluded from further review. In the context of EIA regimes that consider climate impacts, at the screening stage, projects of a certain size from high-emitting sectors (such as a proposed oil and gas project) may automatically qualify for further assessment and review before a decision is made on whether to grant approval for the project.

### Scoping

At the scoping stage, the impacts that must be evaluated are identified, including relevant climate impacts.

### Impact study

At the impact assessment study stage, project proponents may have to submit an inventory of greenhouses gases that are likely to be emitted by the project over its lifetime and identify measures to reduce or offset the emissions. In many countries, proposed projects may be evaluated against potential alternatives. Although adaptation-related impacts are generally an under-evaluated area of assessment, professional bodies such as the International Association for Impact Assessment (IAIA) and Institute of Environmental Management and Assessment (IEMA) have produced guidance on how to connect impact assessment with the evaluation of physical risks and proposal of resilience-building measures by proponents (Byer et al., 2018; Mayembe et al., 2023).

### Review and decision

Once the study is prepared, it is submitted and reviewed by the relevant competent authority. The public may also be invited to submit written comments on the study or attend public meetings. Under some EIA regimes, based on the study and its review, an independent agency may make a formal recommendation as to whether the project should be approved (and if there are additional considerations or requirements which should be attached to the approval).

The competent authority will then decide whether to grant approval for the project. Although such authorities may be required to take the final EIA into account, the authority will usually be permitted to come to its own independent conclusion. EIAs are typically procedural documents, designed to inform effective decision-making, but not to automatically determine the project decision. Generally, this decision must also be made available to the public.

### Monitoring and compliance

If a project is approved and moves forward, a monitoring stage ensues, in which the proponent's compliance with the decision, and any ongoing environmental impacts, will be observed. If the proponent falls out of compliance, in theory, an enforcement action may be brought — but this depends on the existence of effective and well-resourced monitoring capable of detecting and substantiating violations.

# Appendix 4. Relevant laws and guidelines

The laws, regulations and guidelines that were identified by firms in response to the questions listed in Appendix 2 and which were relevant for the analysis in Section 2 are listed below.

We do not include any documents for countries where climate impact assessment is absent at the project level. As such, no documents are included in this Appendix for the following countries: Bangladesh, Ecuador, Guatemala, India, Indonesia, Singapore, Thailand and Venezuela.

We also do not include subnational level documents in this Appendix, as these fall outside the scope of this report.

**Argentina:**

1. Law No. 25.675 Argentine General Environmental Law
2. Resolution No. 23/2023 by the Secretariat of Climate Change, Sustainable Development and Innovation

**Brazil:**

1. CONAMA Resolution No. 001/1986
2. IBAMA Normative Instruction No. 12/2010

**Chile:**

1. Law No. 19.300 on General Bases of the Environment
2. Supreme Decree No. 40, of the Chilean Ministry of Environment
3. Framework Law on Climate Change (Law No. 21.455)
4. Methodological Guide for the Estimation and Reporting of Greenhouse Gases and Short-Lived Climate Forcers
5. Methodological Guide for the Consideration of Climate Change in the Environmental Impact Assessment System

**China:**

1. Notice on Carrying Out Pilot Carbon Emission Environmental Impact Assessments for Key Industry Construction Projects
2. Technical Guidelines for Greenhouse Gas Emission Environmental Impact Assessment of Construction Projects in the Fossil Fuel Power Generation Sector
3. Technical Guidelines for Carrying Out Pilot Carbon Emission Environment Impact Assessment for Construction Projects in Key Sectors
4. National Standards GB/T 32150 'General Guideline of the Greenhouse Gas Emissions Accounting and Reporting for Industrial Enterprises'
5. Notice of the General Office of the National Development and Reform Commission on the Issuance of the Accounting Methodologies and Reporting Guidelines for Greenhouse Gas Emissions by Enterprises in the Ten Sectors of the First Batch
6. Notice of the General Office of the National Development and Reform Commission on the Issuance of the Accounting Methodologies and Reporting Guidelines for Greenhouse Gas Emissions by Enterprises in the Four Sectors of the Second Batch
7. Notice of the General Office of the National Development and Reform Commission on the Issuance of the Accounting Methodologies and Reporting Guidelines for Greenhouse Gas Emissions by Enterprises in the Ten Sectors of the Third Batch

**Colombia:**

1. Resolution 1402 of 2018
2. Law 1931 of 2018 Establishing Guidelines for the Management of Climate Change
3. Law 2169 of 2021 Promoting Low-carbon Development
4. Law 2387 of 2024
5. Explanatory Memorandum for the Preparation and Presentation of Environmental Studies
6. Draft Resolution Adopting the General Methodology for the Preparation and Presentation of Environmental Studies and Other Determinations

**Dominican Republic:**

1. Law No. 64-00 General Law on the Environment and Natural Resources
2. Resolution No. 0025-2024, amending the regulations governing the environmental assessment process and its annexes
3. Methodological guide for incorporating climate change adaptation considerations into the environmental impact assessment (EIA) process in the Dominican Republic

**Japan:**

1. Environmental Impact Assessment Act
2. Order for Enforcement of the Environmental Impact Assessment Act
3. Rule for Enforcement of the Environmental Impact Assessment Act
4. Key matters relating to the guidelines to be established by the competent minister in accordance with the provisions of the Environmental Impact Assessment Act (Public Notification No. 63 of 2012)

**Mexico:**

1. General Law of Ecological Balance and Environmental Protection
2. Regulations on Environmental Impact Assessment
3. Guide for preparing the Regional Environmental Impact Statement

**Peru:**

1. Law No. 27446, Law of the National System of Environmental Impact Assessment
2. Supreme Decree No. 019-2009-MINAM, Regulation of Law No. 27446, Law of the National System of Environmental Impact Assessment
3. Resolution No. 089-2017-SENACE/J approving the guidelines for the incorporation of adaptation to climate change within the detailed environmental impact study
4. Ministerial Resolution No. 00078-2025-MINAM on publication of the draft 'Guidelines for the identification and incorporation of adaptation and mitigation measures to climate change in investment projects subject to the National Environmental Impact Assessment System'
5. Ministerial Resolution No. 00100-2025-MINAM on publication of the draft 'Guide for the description of investment projects within the framework of the National Environmental Impact Assessment System'

**Philippines:**

1. Technical Guidelines Incorporating Disaster Risk Reduction and Climate Change Adaptation Concerns Under the Philippine Environmental Impact Statement System
2. DENR Administrative Order 2025-20: Guidelines for securing environmental compliance certificate under the Philippines Environmental Impact Statement System for Floating Photovoltaic Projects

**South Korea:**

1. Environmental Impact Assessment Act (EIAA), Act No. 4717 (1994), as amended
2. Enforcement Decree of the Environmental Impact Assessment Act
3. Carbon Neutral Green Growth Framework Act to Tackle the Climate Crisis
4. Enforcement Decree of the Framework Act on Carbon Neutrality and Green Growth for Coping with Climate Crisis

**Taiwan:**

1. Climate Change Response Act
2. Voluntary Greenhouse Gas Offset Project Management Measures

# Appendix 5. Cases by jurisdiction

The cases identified for the analysis in Section 3 are as follows:

**Project-level cases:**

Argentina:

1. FOMEA v. MSU S.A., Rio Energy S.A., & General Electric
2. Hahn et al. v. APR Energy S.R.L (Juvevir Asociación Civil v. APR Energy and Araucaria Energy)
3. Carballo et al. v. MSU S.A., UGEN S.A., & General Electric
4. Carballo et al. v. State of the Province of Buenos Aires and the Provincial Agency for Sustainable Development
5. OAAA v. Araucaria Energy SA
6. Organización de Ambientalistas Organizados v. Ministry of Environment and Sustainable Development
7. Guillermo Tristan Montenegro v. Ministry of Environment and Sustainable Development
8. Greenpeace Argentina et al. v. Argentina et al.
9. Municipality of Yala c/ Guerrero C. y Echeverría M.
10. Godoy, Ruben Oscar c/ Estado Nacional s/ amparo ambiental (Juzgado Federal de Mar del Plata 2 (Argentina), No. 58/2022, 11 February 2022)
11. FARN v. Ministry of the Environment and Sustainable Development

Brazil:

1. Arayara Association of Education and Culture & Others v. FUNAI, Copelmi Mineração Ltda. and FEPAM (Mina Guaíba Project and affected indigenous communities)
2. Instituto Internacional Arayara and Fishermen's Colony Z-5 v. Copelmi Mineração Ltda. and FEPAM (Mina Guaíba Project and affected communities)
3. Arayara Association of Education and Culture v. Copelmi Mineração Ltda. and FEPAM (Guaíba Mine Project and hydrological risks)
4. Instituto Preservar et al. v. Copelmi Mineração Ltda. and IBAMA
5. Associação SOS Amazônia and other v. Federal Union and others (BR-364 Road Environmental Licensing)
6. Instituto Internacional Arayara v. IBAMA and others
7. Federal Public Prosecutor's Office (MPF) v. INEA and Karpowership Brasil Energia Ltda.
8. Instituto Verdeluz and others v. Portocem Geração de Energia S.A. and SEMACE
9. Duda Salabert Rosa v. Minas Gerais State and Taquaril Mineração S.A.
10. Observatório do Clima v. IBAMA and the National Department of Infrastructure and Transportation (Licensing of Highway BR-319)
11. Instituto Arayara v. Copel, Instituto Água e Terra and others (UTE Figueira)
12. Federal Public Prosecutor's Office v. State of Pará and Municipality of Santarém (Tapajós – Xingu Logistics Corridor)

13. Federal Public Prosecutor's Office v. Federal Government, ANP, and IBAMA (Auction of the 5th Cycle of Permanent Offering and blocks in the Amazon River mouth)
14. Instituto Arayara v. Adasa and Termo Norte Energia Ltda (Water Resource Concessions and Installation of a Thermal Power Plant)
15. Observatório do Clima e outros v. IBAMA, Petrobras e União Federal (Revocation of the Operating License for drilling at the mouth of the Amazon River)
16. Ministério Público Federal v. IBAMA e Petrobras (Suspension of the licence for the Pre-Operational Assessment in the Amazon River mouth area)
17. Defensoria Pública do Estado do Pará v. Estado do Pará, Instituto de Desenvolvimento Florestal e da Biodiversidade do Estado do Pará (IDEFLOR-BIO) e Terra Meio Ambiente (COP Road)
18. Ministério Público Federal v. J Filgueiras Empreendimentos e Negócios LTDA, Município de Paraty, Instituto do Patrimônio Histórico e Artístico Nacional, Estado do Rio de Janeiro (Licensing of the Emiliano SPA Hotel)
19. Arayara Institute vs. Âmbar Sul Energia S.A., ANEEL and Federal Union (UTE Candiota III)

**Chile:**

1. Jara Alarcon Luis v. Environmental Assessment Service
2. Grez et al. v. Environmental Evaluation Service of Chile
3. Municipality of Cerrillos (Google Data Center) v. Evaluation Commission of the Metropolitan Region
4. Women from Huasco and Others v. the Government of Chile, Ministry of Energy, Environment and Health
5. Mejillones Tourist Service Association and others with the Environmental Evaluation Service (SEA) of Antofagasta
6. Astorga and Others v. Environmental Assessment Service (SEA)
7. Modatima et al. v. Environmental Assessment Agency (SEA)
8. State Defense Council v. Quiborax S.A.

**Colombia:**

1. Combeima River case of September 14, 2020
2. Decision SU-698/17 of November 28, 2017
3. Wayúu Indigenous community & others v. Ministry of Environment & others
4. Citizens and NGOs v. Ministry of Environment and Sustainable Development and Ministry of Mines and Energy

**Dominican Republic:**

1. Constitutional Court Ruling TC/0400/17

**India:**

1. Sukhdev Vihar Welfare Residents Association v. Union of India
2. In re Court on its own motion v. State of Himachal Pradesh and others
3. Hanuman Laxman Aroskar v. Union of India

Indonesia:

1. Greenpeace Indonesia and Others v. Bali Provincial Governor

Japan:

1. Sendai Citizens v. Sendai Power Station
2. Citizens' Committee on the Kobe Coal-Fired Power Plant v. Kobe Steel Ltd., et al.
3. Citizens' Committee on the Kobe Coal-Fired Power Plant v. Japan
4. Market Forces v. SMBC, MUFG and Mizuho
5. Yokosuka Climate Case

Philippines:

1. Petition for Writ of Kalikasan (279512)

South Korea:

1. Yeon-Tae Kim et al. v. Minister of Land, Infrastructure and Transport
2. Kang et al. v. KSURE and KEXIM
3. Kim et al. v. Minister of Land, Infrastructure and Transport

Thailand:

1. Residents of Omkoi v. Expert Committee on EIA Consideration and the Office of Natural Resources and Environmental Policy and Planning

**Policy-level cases**

Brazil:

1. Instituto Preservar, AGAPAN and Núcleo Amigos da Terra vs. Federal Union and others (Climate emergency in Rio Grande do Sul state) *This case has elements of a project-level case as well but has been classified as a policy-level case, given its overarching nature.
2. Public Ministry of the State of Rio Grande do Sul v. State of Rio Grande do Sul and FEPAM (Carbochemical Complex) *This case has elements of a project-level case as well but has been classified as a policy-level case, given its overarching nature.
3. Federal Public Prosecutor's Office v. State of São Paulo, CETESB and IBAMA (Burning of Sugarcane Straw)
4. Prosecutor's Office of the State of Goiás v. State of Goiás (State public policy on air quality control)
5. State ADI 0007238-31.2021.8.21.7000 (Eldorado do Sul Master Plan)
6. State ADI 0804739-62.2021.8.22.0000 (Jaci-Paranà Extractive Reserve and Guajarà-Mirim State Park)
7. Federal District and Territories Public Prosecutor's Office v. Federal District and IBRAM (Omission in implementation of the District's Climate Change Policy)
8. Ministério Público do Estado do Pará v. Estado do Pará (Landfills and Climate Impact Assessment in Pará)

Chile:

1. Regional Government of Atacama v. Ministry of Mining and Other

**Colombia:**

1. Decision C-298/16 of June 8, 2016
2. Challenging Environmental Impact Assessment law for failing to consider climate change

**India:**

1. Society for Protection of Environment & Biodiversity v. Union of India
2. Ridhima Pandey v. Union of India

**Indonesia:**

1. Indonesian Youths and others v. Indonesia