Global trends in climate change litigation: 2026 snapshot

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Foreword

Chiara Zilioli,
Chair of the NGFS Experts' Network on Legal Issues and Director General Legal Services, European Central Bank

Climate change litigation has rapidly emerged as a pivotal element in shaping the global climate governance landscape.

Once again, the *Global trends in climate change litigation* report offers a comprehensive analysis of the growth, scope and implications of climate – and nature – cases worldwide. It reflects meticulous research, robust data and clear insights and guidance, making it a cornerstone for policymakers and legal practitioners navigating the complexities of climate- and nature-related risk.

This annual publication has become a must-read for the general counsels of central banks, supervisors and financial institutions. Indeed, the Experts' Network on Legal Issues, established by Network for Greening the Financial System (NGFS), has benefitted enormously from the work of the Grantham Research Institute. It is with the benefit of those insights that the NGFS has been able to monitor, assess and publish reports on how climate and nature-related litigation is impacting the financial sector. This has, in turn, enabled policymakers to develop tools and guidance for banks and their supervisors, to ensure climate- and nature-related litigation risk is adequately accounted for in prudential supervision.

This year's report is no different: it flags continuing litigation trends against a wide range of companies, including those in the financial sector. In particular, it highlights that a wide range of financial institutions are facing materialising climate litigation risk and closer regulatory scrutiny. From banks to pension funds, from insurers to asset managers, financial institutions are increasingly at the centre of climate litigation – whether as defendants or claimants, and whether they are directly or indirectly exposed to the impacts and financial losses associated with climate litigation.

The report is an indispensable tool for any institution or scholar who monitors the trends and strives to provide concrete guidance for the inclusion of this kind of risk in the activities of banks, insurers, supervisors and companies themselves.

Foreword

Rafaela Santos Martins da Rosa,
Brazilian Federal Judge

The *Global trends in climate change litigation: 2026 snapshot* is an essential source for understanding the current stage of development in climate litigation worldwide.

This year's report – the ninth in the series – helps us understand the contours of complexity that characterise the field of climate litigation. The report successfully targets a broad and diverse audience of stakeholders. However, instead of offering ready-made answers about expected developments in litigation, it encourages readers to reflect on the evolution of litigation and what this may mean for what comes next, including further obstacles that may arise. The report thus stimulates an indispensable debate about the future of climate litigation.

For judges in particular, the report supports a fundamental understanding of how climate litigation is maturing through continuous dialogue between national and international courts. It also highlights how the decisions in each case are deeply embedded in a constantly developing global process.

As a counterpoint to the speed with which – as the science reveals – the climate crisis is worsening, the report demonstrates the remarkable ability of judges to understand complex transformations and their willingness to assimilate scientific data and consequently reinterpret applicable law. The report reinforces a triad of recent advisory opinions related to climate change as a powerful testament to the vitality of judicial institutions for legal developments that are now essential.

Furthermore, by exemplifying the initiative of the Brazilian justice administration to develop a methodology for calculating climate damages, the report also draws attention to the importance of institutional support from the judiciary itself to back the actions of its judges.

Understanding the content of the report is vital for all those who work in climate litigation, to grasp that we are facing a definitively paradoxical moment. Never have climate obligations been articulated with such force by courts, never has litigation been so close to holding corporations accountable for their contributions to climate damages, never have the forces opposed to the implementation of climate obligations been so challenging – and never has the outcome of the next chapter in climate litigation seemed so difficult to predict. Certainly, a deep understanding of all these nuances can serve as a compass to ensure that the law and the courts can continue to provide fair and effective answers.

I congratulate the authors for presenting this deeply insightful overview of climate litigation around the world and encourage everyone to read it!

Key insights

More than 3,600 climate cases have now been filed in courts across 62 countries.

- In 2025, 249 new climate cases were filed, bringing the total since 1986 to more than 3,600 cases across 62 countries, up from just 17 countries a decade ago. Over three quarters of these cases have been filed since 2015, the year of the Paris Agreement.
- Cases continue to be filed in new locations, with first filings recorded in 2025 in Grenada, Guatemala, Kazakhstan, Malaysia, Singapore and Zambia.
- The United States remains the jurisdiction with the highest number of cases: 151 new cases were recorded in 2025, bringing the total to 2,078.
- As of the end of 2025 the other jurisdictions with the highest number of cases filed over time are: Brazil (354 cases), Australia (193 cases), the United Kingdom (156 cases) and Germany (121 cases).

This year's *Global trends in climate change litigation* report explores developments in the field through five themes: maturity; expansion and innovation; pushback; complexity; and implementation and impacts.

1. A maturing field

State obligations to act on climate change are increasingly being consolidated as a matter of legal duty, not merely political choice. This is observed in:

- A growing number of decisions made by 'apex courts': that is, the highest courts in their respective jurisdictions. We identify 215 cases filed against governments since 2015 that have reached an apex court. More than half of these cases can be understood to have positive outcomes for climate action.
- Three recent advisory opinions from the International Tribunal on the Law of the Sea (ITLOS), the Inter-American Court of Human Rights (IACtHR), and the International Court of Justice (ICJ).
- A self-reinforcing cycle of climate litigation operating across domestic, regional and international courts. In this cycle, domestic litigation seeds the development of regional and international jurisprudence, which then nourishes a new generation of domestic cases.

Corporate climate cases are crossing significant admissibility thresholds.

- Courts have started to show themselves willing to consider on the merits both *systemic polluter pays* cases (seeking damages from companies for contributing to global climate change impacts) and *corporate framework* cases (seeking to prevent companies from continuing with high-emitting activities). However, to date, none of these cases has resulted in an order requiring behaviour change or the payment of damages.
- *Government framework* cases are influencing *corporate framework* cases: claimants cited *government framework* cases in more than 70% of the 25 *corporate framework* cases examined; where decisions have been issued, citations of *government framework* cases were identified in at least 50% of the relevant documents.

These developments are underpinned by evolving science.

- Courts are increasingly encountering better-constructed causal chains – evidentiary foundations that link emissions to climate change to harm suffered by claimants – and more targeted use of attribution evidence. This development is directly relevant to the admissibility of both *systemic polluter pays* and *corporate framework* cases.

Climate-washing enforcement is maturing, with a shift in focus.

- *Climate-washing* cases, which challenge inaccurate government or corporate narratives about the low-carbon transition, are the most common type of case involving corporate actors. More than 65% of all *climate-washing* cases decided over time have been resolved in the claimants' favour.
- However, the pace of new filings of this kind is slowing, and claimants appear to be shifting their focus towards cases addressing total inaction.

2. Expansion and innovation

The circle of actors involved in climate litigation is widening.

- More than 50 strategic climate-aligned cases were filed against companies in 2025, spanning energy, finance, transport, real estate and consumer goods. This brings the total to 434 cases since 2015.
- State-owned enterprises and financial institutions, including multilateral institutions, are defendants in at least 42 of these cases.

On the claimant side, new actors are entering the field in ways that were not characteristic of earlier climate litigation.

- The first cases of insurance companies seeking to recover financial losses linked to climate change from governments through subrogation claims have emerged. Subrogation is a legal mechanism that allows an insurer to step into the shoes of an insured and bring a claim to recover costs from a third party. The cases so far filed in South Africa may have detrimental consequences for climate justice.

- Shareholder derivative actions are being filed in the aftermath of extreme weather events, combining *failure to adapt* arguments with *transition risk* arguments.
- Governmental and quasi-governmental actors are also bringing new types of cases to enforce climate standards across a range of economic activities.

New methodologies are consolidating the evidentiary foundations for damages claims.

- Since 2015, there have been more than 249 cases brought seeking compensation for damage to the climate system from activities such as illegal deforestation. These are termed *incidental polluter pays* cases. Brazil has the largest concentration of such cases. The Brazilian judiciary formally adopted judicial standards aimed at quantifying climate damage in financial terms, and these have started to be applied in cases in 2025.
- The causal chain connecting financial flows to financed emissions is becoming easier to establish, as methodologies mature.

Further climate litigation cases may emerge in three areas.

- Emerging new areas in the climate litigation landscape to watch are: litigation relating to carbon dioxide removal and storage infrastructure; emissions related to powering large data centres and the resultant climate impacts; and the connection between climate change and other environmental problems, such as plastic pollution.

3. Pushback

The pushback against climate action and climate litigation is now operating simultaneously through litigation, legislation and regulatory rollback.

- The current moment is marked by the increasing scale, coordination and institutional depth of opposition to climate action. Around 12% of cases filed in 2025 can be understood as examples of anti-climate litigation. The pattern is clearest and best documented in the US.

Strategic lawsuits against public participation (SLAPPs) and new legislative interventions are shrinking the civic and judicial space in which climate advocates operate.

- Climate activists target jurisdictions with anti-SLAPP protections. Conversely, SLAPP cases linked to the fossil fuel industry are overwhelmingly filed in jurisdictions without these protections.
- New forms of legislative intervention are targeting climate litigation directly. In the US, the *Stop the Climate Shakedowns Act (2026)* seeks to prevent ongoing climate cases against companies from continuing and to block state efforts to make high-emitting companies responsible for contributing to adaptation costs. In New Zealand, the government has announced plans to introduce legislation to shield companies from climate liability. In Germany, similar legislation has been proposed by Bavaria.

The pushback has generated a substantial and growing countervailing wave of protective climate litigation.

- Cases brought to resist regulatory rollbacks, funding freezes and the dismantling of existing climate rules now constitute around 20% of climate cases filed in the US in 2025. While protective climate litigation is not new, its current scale is without precedent. This growth in protective cases is also visible in other parts of the world.

4. Complexity

Non-climate-aligned cases reflect the complex trade-offs of the implementation phase of the energy transition.

- *Just transition* and *green v. green* litigation continues to grow. These are cases that raise questions over the justice and fairness of climate action, and those that challenge climate policy measures for their alleged impacts on other aspects of the environment. Cases brought by workers, Indigenous Peoples and frontline communities challenging how the transition is implemented are producing judicial responses that sometimes place climate action and community rights in direct tension.
- In the past year, there have also been cases that demonstrate tensions in the implementation of climate adaptation measures, highlighting potential adaptation–mitigation trade-offs.

5. Implementation and impacts

Climate-aligned judgments do not automatically translate into policy change.

- Analysis of *Finch v. Surrey County Council* reveals the challenge of charting both the anticipated impacts and unintended consequences of positive judicial decisions.
- Case studies from South Korea and New York State illustrate how implementing climate judgments requires sustained political will and legal follow-through that cannot be assumed in the current political environment.

Introduction

This is the ninth edition in the Grantham Research Institute's annual *Global trends in climate change litigation* snapshot series. Each report provides a synthesis of the latest developments and research in the climate change litigation field.[1]

By combining legal analysis with a socio-legal lens, the series provides readers with both the foundational knowledge and the updated understanding needed to assess the impact that fast-moving legal developments may have on the climate governance landscape.

The numerical analysis in this 2026 report focuses primarily on cases filed and decided in the 2025 calendar year; we also provide commentary on significant developments in cases from the first five months of 2026.

[1] Previous reports can be accessed at www.lse.ac.uk/granthaminstitute/litigation

This year's *Global trends in climate litigation report* takes a different approach to its predecessors. Rather than being organised around the categories of case and legal strategy, the 2026 report has explored developments in the climate litigation field through five themes that emerged as the most analytically productive:

- The continued **maturation** of the field as a recognised dimension of global climate governance
- Its ongoing **expansion and innovation** across new locations, actors and legal theories
- The scale and coordination of the **pushback** now underway against both climate action, in general, and climate litigation specifically, and the new dimension of protective litigation that has emerged in response
- The growing **complexity** of a field increasingly enmeshed in the politics and trade-offs involved in the implementation of climate policy responses
- The current state of knowledge about the **implementation and impacts** of climate litigation in the real world.

These five themes are not a departure from the annual case-by-case analysis that has been the hallmark of this series. Instead, they provide a thread that makes it easier to see the field as a whole, rather than as a collection of individual legal developments.

Defining climate change litigation

In this report series, we define climate change litigation as cases brought before judicial and quasi-judicial bodies that involve material issues of climate change science, policy or law. This is the definition that the Sabin Center uses in defining which cases to include in its Climate Litigation Database, which we take as the primary basis for our analysis (see Box A). It is intentionally narrow in substance but broad on process.

Box A

Data sources

The primary source of data for this report is the Climate Litigation database maintained by the Sabin Center for Climate Change Law (see further Annex 1). In the past year, the database has undergone a significant evolution. It has been upgraded through a partnership with Climate Policy Radar and now uses machine learning and natural language processing to improve search and analysis. It consolidates the Sabin Center's previously separate US and Global databases. As explained further in Annex 2, the analysis for this year's report has been enhanced by the new tools in the database.

The Sabin Center's data is the most comprehensive source on developments in global climate litigation. However, other resources have emerged in recent years. These include:

- National databases: for Brazil, maintained by the Research Group on Law, Environment and Justice in the Anthropocene (JUMA) at the Pontifical Catholic University of Rio de Janeiro (PUC-Rio) and Germany, maintained by the Cluster of Excellence on Climate, Climatic Change and Society (CLICCS) at the University of Hamburg
- Regional databases: for Australia, maintained by Melbourne Climate Futures, and the Caribbean and Latin America, maintained by AIDA Americas.

They also include thematic databases such as:

- CLX Casebook, maintained by the Climate Law Accelerator at New York University
- Climate Rights Database, maintained by the University of Zurich
- Just Transition Litigation Tracking Tool, maintained by the Business and Human Rights Centre
- Climate Mobility Case Database, maintained by the Global Strategic Litigation Council
- Youth Climate Justice Case Law Database, maintained by University College Cork
- Youth Climate Lawsuits Database, maintained by ClimaTalk.

The qualitative analysis for the report draws from all the sources named above. Where there are sufficient methodological similarities to enable swift integration of different datasets, we have also included data from some of these sources in our quantitative analysis (see Annex 1).

Finally, we also used field-specific media sources such as Climate Court and The Wave, as well as conventional media and academic research, to cross check critical developments occurring within the period of this study with the data in the Climate Litigation Database. All relevant updates are notified to the Sabin Center; however, there may be minor variations in the numbers between the online database and this report as updates are processed.

This definition we employ focuses specifically on cases where climate change is a material issue, while casting the net wide on the types of proceedings considered. It encompasses not only court proceedings, but also regulatory complaints, enforcement actions and communications to international bodies. This dual approach allows a clear line to be drawn around the body of cases most directly concerned with climate change, while enabling us to explore the full range of legal tools being deployed to advance different types of climate-related agendas. The definition encompasses cases that can be understood as 'pro-climate' and those that can be understood as 'anti-climate' or 'non-climate-aligned' (see Box B).

However, as climate change becomes a relevant consideration in ever more areas of law, determining when it is a material issue in a case is challenging for researchers. Historically, the emphasis on the centrality and materiality of climate issues may have skewed data collection towards mitigation-focused cases from the Global North, meaning that important cases relating to adapting to climate risks and impacts in the Global South may have been missed (Peel and Lin, 2019; Field, 2024; Lin and Peel, 2024; Murcott and Tigre, 2024). Coverage of climate litigation cases in the Global South has significantly expanded since the

foundation of the Sabin Center's Global Peer Review Network of Climate Litigation, but there are still challenges in identifying relevant cases.

Similarly, cases brought on other environmental grounds, which could nonetheless have a significant impact on emissions, fall outside the definition unless climate change is explicitly referenced (Hilson, 2010). For example, a challenge to a new coal mine or airport brought on air pollution or noise grounds, or a trade complaint such as an anti-dumping case with implications for the competitiveness of fossil fuel industries, could have a material effect on a country's emissions profile without ever invoking arguments around climate change.

Ultimately, a more expansive definition of climate law results in the understanding that *all* law is in some sense climate law, given the range of human activities that contribute to climate change or are affected by it (Furger et al., 2026). As litigation continues to mature and intersect with an ever-wider range of legal fields, the boundary of what constitutes a climate case will become increasingly difficult to draw, and this will be increasingly consequential for how we understand the full reach of climate-related legal action.

Box B

Key terms: how we classify climate litigation

Pro-climate or climate-aligned litigation: cases that appear, from the complaint and any campaign material, to be requesting relief that would align with climate action goals and judicial, quasi-judicial or administrative outcomes that support climate goals – in other words, fostering resilience to climate impacts or reducing greenhouse gas emissions. These cases are also referred to elsewhere in the literature as 'pro-regulatory'. Determining whether a case or a decision is pro-climate is not always straightforward, given the variety of views about the best way to achieve climate adaptation and mitigation.

Protective climate litigation: a sub-category of pro-climate litigation comprising cases brought specifically to resist regulatory rollback and preserve hard-won legal gains.

Anti-climate litigation: cases brought with the apparent intention of preventing, delaying or rolling back climate action. In the past, these cases have also been referred to as 'anti-regulatory' litigation. These cases are distinguishable from 'non-climate-aligned' cases (see below) by the apparent motivation of those bringing them: anti-climate cases appear to be driven by opposition to climate action itself.

Non-climate-aligned litigation: cases that are not straightforwardly pro- or anti-climate, but challenge the way in which climate action is being designed or implemented, rather than opposing the need for such action. They are often a response to practices that are not aligned with the protection of the human right to a healthy environment and a stable climate. They include *'just transition litigation'* – typically, cases brought by workers, communities and Indigenous Peoples who bear disproportionate burdens of the low-carbon transition – and *'green v. green'* cases, which challenge climate policies or projects on the grounds of their impacts on other environmental values, particularly biodiversity.[2]

Strategic litigation: litigation where the claimant seeks to both win the individual case and influence the broader public debate or change the behaviour of a targeted group of actors in relation to climate action. This classification turns on three factors: the identity of the claimants, typically an NGO, community group or other actor with a broader advocacy or public interest mission; the identity of the defendants, typically governments, major contributors to climate change or actors who mislead the public about climate action; and the aim of the litigation, with the claimants seeking remedies that go beyond the interests of individual litigants.

Non-strategic litigation: cases brought to achieve relief in an isolated situation, without the intention of influencing the broader public debate or regulatory landscape. Classifying a case as non-strategic does not imply that it is less important or impactful than strategic cases.

For more detail on how we classify climate litigation, see Annex 1: methodological notes.

[2] In previous reports, these cases were grouped together with anti-climate cases under the umbrella term 'non-climate-aligned'. This year, we distinguish between 'anti-climate' and 'non-aligned' cases to reflect both the increasing polarisation of climate issues in public discourse and the importance of not conflating cases with very different motivations and actors.

Focus on strategic litigation

The report series focuses primarily on the use of 'strategic litigation' and legal campaigning in the climate context. Strategic litigation can be understood as litigation where the claimant seeks to both win the individual case (vindicating their own interests) and influence the public debate or change the behaviour of a targeted group of actors in relation to climate action (Batros and Khan, 2022). Such litigation builds on a long history of actors pursuing social and environmental reform through litigation and the courts, and has taken a prominent place in the tactics of the climate movement in the absence of ambitious, urgent and sustained policy action. Focusing on cases where litigants appear to be seeking to advance a broader climate-action agenda aids understanding of how litigation is shaping the "outcomes and ambition" of climate governance (Intergovernmental Panel on Climate Change [IPCC], 2022). This provides a strong foundation from which to explain the possible impacts of climate cases for policymakers involved in different aspects of climate governance.

This is a deliberate methodological choice, not a claim that strategic cases are the only ones that matter. The body of climate-relevant litigation is now vast, and it includes the growing number of climate refugee cases, planning disputes in which climate considerations are raised but are not central, and cases where climate change intersects with other fields of law. Comprehensively mapping these cases would require a different kind of study, with different methods. Different types of research design are suited to different questions: our approach is designed to track the cases most likely to shape climate governance outcomes directly, and this is what gives the analysis its comparative reach and longitudinal coherence.

Nonetheless, our focus on strategic cases does present some methodological challenges. First, an overemphasis on strategic cases risks leaving out "messy legal realities" and key aspects of how climate change interacts with the law (Fisher, 2025). Other approaches, including those that attend to the full texture of how climate change interacts with law across routine legal proceedings, such as those Bouwer (2026) conceptualises as "everyday climate litigation", are extremely valuable and increasingly necessary as the field matures. Second, we do not always know the intentions of the parties bringing climate cases, and our inferences about which cases should properly be considered strategic may, at times, be incorrect (see further Annex 1). This categorisation is intended as an analytical tool for the purposes of this report, rather than a prescriptive judgement on how cases should be understood.

Despite our primary focus on strategic cases, we also analyse some cases that might not register as strategic, but that nonetheless illuminate important features of the field and which we believe may come to have a significant bearing on climate governance. Such cases might not reach headlines or attract sustained academic attention, but examining this less visible litigation is part of how the report tries to give an accurate picture of where the field actually is, rather than only where its most prominent actors are trying to take it.

Defining strategy types

Over the course of this report series, a significant focus has been to understand how litigants in 'climate-aligned' cases are seeking to advance climate action, pushing governments and companies to do more to address the climate crisis and hold them to account. In the last few years, we have developed a typology of strategies employed by litigants seeking to generate greater accountability for climate action from governments and companies. This typology continues to evolve as the field of climate litigation develops. The definitions of these climate-aligned case strategies, which will be referred to throughout the report, can be found in Table A. The table also includes headline figures showing the prevalence of each strategy type and examples of key recent developments.[3]

[3] Numbers vary year to year as new cases are filed and because individual case classifications are refined as more information about the cases becomes available.

Table A. Climate-aligned strategies in climate cases

Strategy types and case numbers filed between 2015 and 2025	Illustrative developments from 2025/2026
A. *Government framework* cases Cases that challenge the ambition or implementation of climate targets and policies affecting an entire national or sub-national economy and society. • At least 163 cases filed globally • 15 new cases filed in 2025	*Greenpeace Netherlands and 8 citizens of Bonaire v. The Netherlands*: The Hague District Court found that the Dutch Government violated the rights of inhabitants of the Caribbean island of Bonaire by: • Failing to pursue a climate policy that makes an equitable contribution to the measures that must be taken worldwide to limit global warming to a maximum of 1.5°C above the pre-industrial level • Discriminating against the Bonaire residents by failing to ensure adequate adaptation measures for the island. The decision is under appeal by the Dutch Government. *Youth Petitioners v. Ministry of Environment (Administrative Case)*: Seven youth activists filed an administrative suit against the government of Taiwan arguing that, among other things, its 2030 emissions reduction targets are inadequate.
B. *Integrating climate considerations* cases Cases that challenge decisions (by governments or companies) on the grounds that climate considerations, evidence, standards or principles have been ignored, incorrectly assessed or inadequately applied. They typically pursue two connected goals: stopping or modifying specific policies or projects, and mainstreaming climate concerns in policymaking. This category makes up by far the largest number of strategic cases. • More than 100 new cases filed in 2025	*Seven County Infrastructure Coalition v. Eagle County*: The US Supreme Court ruled that the Surface Transportation Board had not made a legal error when it failed to consider upstream or downstream greenhouse gas emissions associated with a new rail development intended to carry crude oil from the Uinta Basin to refineries on the Gulf Coast. *Denman Aberdeen Muswellbrook Scone Healthy Environment Group Inc (DAMSHEG) v. MACH Energy Australia Pty Ltd*: The New South Wales Court of Appeal ruled that a development consent which would have extended the operating period for the Mount Pleasant coal mine was invalid because the planning authorities failed to consider not only the impact of the mine on climate change, but also the impact of climate change on the local environment. The case has been appealed to the High Court of Australia, the country's apex court.
C. *Systemic polluter pays* (aggregate emissions liability) cases[4] Cases where the claimants allege that the defendant's business operations have contributed to global climate change and seek damages because of climate-induced harm or anticipated harm. Many of these cases rely on arguments relating to disinformation about the impacts of the companies' products on consumers. Claims are typically filed against companies responsible for significant levels of greenhouse gas emissions at a global, or at least national, level. • At least 43 cases filed globally • 6 new cases filed in 2025	*Ma et al. v. KEPCO et al.*: Farmers in South Korea sued the state-owned power company KEPCO and its subsidiaries – the largest national greenhouse gas emitters – for damages to their livelihoods and psychological wellbeing. *Asmania et al. v. Holcim*: A case filed by Indonesian islanders against Swiss Cement manufacturer Holcim seeking compensation for damage, as well as an emissions reduction order requiring Holcim to reduce its CO_2 emissions by 43% by 2030 and 69% by 2040, relative to a 2019 baseline, with annual reductions for each year between 2025 and 2040. In its decision of 17 December 2025, the Cantonal Court of Zug found that both the damages and the forward-looking remedy are admissible.

[4] The main change from previous reports is that we have separated the polluter pays category of cases into two: *systemic polluter pays* cases and *incidental polluter pays* cases. Previously, we defined polluter pays cases as any case in which claimants sought financial compensation from a company or individual specifically based on greenhouse gas emissions for which that company or individual was responsible, and the harm associated with those emissions. This definition excludes cases seeking damages for other forms of environmental harm, or cases seeking penalties for violations of specific regulatory regimes.

Our original definition captured two distinct groups of cases: first, the 'classic' corporate climate cases in which claimants who have experienced or are likely to experience harm associated with climate change seek to hold companies who have contributed substantially to global greenhouse gas emissions responsible for that harm. Typically, these cases are filed against globally or nationally significant producers of greenhouse gases. They are sometimes referred to as 'climate liability' cases elsewhere in the research literature, although this term can also be used to encompass a broader range of cases than those discussed here. The second group of cases includes cases in which public authorities use tort arguments and methods of calculating the social costs associated with greenhouse gas emissions to seek to hold companies and individuals accountable for more localised contributions to climate change, primarily through illegal deforestation. Most of these cases have been filed in Indonesia and Brazil.

Strategy types and case numbers filed between 2015 and 2025	Illustrative developments from 2025/2026
D. *Incidental polluter pays* (damage to the climate system from unlawful activity) cases Cases where the claimants allege that a localised unlawful action (e.g. illegal deforestation or operation of a plant or facility outside the terms of the licence) has led to greenhouse gas emissions and damage to the climate system associated with these specified emissions. These actions tend to be brought by public actors and are either filed against individuals, companies or both. • At least 241 cases filed globally • No new cases filed in 2025 but close to 200 filed in 2024 (all in Brazil and all seeking compensation for damage to the climate)	*MPF v. Oliveira Lima*: In February 2026 the court ordered the defendant to restore nearly 145 hectares of illegally cleared Amazon Rainforest and awarded climate damages of R$2.1 million (approximately US$423,000), calculated on the basis of 84,681 tonnes of carbon dioxide equivalent (CO_2e) released at US$5 per tonne. The court adopted the carbon stock figure from the Amazon Research Institute's (IPAM) technical note (159.69 tonnes of carbon per hectare) and applied the Amazon Fund pricing methodology. Collective moral damages were set at 5% of total material damages, to be determined at the enforcement stage.
E. *Corporate framework* cases Cases that seek to develop standards preventing companies from continuing with high-emitting activities by requiring changes in group-level policies, corporate governance and decision-making extending through the companies' operations. • At least 25 cases filed globally • 1 new case filed in 2025	*Deutsche Umwelthilfe (DUH) v. Bayerische Motoren Werke AG (BMW)*, and the identical case of *DUH v. Mercedes-Benz*: The German Federal Court of Justice dismissed claims against auto manufacturers filed under German tort law which requested: a prohibition on the sale of new internal combustion engine (ICE) vehicles after 2030; and a cap on emissions from ICE vehicles sold by the manufacturers between 2022 and 2030. *Greenpeace Italy et al. v. ENI S.p.A., the Italian Ministry of Economy and Finance and Cassa Depositi e Prestiti S.p.A*: The Italian Court of Cassation allowed a case filed by NGOs and 12 Italian citizens and residents against energy company ENI and its controlling shareholders (a government ministry and a joint-stock company under public control, acting as a public development bank) to proceed to trial. The case alleges that the defendants' excessive greenhouse gas emissions breach their obligations under civil law. Among the remedies requested is an order that ENI must reduce greenhouse gas emissions by 45% by 2030 from a 2020 baseline. This is the first time that the Italian Supreme Court found that Italian civil courts are competent to hear claims alleging breaches of climate change mitigation duties.
F. *Failure-to-adapt* cases Cases that challenge a government or company for failure to take climate risks into account. • At least 89 cases filed globally • 4 new cases filed in 2025	*Conservation Law Foundation v. Shell Oil Co. (New Haven Terminal case)*: A case alleging that oil company Shell has taken insufficient steps to protect local communities from the risks associated with oil storage facilities in case of climate-related flooding survived a new motion to dismiss the case based on changes to the US state of Connecticut's permitting procedures. The case continues to progress through the discovery phase. *Washington v. Federal Emergency Management Agency*: A case challenging the withdrawal of federal funding for state climate resilience programmes.

Strategy types and case numbers filed between 2015 and 2025	Illustrative developments from 2025/2026
G. *Transition risk* cases Cases that concern the (mis)management of transition risk by directors, officers and others tasked with ensuring the success of a business. This category is now expanded to include cases challenging regulatory action that limits or prohibits the integration of environmental, social and governance (ESG) factors into capital allocation. • 26 cases filed globally • 4 new cases filed in 2025	*Glass, Lewis & Co. v. Paxton*: Proxy advisors challenged legislation in the US state of Texas requiring them to publicly state that their advice is not "solely" based on the financial best interests of shareholders if they consider ESG factors. *Just Share NPC, Aeon Investment Management (Pty) Ltd, Fossil Free South Africa v. Thungela Resources limited, Companies and Intellectual Property Commission*: A South African shareholder challenge to a coal company's refusal to table resolutions regarding climate-related risk at its annual general meeting.
H. *Climate-washing* cases Cases that challenge inaccurate government or corporate narratives regarding contributions to the transition to a low-carbon future or cases that challenge misinformation or disinformation campaigns that seek to discredit climate science. • At least 226 cases filed globally • 31 new cases filed in 2025	*Australasian Centre for Corporate Responsibility v. Santos Ltd*: A shareholder activist suit alleging that Santos' net zero commitment and transition plan constituted climate-washing was dismissed by Australia's Federal Court and is being appealed to the Full Federal Court. *Greenpeace France and Others v. TotalEnergies SE and TotalEnergies Electricité et Gaz France*: On 23 October 2025, the Judicial Tribunal of Paris ruled in favour of NGO claimants in a case arguing that TotalEnergies was misleading consumers through communications stating a dual objective of achieving carbon neutrality and being a major player in the energy transition. *IDEC v. Gol No. 1*: In January 2025, a Brazilian consumer association filed a disclosure of information request against airline Gol over an advertising campaign relying on poor-integrity carbon offsets, and in November 2025 filed a case (*IDEC v. Gol No. 2*) where it also seeks compensation for collective moral damages.
I. *Turning-off-the-taps* cases Cases that challenge the flow of finance to projects and activities that are not aligned with climate action. • At least 49 cases filed globally • 5 new cases filed in 2025	*Aliya Hirji, Travis Olson, Ravneet Singh et Chloe Tse v. Canada Pension Plan Investment Board*: Suit filed by young people alleging Canadian pension fund trustees are mismanaging climate related-risk in their pension portfolios. *Friends of the Earth U.S. v. Export-Import Bank of the United States*: A case challenging the US export credit agency over its financing of a liquefied natural gas (LNG) project in Mozambique.

1. A maturing field

This section explores how climate litigation has matured across several reinforcing tracks: a clear identification of state obligations by domestic, regional and international courts, and advances in corporate accountability in relation to climate change. Underpinning these developments is an improving scientific evidence base, with government and corporate cases grounded on evolving scientific understanding of climate change and its impacts.

> **"In recent years systemic polluter pays and corporate framework cases have surmounted early procedural hurdles."**

When the Grantham Research Institute published the first report in this series in 2017 (Nachmany et al., 2017), climate litigation was still a relatively novel phenomenon. The legal arguments being advanced – that states bore enforceable obligations to act on climate change, that individual governments could be held responsible for their contribution to a global problem and that courts had a legitimate role in scrutinising climate targets – were characterised in the literature as challenging many basic legal assumptions (Kysar, 2011; Gerrard, 2012; Peel and Osofsky, 2015). Nine years on, the picture has changed considerably (Fisher, 2025). Climate litigation has matured into a recognised and increasingly consequential dimension of global climate governance: it is now characterised by a growing body of judgments (Setzer and Vanhala, 2019; Peel and Osofsky, 2020; UNEP Global Climate Litigation Report, 2025; Tigre and Barry, 2025), an expanding number of courts engaging with shared legal norms (Wewerinke-Singh and Mead, 2025) and a rising volume of cases that reflect the continued ambition of the climate movement and the legal consequences of inaction (Maxwell et al., 2025).

1.1. Climate cases against governments: consolidation of state obligations

An important development of the past decade has been the increasing consolidation in domestic, regional and international courts of state obligations. Governments must now address climate change as a matter of legal duty, rather than merely a political choice.

Government cases before apex courts

One of the hallmarks of the maturity of the field is the increasing number of decisions from the highest courts in different jurisdictions, often called 'apex courts'. As cases have progressed, an increasingly high number have reached these courts, which usually hear cases where novel or weighty legal issues are concerned. We identify 215 cases filed against governments that have received a decision from an apex court since 2015 (building on work by Jackson and Setzer, 2026).

Lawyers and youth petitioners at the press conference for Youth Petitioners v. Ministry of Environment (Administrative Case). *Credit: Environmental Rights Foundation.*

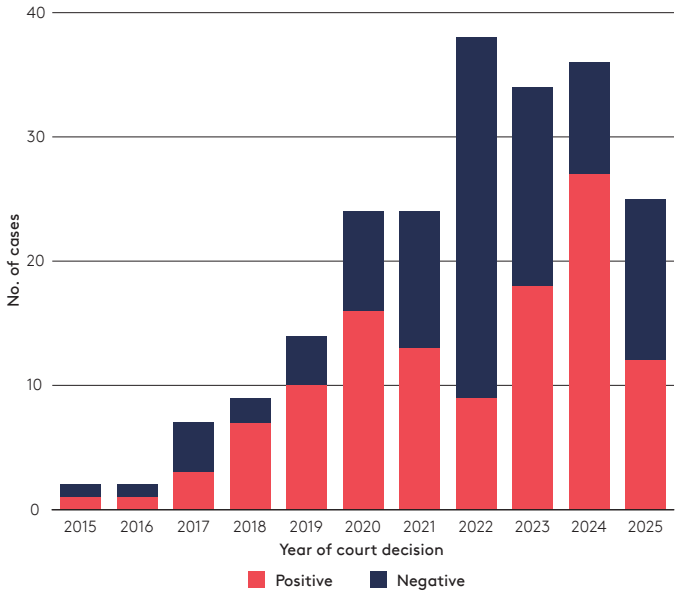
More than half of all decisions in these cases can be understood to have outcomes that are positive for climate action (see Figure 1.1).

Looking specifically at *government framework* cases – i.e. cases challenging the overall ambition or implementation of a government's climate policy response – there are at least 49 such cases that have reached apex courts. These cases have a slightly lower rate of success than in the data overall: 18 are identified as having 'positive outcomes for climate action', while 31 have outcomes that can be seen as 'negative'. Successful cases include now famous decisions from courts in the Netherlands, Brazil, Colombia, France, Germany, India, Ireland, Nepal, Pakistan, South Korea and the UK. These decisions variously hold that governments' long-term climate goals must be supported by specific near-term measures, that targets must reflect scientific evidence and fairness principles, and that courts have a legitimate role in assessing whether governments have adequately implemented their legal duties. Such decisions have had a significant impact on domestic climate governance, as well as inspiring cases in other jurisdictions (see Section 5). The unsuccessful cases also repay scrutiny, highlighting the limits of state accountability and access to justice in many domestic legal systems.

The picture also varies significantly by country and region: North America exhibits comparatively lower rates of positive outcomes, reflecting restrictive standing doctrines and a more conservative approach to climate claims, particularly at the federal level in the US. Germany has also had a high number of apex court cases, but a relatively low success rate. On the other hand, countries in South and Southeast Asia display strikingly high proportions of apex cases reaching

outcomes favourable to climate action, reflecting the significant role of constitutional environmental rights provisions in these jurisdictions.

Figure 1.1. Outcomes in apex court decisions issued between 2015 and 2025 in cases against governments



Evolving regional and international jurisprudence

Recent jurisprudence of regional and international bodies marked a significant development in this ecosystem, making states' climate obligations clearer than ever (Amado Gomes et al., 2026; Heri, 2025; Maxwell et al., 2025; Bonnemann and Tigre, 2024; Tigre et al., 2025; Tigre and Viveros-Uehara, 2025; Voigt, 2025; Coppens and Lockhart, 2026). Three major advisory opinions from international courts were issued between 2024 and 2025 by the International Tribunal on the Law of the Sea (ITLOS), the Inter-American Court of Human Rights (IACtHR) and the International Court of Justice (ICJ).

These opinions followed in the wake of the first decision in a contentious case issued by the European Court of Human Rights (ECtHR) in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*.[5] The ECtHR's climate judgment, issued in April 2024, confirmed that governments must quantify a national carbon budget or equivalent, and set emissions reduction targets consistent with limiting global temperature rises to 1.5°C above pre-industrial levels (Savaresi, 2025; Wewerinke-Singh, 2025). The judgment importantly included due diligence aspects that Council of Europe States are expected to follow in the governance and implementation of their mitigation efforts, once they are adopted.

The first of the three major advisory opinions to follow this ECtHR decision came a month later. In May 2024, the ITLOS issued its advisory opinion confirming that greenhouse gas emissions constitute marine pollution under the United Nations Convention on the Law of the Sea (UNCLOS) and that states are subject to stringent due diligence obligations informed by the best available science (Klerk, 2025; Rioseco, 2025; Heidar, 2025; Roeben and Guo, 2026).

In May 2025 the IACtHR issued its advisory opinion on climate and human rights (OC-32/2025), placing further emphasis on the 1.5°C target and on questions of equity between states (Severino, 2025; Borràs-Pentinat, 2025; Nolan, 2025). In the same month, a request for a further advisory opinion was submitted to the African Court on Human and Peoples' Rights by the Pan African Lawyers Union, which could confirm, and potentially extend, the position taken by other international and regional courts (Suedi, 2025), in particular to develop climate jurisprudence that centres the concerns of African states and communities (Brownell, 2025).

The third, and most expansive, of the opinions was issued in July 2025 by the ICJ. This opinion confirmed that governments have legally enforceable duties to take stringent mitigation measures, act in line with fairness and scientific evidence, and regulate private actors (Maxwell et al., 2025; Foster, 2025; van Asselt, 2025; van Asselt and Rao, 2026). The ICJ gathered and synthesised the strands of domestic and regional jurisprudence into a consolidated statement of state obligations under customary international law, treaty law and international human rights law (Ghering and Cordonier Segger, 2025; Ekardt, 2026). It also engaged in deliberate judicial dialogue with the ITLOS (De Spiegeleir and Rocha, 2025) and IACtHR (Oliveira and Loreiro, 2026) opinions, cross-citing these in 21 paragraphs (Peel, 2026) and actively constructing a systemic view that the Paris Agreement and the United Nations Framework Convention on Climate Change coexist and operate harmoniously with general international law (Young, 2025).

The political reception for the ICJ's opinion took a further significant step on 20 May 2026, when the UN General Assembly adopted a resolution welcoming its findings (UNGA, 2026). There were 141 states in favour (including China), 28 abstentions (including Turkey, the incoming host of the conference of the parties [COP] to the UNFCCC), and only eight states against (Belarus, Iran, Israel, Liberia, Russia, Saudi Arabia, the US and Yemen). More specifically, the resolution creates institutional structures designed to extend the ICJ opinion's reach: the UN Secretary-General is requested to prepare a report identifying "ways to advance compliance" with the ICJ's findings, taking into account "possible gaps in multilateral efforts" (para. 10). A follow-up agenda item for the next General Assembly session is established (para. 11), and states are urged to meet the 1.5°C goal, including through tripling renewable energy capacity and phasing out inefficient fossil fuel subsidies (para. 4). This language selectively incorporates both the COP28 United Arab Emirates (UAE) Consensus and the ICJ's findings on fossil fuels.

[5] The ECHR issued three judgments on the same day. The other two were: *Carême v. France*, and *Duarte Agostinho v. Portugal and 32 other States*. Both cases were dismissed.

The ecosystem of domestic, regional and international courts

This international and regional climate jurisprudence is not developing in isolation from each other, or from the domestic jurisprudence. Rather, they constitute an emerging ecosystem in which legal principles and standards circulate across judicial levels and jurisdictions, in an "incremental process of replication and reiteration" (Eckes, 2025), shaping one another in ways that are not always captured by formal citation (Affolder and Dzah, 2024). This process can be visualised as a cycle, where domestic litigation is helping to establish the justiciability of climate obligations; international and regional bodies are then consolidating and extending those obligations into a coherent normative framework; and that framework, in turn, is encouraging a new generation of domestic climate cases.

However, this process is not necessarily one of sequence or causation. The growth of domestic case law has helped demonstrate that courts were willing to engage with state climate obligations, and generated the doctrinal vocabulary (e.g. due diligence, harm prevention, intergenerational equity) that international bodies have since adopted and extended (Peel, 2026). What can be said is that domestic, regional and international courts now recognise that existing legal frameworks impose obligations on states in relation to climate change.

Whether and to what extent advisory opinions have been directly shaped by this body of domestic law is difficult to establish: the processes leading to the requests for advisory opinions were driven by vulnerable states unhappy with the pace of multilateral negotiations (Wewerinkh-Singh and Salili, 2019; Tigre, 2022; Main-Klingst and Marjanac, 2025), and domestic climate cases were largely absent from the three major advisory opinions' formal reasoning.[6]

The flow of influence has operated more strongly in the other direction: within months of the three international advisory opinions' delivery, they were being cited in domestic courtrooms across the world (see Institute for Governance and Sustainable Development, 2026 and Table 1.1). These modes are often determined by the status of international law within the relevant jurisdiction (see Nollkaemper et al., 2024), and each mode carries different implications for the pace and depth of the diffusion of norms from the international to the national level. Citation is not the whole story; so far, the advisory opinions appear to have been invoked to reinforce reasoning already grounded in domestic or regional law, and may not always be material to the outcome.

[6] There were occasional references to domestic litigation in the separate opinions of the ICJ, such as Judge Charlesworth's citation of *Urgenda Foundation v. State of the Netherlands* as an example of domestic courts applying environmental concerns to human rights questions.

Table 1.1. Domestic and regional courts engaging with the three advisory opinions of ITLOS (May 2024), IACtHR (May 2025) and ICJ (July 2025)

Mode of uptake	Example of uptake	Significance
Binding uptake	*MPF v. Oliveira Lima* (7th Federal Environmental Court, Amazonas, Brazil, February 2026). A case filed by federal prosecutors concerning illegal deforestation in the Amazon. In its ruling the judge cited both the IACtHR and the ICJ advisory opinions, treating them as confirming that the climate system is a legally protected good and that combating climate change is a legally binding duty, alongside Brazil's national climate legislation.	Under the IACtHR's doctrine of 'conventionality control', all domestic authorities (judicial, legislative and executive functions) of states which have ratified the American Convention on Human Rights must ensure that their decisions, laws and policies conform to the Court's decisions (Contesse, 2017; Auz, 2022). As a result, OC-32/2025 is a central parameter that judges must observe when deciding cases involving the climate emergency domestically.
Interpretative uptake with remedies	*Greenpeace Netherlands and 8 citizens of Bonaire v. The Netherlands* (Hague District Court, January 2026) Greenpeace brought proceedings on behalf of residents of Bonaire, an overseas territory of the Netherlands, arguing that inadequate mitigation, absence of an adaptation plan, and unlawful discrimination violated the state's obligations under Articles 8 and 14 of the European Convention on Human Rights (ECHR). The court ordered the state to align mitigation measures with international standards and to adopt and implement a climate adaptation plan for Bonaire by 2030. The general principle of equity reasoning made by the IACtHR's and ICJ's advisory opinions is articulated as a channel for the court to apply Article 8 and non-discrimination law to the case (Wewerinke-Singh, 2026).	This is the first ruling to combine the *KlimaSeniorinnen* framework with the ICJ advisory opinion to assess the adequacy of specific national targets; and the first to apply a climate discrimination analysis to the differential treatment of an overseas territory. The case has resonance for France, the UK and the US, each of which has overseas territories facing high vulnerability to climate change impacts.
Standard-setting	*Greenpeace Nordic v. Norway* (ECtHR, October 2025) The original case concerned the grant of new oil exploration licences in 2016. The ECtHR found no substantive violation on the facts. However, for the first time, the court established that Article 8 procedural obligations extend to supply-side fossil fuel decisions: environmental impact assessments (EIAs) must cover combustion emissions (including from exported fossil fuels); states must assess whether new extraction is compatible with their climate obligations; assessments must be timely and open to public participation. The ICJ advisory opinion was cited as grounding for these new procedural standards.	No immediate finding of violation, but the advisory opinion is used to raise the legal floor for procedural obligations, creating a new basis for future challenges. The implications for scope 3 emissions (i.e. indirect greenhouse gas emissions in a value chain, e.g. from suppliers, customers and end-users) in fossil fuel project approvals are direct and consequential. Other states subject to the jurisdiction of the ECtHR are now on notice that the authorisation of new fossil fuel projects must be subject to strict scrutiny.
Interpretive framing for persuasion	*R (Oceana UK) v. Secretary of State for Energy Security and Net Zero* (*UK High Court, November 2025*) A challenge to 32 North Sea and Irish Sea oil and gas exploration licences, arguing that environmental assessments were unlawful for failing to account for climate and marine impacts, including scope 3 emissions. The court dismissed the challenge, ruling that assessments could be updated at subsequent stages of the consenting process. The ITLOS advisory opinion was deployed to frame the scope of EIA obligations in domestic fossil fuel licensing.	Although the challenge failed, this case is a leading indicator of uptake in common law systems. The advisory opinion functions here as a persuasive advocacy resource. The case sits in the same line of UK scope 3 litigation as *Finch v. Surrey County Council* and signals that this argument will be refined and re-litigated in the future.

Stronger standards but weakening institutions?

These developments come at a geopolitically contentious moment. Environmental protection has been downgraded as a political priority in several major states, international institutions are under renewed pressure, and the receptiveness of key actors to international legal obligations on climate change can no longer be assumed. The rollback of US federal climate regulation, including the US Environmental Protection Agency's (EPA) revocation of its 2009 endangerment finding (discussed further in Section 3) is the most prominent expression of this dynamic, but it is not isolated. Growing hostility towards international law and multilateralism, made very explicit with the US military action in Iran and Venezuela (Weller, 2026), raises questions about how states will respond to the advisory opinions and international law more broadly.

The maturity of the field does not dissolve as a result of this tension. Rather, the delivery and rapid uptake of the three advisory opinions in national courts and the confirmation of state obligations by certain apex courts suggests that what began as contested arguments about state obligations has become a body of more settled law with multiple reinforcing channels. This structure is hard to dismantle, and some courts in jurisdictions with robust rule-of-law traditions have demonstrated they will apply these standards regardless of the policy direction taken by the executive. The implications will vary substantially across jurisdictions, actor types and political contexts, and will take years to become fully visible. But the question is no longer whether climate obligations exist in law, but whether and how they can be made effective under conditions of institutional stress.

Assessing climate impacts: litigation raising the costs for new fossil fuel production

One area in which a set of legal norms on state obligations is emerging is in cases concerning fossil fuel exploration and production. These cases often rely on arguments that environmental impact assessments (EIAs) for new projects or permits are deficient due to a failure to adequately consider a project's climate implications. These cases typically fall within the *integrating climate considerations* category introduced in Table A. Although the legal aspects of these cases often concern the process through which new projects are approved, the real target of the claimants is more frequently the substance of the projects. The litigation often forms only one tool in the toolkit of the communities opposing the projects, who might combine legal action with protest marches and protest camps, media work, and lobbying, often through campaigns that last decades.

The requirement to conduct EIAs or strategic environmental assessments, has been adopted in almost every country in the world and has become a widely accepted legal norm, despite some divergence in how they are applied across countries and regions (Yang, 2019). As a result, there is considerable convergence around concepts and framing within this group of cases, even as they are decided in very different national contexts (Bradeen et al., 2026). Fossil fuel exploration and production is by no means the only activity for which the failure to adequately incorporate climate considerations into EIAs has been challenged in court. Cases have also challenged high-emitting infrastructure, such as airports, and other forms of energy generation, such as biomass.

Nonetheless, there have been several influential decisions in recent years in fossil fuel cases from European appellate and regional courts (Setzer and Higham, 2025). Interpreting obligations derived from European Union law, both the UK Supreme Court in *Finch v. Surrey County Council* and the Court of the European Free Trade Association (EFTA) in *Greenpeace Nordic v. Norway* had indicated that the scope 3 emissions from such projects must be quantified and assessed before such projects could proceed. Scope 3 are the emissions that would be caused by burning the fossil fuels if ultimately extracted. For fossil fuel companies, scope 3 emissions typically represent 70% to 90% of lifecycle emissions from oil products (TPI, 2026). This position was further supported by an interim ruling on an injunction against three projects proceeding from Norway's Supreme Court in the case of *Greenpeace Nordic and Nature & Youth v. Energy Ministry (The North Sea Fields Case)*, which has since been confirmed by the final judgment of the Borgarting Court of Appeal in Norway.

The potential for further cases to build on these successes is likely to be strengthened by recent regional and international jurisprudence. For example, the ECtHR's decision in the separate case of *Greenpeace Nordic and others v. Norway* confirms that states have procedural obligations to consider climate impacts from fossil fuel projects, including through assessing scope 3 emissions. That decision built on relevant elements of the *ICJ's advisory opinion* which had also emphasised the role of fossil fuels in contributing to climate change, and highlighted the need for states to conduct climate impact assessments at several stages across the planning and development of fossil fuel projects (Khatri, 2025; Jones, 2026). The decision has significant points in common with the *IACtHR's advisory opinion*, which also emphasised the contribution of fossil fuel production. Collectively, these regional and international opinions add significant normative weight to the arguments advanced by litigants around the adequate assessment of the climate implications of new fossil fuel extraction.

In parallel, an expansion in the scope and range of arguments raised in procedural cases is evident. In Australia, for example, the Commonwealth High Court

(the country's apex court) is set to hear a case that takes the question of a project's climate impacts one step further. In July 2025, the New South Wales Court of Appeal delivered a significant ruling in *Denman Aberdeen Muswellbrook Scone Healthy Environment Group Inc v. MACH Energy Australia Pty Ltd*. The case concerned the approval of a 22-year extension to the Mount Pleasant coal mine in the Hunter Valley. The critical question was the causal connection between the mine's contribution to global emissions (including scope 3 emissions from burning the coal) and the specific climate impacts on the local community, including bushfires, floods, heatwaves and drought. This case goes beyond the current framing of scope 3, which is often a fairly abstract assessment of projects against national or global emissions benchmarks: instead, it extends the assessment to the likely implications of increased emissions in the relevant locality. This approach centres the assessment on the true costs of new fossil fuel infrastructure for communities and ecosystems. As discussed in Box 1.1, these issues are also clearly emerging in the context of new challenges to fossil fuel extraction in the Amazon Basin.

However, these arguments have not been universally successful. A counterpoint comes from the Supreme Court of the United States' recent decision in *Seven County Infrastructure Coalition v. Eagle County*. The decision concerned federal approvals for a new railway that would connect the Uinta Basin in Utah, an area with substantial oil deposits, to the national freight network, allowing oil extracted from the Basin to be transported to and processed at refineries along the Gulf Coast. The question before the court was whether in approving the railway the federal authorities should have considered the upstream emissions associated with extracting the oil and the downstream emissions associated with refining it (i.e. scope 3). The court held that ultimately it was within the discretion of the relevant authorities to determine whether they needed to consider these upstream and downstream emissions as part of their environmental impact assessment.

A recent decision of the New Zealand Supreme Court in the case of *Climate Clinic Aeoteroa v. Minister for Energy* also demonstrates some of the limitations created by the narrow procedural focus inherent to the current generation of fossil fuel-focused *integrating climate considerations* cases. The case, filed by a group of law students, argued that climate change should be a mandatory consideration in the licensing and approvals of new oil and gas extraction. The court upheld their arguments, ruling that climate change must be considered when permits for exploration are being evaluated, i.e. at an earlier phase than that required by the Norwegian and European precedents discussed above. This case can be seen as part of the consolidation of norms in this area. However, the court did not give concrete guidance on how climate considerations should be included in decision-making, side-stepping questions about the quantification of emissions and an assessment of their impacts. Instead, on the facts of the case, it held that the minister had adequately discharged her obligations by taking into account the general advice of the Climate Change Committee on the need to transition the energy mix away from fossil fuels, rather than requiring a more detailed analysis of the project and its specific impacts.

Despite the countervailing decision from the US and the practical limitations of the *Aeoteroa* judgment, there is significant momentum around litigation challenging government decision-makers over their approval of fossil fuel projects. Further major developments in this area are likely. Indeed, when analysing the related consequences of the ECtHR and ICJ findings, some have argued that we may be entering a new phase in such litigation, which sees a move beyond procedural issues towards court engagement with substantive questions about whether the approval of new projects is compatible with international obligations and human rights norms (Donger, 2026).

Plaintiffs outside the courthouse in the case of Denman Aberdeen Muswellbrook Scone Healthy Environment Group Inc (DAMSHEG) v. MACH Energy Australia Pty Ltd. *Credit: Professor Jacqueline Peel, Melbourne Law School.*

Box 1.1.

Challenges to drilling in the Amazon Basin: environmental impact assessment and scope emissions 3 as a hook, but something larger at stake

The cluster of legal challenges surrounding ultra-deep-water drilling in Brazil's Foz do Amazonas basin illustrates both the reach of scope 3 arguments into new jurisdictions and its limits when considering what is really at stake in these cases.

The Foz do Amazonas basin, the most northerly of Brazil's Equatorial Margin basins, is a zone of exceptional ecological sensitivity. It is home to a rare coral reef system, one of the most biodiverse marine ecosystems on the planet, and to the territories of Indigenous and traditional fishing communities. Exploration in the area has been described as Brazil's oil rush (Sherer, 2026) and could make Brazil the world's fifth-largest oil producer by 2030 (IEA, 2024). Brazilian state-owned oil company Petrobras began drilling one well (the Morpho well) in October 2025 and holds stakes in six of the 19 blocks whose exploration rights have been auctioned.

Legal challenges have unfolded on two parallel tracks. In the first, NGO Arayara and the federal prosecutor's office (MPF) filed two cases against the Agency for Petroleum, Natural Gas and Biofuels (ANP) (*Instituto Internacional Arayara de Educação e Cultura v. ANP e União Federal* in May 2025 and *Ministério Público Federal v. União Federal, ANP e IBAMA* in June 2025), seeking to suspend the concession auction. The grounds were that no climate impact study had been conducted (including on scope 3 emissions); no environmental assessment of the sedimentary area had been completed; and free, prior and informed consent had not been obtained. A request for provisional suspension was denied in September 2025 and the auction proceeded.

The second track of litigation targets Petrobras's operating licence for the Morpho well directly. The licence was issued in August 2025. However, the MPF and Arayara, together with seven civil society organisations, challenged the licence's legality in federal court, arguing that it had been granted in defiance of the expert opinion of the environmental agency, Brazilian Institute of Environment and Renewable Natural Resources (IBAMA), and without adequate consultation with the Indigenous communities. Just over two months after drilling began, a leak of approximately 18,000 litres of drilling fluid occurred at the well site. IBAMA confirmed the fluid contained substances toxic to marine fauna and imposed a fine of 2.5 million Brazilian Real (BRL) (around US$496,000). Following the spill, the MPF filed a further appeal demanding that Petrobras disclose more information about additional planned wells in the block before any further licensing proceeds, arguing that the true scale of anticipated impacts was being withheld from affected communities.

Although scope 3 emissions are at issue in this litigation, they are one argument among many. Fundamentally, what the cases are contesting is whether a new fossil fuel frontier can be opened lawfully when affected communities have not been genuinely consulted, when the regulator's own technical experts have been overruled, and when the cumulative environmental picture, including climate consequences, has never been assessed as a whole.

These cases have unfolded against the backdrop of a Brazilian government that overrode its own environmental agency to enable drilling just weeks before opening the UN climate conference COP30 in Belém in November 2025, while simultaneously commissioning an energy transition fund financed by oil revenues. Oil has been Brazil's leading export for the past two years (IEA, 2026). This litigation cannot be separated from that context, or from the broader question of whether the procedural and substantive climate standards emerging in European and common law courts can hold water in jurisdictions where the political economy of fossil fuel expansion is structured differently.

No court has yet ordered a halt to the drilling, but the litigation has already raised the reputational costs of the project. It has done so by giving visibility to community grievances that regulatory processes had treated as manageable, and placing scope 3 emissions on the agenda in a jurisdiction where they have not previously featured. In this respect, the Foz do Amazonas cases exemplify the strategic logic of the broader group of cases discussed in this section: the value of this litigation lies not only in its immediate outcomes, but in the cumulative pressure it creates for any new oil extraction and production projects.

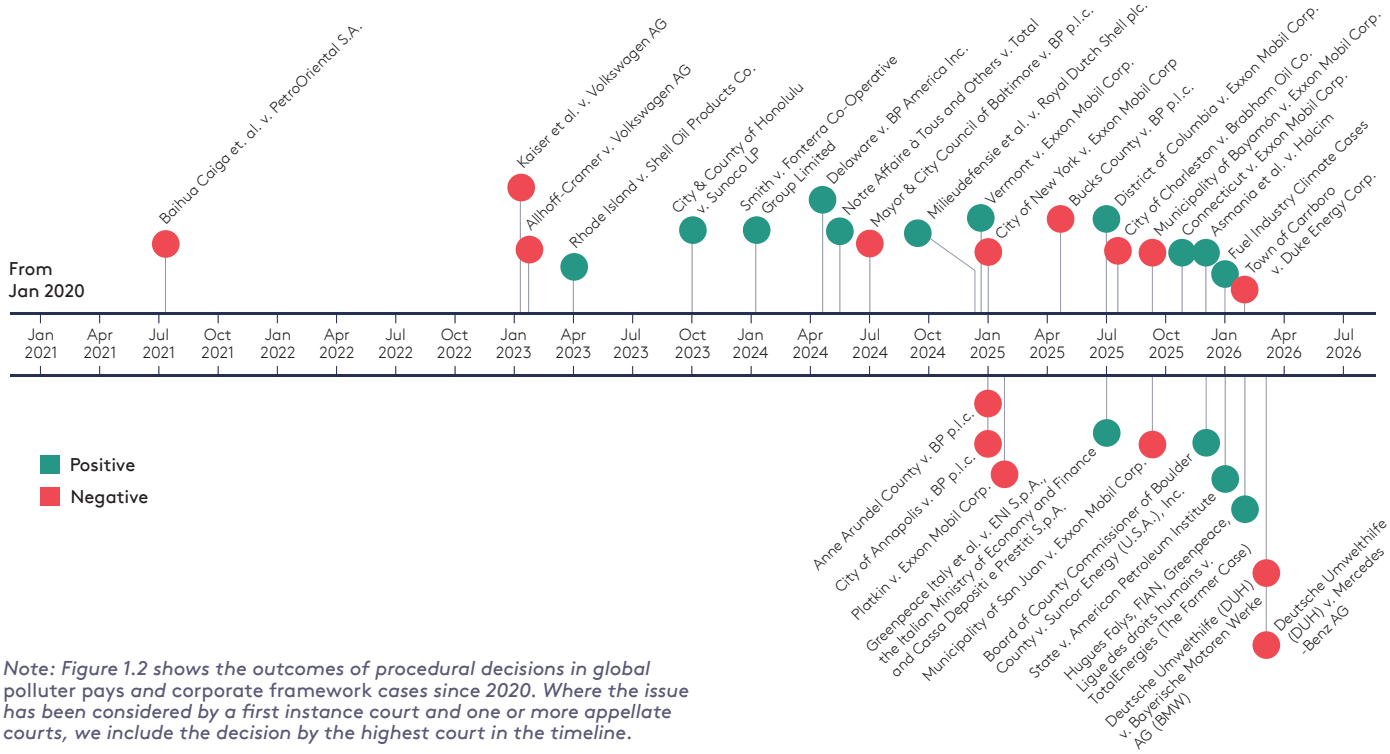
1.2. Corporate climate cases: from the courtroom door to the merits

The case law regarding the obligations of companies to act on climate change is at a much earlier stage of development than the case law concerning states. Nonetheless, there have been substantial shifts in this area over the past few years: first, courts in several jurisdictions have shown themselves willing to consider both *systemic polluter pays* and *corporate framework* cases on the merits. This is a significant departure from the position adopted in earlier examples of these corporate climate cases, which were largely held to be legally inadmissible on a variety of grounds (Ganguli et al., 2018). Although these cases have not yet resulted in orders requiring behaviour change or compensation from companies, they are, nonetheless, laying the groundwork for a new wave of liability and damages cases. Second, we are seeing a clarification of the legal obligations underlying *climate-washing* cases. There are now several clear judgments articulating the need for companies to refrain from making sustainability claims that cannot be evidenced or where the evidence contradicts the claims. However, we are also beginning to see judgments that articulate the need to balance protections for consumers and investors, with the need for transparent and effective corporate transition plans.

In recent years *systemic polluter pays* and *corporate framework* cases have surmounted early procedural hurdles

So far, not a single *systemic polluter pays* or *corporate framework* case has succeeded on both the law and the facts. However, a trend is growing for courts to allow cases to move beyond initial procedural hurdles and towards full trials; the Italian Court of Cassation and the Supreme Court of New Zealand are two examples (see Figure 1.2).

Figure 1.2. Procedural decisions in *polluter pays* and *corporate framework* cases, 2020–2026



Note: Figure 1.2 shows the outcomes of procedural decisions in global polluter pays *and* corporate framework *cases since 2020. Where the issue has been considered by a first instance court and one or more appellate courts, we include the decision by the highest court in the timeline.*

Until 2020, the only case filed before a court of law to have moved to the merits phase was *Lliuya v. RWE* (see below). Since 2020, however, we see a more complex picture emerging. Out of 30 cases that have received a significant decision on preliminary questions related to admissibility in this period, 50% have been allowed to proceed beyond initial hurdles.[7] This includes several cases in the US that have, at least partially, survived defendants' motions to dismiss them in state courts, resulting in some entering the discovery phase. Whether any of these proceed to a full trial will likely depend on the outcome of ongoing proceedings before the Supreme Court of the United States (see Box 1.2).

Box 1.2.

US *systemic polluter pays* cases at a crossroads?

Over the past decade, more than 30 cases have been filed before the US courts against US fossil fuel majors and associated defendants. Most of these have been filed by city or state governments before state courts and are based on theories of liability involving state law. Many are grounded in arguments that the companies have engaged in a sustained campaign of disinformation about the safety of their products, although as Barry argues (2025), there are significant differences between the claims and the degree of reliance on arguments concerning misinformation and disinformation.

Since their inception, one of the major issues in these cases has been whether they should be heard in state or federal court. The defendant companies have used various legal theories to argue that the cases should fall within the jurisdiction of the federal courts.

Until now, the US Supreme Court has declined to hear any of the appeals regarding the jurisdictional issue in these cases. The cases have proceeded in state courts, with the defendants raising various arguments, including that the state law claims are 'pre-empted' by the federal Clean Air Act and under other doctrines.

In January 2025, the US Supreme Court declined to hear a petition by fossil fuel industry defendants in the case of *City & County of Honolulu v. Sunoco LP* after the Hawaii Supreme Court determined that the case could proceed under state law. Before making this decision, the US Supreme Court had asked to be briefed by the then Solicitor General, Elizabeth Prelogar (a Biden appointee), on the position of the United States. The submitted brief advised that it was not the appropriate moment for the court to hear the case.

In August 2025, the fossil fuel companies filed a similar appeal in the case of *Boulder County Commissioners v. Suncor Energy*. The Trump administration filed an unsolicited amicus brief supporting the appeal.

The claimants argue that the appeal is untimely because the Colorado Supreme Court has not given a final judgment in the case (Barry, 2026). Nevertheless, this time the US Supreme Court decided to hear the appeal. The appeal has led to stays in some, but not all, pending cases from other claimants. If the appeal is successful, it may then prove fatal to at least some of these cases. However, the significant differences in the framing and legal reasoning between the cases outlined above may make that outcome less certain than it initially appears.

Just two of the cases that have survived initial procedural challenges have seen judicial determinations on the facts to date: the cases of *Lliuya v. RWE* and *Milieudefensie v. Shell*, the latter of which has been appealed to the Dutch Supreme Court.[8] In the first, a Peruvian farmer and mountain guide sued a German energy company for its contribution to increased risk to his home posed by flooding from a nearby glacial lake through its historic greenhouse gas emissions. This case was unsuccessful on the merits (see last year's report for details). The court held there was insufficient evidence that the risk of flooding to the claimant was high enough to meet the legal threshold. The factual issue that determined the outcome was not about whether climate change increased the risk of flooding in the area, but rather about the specific flood risk to the claimant's property. Despite this finding on the facts, the court confirmed that the case and others like it were, in principle, arguable on the merits.

[7] In relation to US cases filed in state courts under state law legal theories, we have focused on determinations by these courts that the case can proceed beyond the motion to dismiss stage. Decisions by federal courts on the question of whether the cases should be removed from state courts have been considered too early-stage to be relevant to this analysis.

[8] These cases build on several successful complaints before non-judicial or quasi-judicial bodies, such as the Philippines Commission on Human Rights and various OECD (Organisation for Economic Co-operation and Development) National Contact Points. Some of the decisions on these complaints, particularly that of the Philippines Commission, have been highly influential. While these cases are counted among the overall numbers of *corporate framework* cases listed in Table A, they are not discussed in this section.

In the second case, an NGO sued Shell in the Dutch courts, arguing that the company's ongoing greenhouse gas emissions posed a threat to Dutch citizens and that the company should be ordered to increase the ambition of its emissions reduction targets. The case was successful at first instance, but was overturned on appeal on the grounds that there was insufficient consensus regarding the calculation of emissions reduction targets for corporate actors (Dietz et al., 2026). Nonetheless, the court confirmed that Shell does have a broad corporate duty to mitigate climate change (Johannsen, 2025).

The data appears to confirm that the willingness of the courts to accept at least some part of the claimants' arguments in these two cases may be part of a larger shift in judicial attitudes to corporate climate cases around the world. A separate analysis of 12 *corporate framework* cases from around the world shows that courts are increasingly recognising that companies have some responsibility for the indirect emissions that occur up and down their value chains (i.e. their scope 3 emissions), although there is still judicial fragmentation (Keuschnigg et al., 2026). Possible explanations for this shift may include developments in the science that underpins these cases (see Section 1.3 below), the evolution of more sophisticated legal theories that apply to climate-related losses, the increasing judicial clarity around the obligations of states discussed above (see Box 1.3), and the growing awareness of courts and societies of the severity of harm caused by climate change.

Elements of the latter change can be seen in the recent decision of the Hainaut Commercial Court in the Belgian case of *Falys v. Total*. The court commenced its decision on admissibility by noting: "It is unusual for a commercial court to hear a case with such broad societal implications and one that attracts such significant public interest. This dispute comes at a particular time, one that raises concerns on many fronts and confronts humanity with crucial issues such as the future habitability of the Earth..." The court went on to assert its jurisdiction over the complaint, before issuing a stay pending the outcome in the case against Total currently proceeding in the French courts. Despite issuing the stay, the court was clear that the decision in the French courts would not determine the outcome in Belgian proceedings or interfere with the independence of their final judgment.

It is unclear how long this trend will continue or the degree to which there will be significant divergences in approach between jurisdictions. At least two recent developments call into question the trend observed in the data.

First, cases continue to be dismissed by influential courts on the basis of arguments such as the separation of powers. In March 2026, for example, Germany's Federal Court of Justice became the latest court to dismiss forward-looking climate claims against companies in an appeal from two *corporate framework* cases, originally filed in 2021, against auto manufacturers BMW and Mercedes. The German court found greenhouse gas emissions from the transport sector were already subject to an extensive scheme of legislative requirements and that it was inappropriate for the court to hold that behaviours permitted within this framework could be unlawful. The court refrained from determining individual corporate carbon budgets, finding that this was for the legislature alone [paras. 18 and 45].

Second, there are developments at the legislative level that may prevent cases from proceeding. As discussed in Section 3, legislation has been proposed or introduced in the US, New Zealand and Germany that would shield companies from climate liability.

Claimants in the case of Asmania v. Holcim. *From left: Edi Mulyono, Asmania, Mustaghfirin and Arif Pujianto on 4 June 2025, Pari Island. Credit: HEKS/EPER.*

Box 1.3.

Corporate framework cases building on *government framework* cases

Developments in corporate cases are closely connected to developments in cases against governments (see Section 1.1). Using a large language model (LLM), we looked for citations of *government framework* cases in 25 *corporate framework* cases[9] and found citations by claimants in more than 70% of the cases considered. Where decisions had been issued by courts or quasi-judicial bodies, these also frequently referenced government cases, with citations identified in at least 50% of the relevant documents.

An example of a positive citation can be found in a decision issued in December 2025 by the Cantonal Court of Zug in *Asmania v. Holcim*, a case brought by four Indonesian islanders against Swiss cement producer Holcim. The claimants seek both an order that the company should rapidly reduce its greenhouse gas emissions and damage associated with past and anticipated climate-induced harm. In its decision, the Swiss court relied on the *KlimaSeniorinnen v. Switzerland* decision as authority for the proposition that Articles 2 and 8 of the European Convention on Human Rights (ECHR) apply in the context of climate change. As Swiss law recognises the 'indirect third-party effect' of Convention rights in principle, the court reasoned that the content of Articles 2 and 8 could, in principle, inform the interpretation of Swiss civil law in the context of a climate law dispute.

While not every citation of *government framework* cases has resulted in positive outcomes for the claimants, the consolidation of state obligations may be starting to strengthen the case for corporate accountability (Setzer et al., 2026). This view is also reflected in a flurry of academic commentary on the potential consequences of the developments in international and regional law discussed above for corporate actors (Peel, 2026; Sella, 2025; van Asselt, 2025).

[9] This analysis was led by Lucas Biasetton and the European data underpins parts of Setzer et al. (2026).

Building on past losses: a new wave of corporate cases in Europe

The trends described above have already contributed to shaping the pleadings in at least three potentially significant new cases filed in the past year. These include two new *systemic polluter pays* cases filed in Germany and the UK, and a *corporate framework* case, which is a follow-up to *Milieudefensie v. Shell* in the Netherlands.

The first of these three cases, *Pakistan Climate Cost Case*, was filed by a group of farmers from Sindh in Pakistan who suffered significant damage to their livelihoods as a result of severe flooding in 2022. The NGOs supporting the case argue that the defendants, RWE and cement giant Heidelberg Materials, are responsible for a substantial share of greenhouse gas emissions that contributed to increasing the impact and the probability of flooding events (ECCHR, 2026). By focusing on already established harm suffered by the claimants, this case may avoid some of the evidentiary challenges encountered in *Lliuya v. RWE*.

The second case, *Casquejo and others v. Shell plc and another* (the Odette Case) has been filed by over 100 Filipinos against Shell before the UK High Court. The case concerns damage suffered by the claimants as a result of Super Typhoon Odette, which hit the Philippines in December 2021. In addition to building on the line of cases discussed above, it also builds on recent precedents concerning UK parent company liability for damage to human rights and the environment in communities beyond domestic borders.

The final case, *Milieudefensie v. Shell (no new oil and gas fields case)*, is the second action filed by Milieudefensie against Shell in the Netherlands. The case builds on comments made by the Dutch Court of Appeal in its decision to dismiss the original case. There, the court stated: "It is reasonable to expect oil and gas companies to take into account the negative consequences of a further expansion of the supply of fossil fuels… Shell's planned investments in new oil and gas fields may be at odds with this. In these proceedings, however, the court of appeal does not have to answer the question of whether Shell's planned investments in new oil and gas fields are in violation of its social standard of care" [para 7.61]. The second action is focused on the question of whether investments in new oil and gas do indeed constitute a violation of the social standard of care. It also seeks an emissions reduction order for the period from 2030 to 2050, which was not included in the first Shell case. The pleadings draw extensively on the ICJ's recent advisory opinion. Most notably, the summons invokes the ICJ's conclusion that a state cannot evade its share of responsibility by pointing to the responsibility of others [para. 1001 of the summons, referring to para. 427 of the ICJ's advisory opinion]. This move from state responsibility to corporate duty of care speaks to the ICJ opinion's broader reasoning on the indivisibility of climate obligations (Jackson and Paddeu, 2026). It also reflects a wider pattern in which corporate litigants are beginning to transpose international law concepts into domestic tort frameworks.

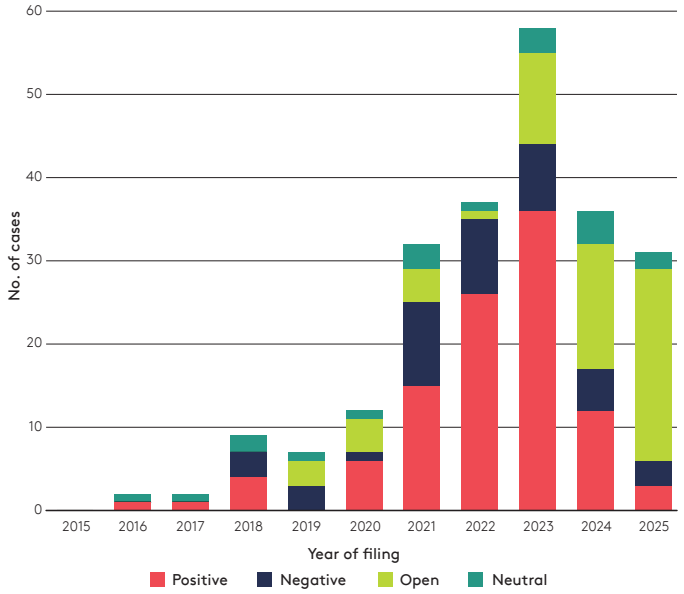
Climate-washing cases may be starting to clarify expectations about corporate climate claims

Climate-washing claims have proliferated in recent years, becoming by far the most common type of case involving corporate actors. Globally, cases have been decided overwhelmingly in favour of claimants: where an outcome is recorded, more than 65% of these cases have been decided in their favour. However, as shown in Figure 1.3, the pace at which these claims are being brought appears to be slowing, particularly if we focus on cases alleging misleading claims by companies about their contribution to the low-carbon transition or the climate impact of their products and services.[10]

The slowdown may be connected to the 'ESG backlash' phenomenon (see Section 3), with litigants becoming more hesitant to bring suits that may make corporate actors still more reluctant to actively engage with the climate agenda. Alternatively, it may be connected to an increased awareness of the potential reputational and litigation risk associated with unsubstantiated green claims, meaning that the litigation may be having its desired effect of reducing climate-washing. Another possibility could be that the accumulation of successful cases is beginning to guide companies on how to make honest, evidence-based disclosures. More research is needed to better understand and explore the reasons for the slowdown.

[10] Cases that are primarily concerned with the spread of climate disinformation continue to proliferate, particularly in the US, as discussed in Box 1.2.

Figure 1.3. *Climate-washing* cases by year of filing between 2015 and 2025, and by outcome



Note: 'Open' indicates the case is ongoing. 'Neutral' indicates that it was not possible to determine whether the outcome should be classed as 'positive' or 'negative'. This is often applied in the context of settlements.

Looking at the cases filed, significant variation is emerging between different types of claims. In the US, for example, class action claims made under consumer protection law alleging that green claims about specific products are misleading consumers have typically been unsuccessful. Around a third of closed cases have resulted in settlement agreements, including a claim by the New York Attorney General against meat processing company JBS (*People v. JBS US Food Co*). The settlement agreement included an agreement that the company would contribute $1.1 million to "climate-smart" agriculture programmes.

In terms of outcomes, there have been notable successes in Europe in claims grounded in consumer protection law, including the 2025 ruling of the Paris Judicial Court in *Greenpeace France et al. v. TotalEnergies*, the first judicial ruling to find a major multinational oil company liable for misleading environmental claims.[11] The court concluded that the company had engaged in "misleading commercial practices" by overstating its commitment to carbon neutrality, while continuing to expand oil and gas production. The verdict made repeated reference to recent EU legislative reforms, including the 2024 Directive on Empowering Consumers for the Green Transition, which prohibits green claims that are not supported by "clear, objective, publicly available and verifiable commitments and targets". The judgment explicitly situated itself within a European regulatory environment, which aims to ensure that climate commitments are linked to verifiable plans rather than aspirational branding (see Box 1.4). This decision, along with earlier decisions such as that of the District Court of Amsterdam in *FossielVrij NL v. KLM*, are starting to provide guidance to companies on the level of verification required by them to support any corporate claims to climate neutrality in the European context.

In Australia, the *Australian Parents for Climate v. EnergyAustralia* achieved a successful pre-trial resolution, in which EnergyAustralia apologised to customers over its 'Go Neutral' scheme. The Australian Securities and Investments Commission (ASIC) has also filed new proceedings against Australian Gas Networks Limited and Fiducian Investment Management Services Limited, following a series of successful outcomes in previous claims against other financial institutions (see Setzer and Higham, 2024).

However, a further claim in Australia, by a shareholder activist group, the Australasian Centre for Corporate Responsibility (ACCR), against oil and gas company Santos, was dismissed. The case concerned claims by Santos that used the term "clean" in relation to

[11] Previously, claims by similar companies have been found to be misleading by regulators and OECD National Contact Points. A claim against Z Energy, a fossil fuel distributor in New Zealand, settled with an apology from the company.

fossil gas and hydrogen. It also concerned the steps outlined in the company's net zero strategy, including the characterisation of offsets as a way to reduce the company's overall emissions. The court held that as these claims were targeted at informed investors, and involved plans which would necessarily be subject to change based on technologies and market factors, the company's statements were not misleading in this context; it also ordered ACCR to pay Santos' full legal costs. The decision has been appealed, and leading scholars and civil society groups responded with significant pushback, highlighting that such litigation represents an important opportunity to clarify the standards to which companies must adhere when making claims about their transition strategies. The severe costs order could become another deterrent for potential claimants.

While some aspects of the debate over what constitutes climate-washing remain live, many advocates may be shifting their focus towards cases that try to address total inaction, rather than the 'say–do' gap that most of the current *climate-washing* litigation has targeted. This shift in focus appears to be present in a press release from Greenpeace Australia regarding their settlement of a *climate-washing* claim against oil and gas company Woodside, which was pending before the same court with the same judge and legal representatives as *ACCR v. Santos*. The claimants note that Woodside has changed the way it presents its future plans since the case was filed (reducing the focus on alignment with the Paris Agreement temperature targets), and states: "Settling this case does not signal the end of our fight against Woodside's climate and nature-destroying gas projects." In future, courts may find it more challenging to adjudicate questions about what is an acceptable corporate transition strategy and whether a fossil-fuel-based business model is compatible with meaningful climate action.

Protest at the TotalEnergies annual shareholders' meeting in La Defense, Paris. Credit: Basile Barjon/ Greenpeace.

Box 1.4.

Navigating the line between 'green-hushing' and '-washing'

One of the ways in which companies have responded to the rise of *climate-washing* litigation in recent years is through what has been termed 'greenhushing'. This involves companies holding back from publicising efforts to increase the sustainability of their products and services or, in some cases, even putting an end to sustainability action all together. Recently filed cases such as *IDEC v. GOL No. 2*, Brazil's first judicial *climate-washing* case, illustrate the problems with this approach.

The claimant, IDEC, a consumer protection non-profit, initially filed a disclosure of information request regarding Brazilian low-cost airline GOL's passenger offset programme, which invited consumers to offset their flight emissions by purchasing digital tokens issued by a partner company. The inquiry revealed that the programme had continued to sell these tokens after 2022, even though the international certifier Verra had prohibited their tokenisation, citing risks of double-counting and the absence of verified retirement. Some tokens were also linked to a project under investigation by the federal police for carbon credit fraud. An identical request was filed by IDEC against a car rental company (*IDEC v. Localiza*).

Following this inquiry, GOL stopped the programme and deleted all related content in both consumer- and investor-facing publicity. This pre-emptive retreat reflects a sense of the ongoing reputational risks associated with the inquiry. That withdrawal did not, however, prevent IDEC from proceeding. The follow-up civil action, filed in December 2025 against GOL, seeks a declaration of greenwashing, an injunction against further offset programmes pending independent audit, mandatory counter-advertising, and collective moral damages of not less than BRL$5 million (nearly US$1 million).

The case demonstrates that pre-emptive retreat does not extinguish legal exposure. In fact, it may itself become evidence of awareness of wrongdoing in subsequent proceedings. On the other hand, total inaction on climate may carry its own legal risks, as we see from the *corporate framework* cases and *integrating climate considerations* cases discussed above. For companies navigating the greenhushing dilemma, the lesson is not that silence is safe; instead, it is the quality and integrity of climate commitments, rather than their mere existence or absence, which matters.

1.3. Evolution in the evidence base

The developments discussed above in both government and corporate cases are underpinned by evolving scientific understanding of climate change and its impacts. Different types of cases rely on a range of scientific concepts, some of which are better adapted to use in the legal context than others (see Box 1.5). Early assessments of the use of climate science in litigation suggested that many cases were relying on scientific evidence in ways that were imprecise or poorly matched to the legal arguments being advanced (Stuart-Smith et al., 2021). However, in recent years there has been a marked rise in transdisciplinary work designed to bridge scientific and legal understanding, and courts are increasingly encountering better-constructed causal chains and more targeted use of attribution evidence (Walker-Crawford et al., 2026).

The most significant area of evolution concerns the capacity to link specific climate impacts to the conduct of specific actors (Quilcaille, 2025), and to link specific losses to the emissions of individual fossil fuel producers (Callahan and Mankin, 2025). Callahan and Mankin find, for example, that emissions linked to Chevron very likely caused between US$791 billion and US$3.6 trillion in heat-related losses between 1991 and 2020, with damage disproportionately concentrated in tropical regions least responsible for global warming.[12] A complementary approach is illustrated by recent work linking specific climate impacts, including sea level rise and associated harm, to the emissions of a single project, Woodside's North West Shelf LNG operation (Abram et al., 2025). This body of work is relevant to *systemic polluter pays* and *failure to adapt* claims (see Sections 2 and 4, respectively). As the scientific capacity to link individual emitters to specific climate-induced harm strengthens, the legal prospects for holding those emitters responsible for adaptation costs become correspondingly more robust.

Beyond the physical science of attribution, advances in the economic modelling of climate change-related impacts are also relevant to the litigation landscape (Leucci, 2026). The ability to quantify damages with greater precision, including through improved estimates of the social cost of carbon- and sector-specific economic loss modelling, strengthens the evidentiary foundations available to claimants seeking compensatory relief.

Other important developments consist of exploring the potential use of research attributing health outcomes to climate change in the context of litigation (Yang, 2026; Ebi et al., 2025; Hefti et al., 2024). Further research has challenged reliance by states on carbon dioxide removal to meet emissions reduction targets (Rajamani et al., 2025; Stuart-Smith et al., 2025). Other researchers have suggested how a sector-based approach could be used in cases against companies (Dietz et al., 2026). A more conceptual research literature is also emerging on the use, challenges and limitations of judicial engagement with climate science (Indreswari and Natalis, 2026; Cornaglia, 2025).

Outside the research on the use of climate science in legal contexts, other developments aimed at ensuring that policymakers and communities have rapid access to recent scientific evidence related to climate change may support future cases. For example, the Scenario Compass Initiative has recently launched a dashboard that enables users to access a synthesis of the latest modelling work to understand emissions reduction pathways for different sectors and regions that would be consistent with achieving specific temperature goals. Users can filter scenarios according to key criteria, for example, end-of-century temperature outcomes and levels of carbon dioxide removal (CDR) reliance. This could enable the legal community to identify subsets of scenarios that are most closely aligned with legal and normative standards.

[12] However, it should be noted that the Callahan and Mankin study calculates losses at the level of total US GDP, which is not the level at which any single lawsuit is operating.

Box 1.5.

Speaking a shared language: the *Grantham Climate Litigation Guides* to using climate science in legal contexts

By Noah Walker-Crawford, Jameela Joy Reyes and Nicholas Petkov

To help legal professionals, policymakers, researchers and scientists navigate the evolving field of climate litigation, the Grantham Research Institute at LSE and the Grantham Institute at Imperial College London have recently launched a series of guides designed to provide information on the use of climate science and evidence in legal contexts in concise, non-technical language.

The first guide, *Science in the courtroom*, highlights the key role that scientific evidence plays in helping judges adjudicate climate cases. It provides an overview of the different kinds of scientific evidence that courts find relevant and compelling in climate litigation, and a glossary of key terms to help the reader understand the specialist terminology employed. Specific evidentiary needs differ depending on the case filed.

The second guide, *Corporate defences in climate litigation*, provides a systematic view of the legal arguments that are currently being used by corporate defendants. It explores how corporate defendants have deployed defence strategies, highlighting recurring themes and emerging trends. It also discusses how courts have engaged with these defence strategies.

The third guide, *Constructing the causal chain*, provides further insight into the legal basis and scientific foundations of *systemic polluter pays* cases, including an introduction to the basics of attribution science for a non-specialist audience. It unpacks the series of causal links presented by litigants to connect the actions of a major emitter to a specific climate-related harm in a specific locality. The guide explains which aspects of the causal chain linking major emitters to climate-related harm command greatest consensus, and which are most contested. Key areas of uncertainty persist at both ends of the causal chain: attributing greenhouse gas emissions to specific emitters at one end, and linking those emissions to not just the broader impacts of climate change, but to the harm suffered by individual claimants on the other.

The fourth guide *Translating ambition: mitigation scenarios and emissions pathways in climate litigation* (forthcoming) will explore the use of emissions pathways and scenarios in climate litigation, with attention on *corporate* and *government framework* cases. It will introduce key concepts and terminology, including mitigation scenarios and integrated assessment models (IAMs). The guide will highlight distinctions in how this evidence is being used in cases against companies and governments. It will also address the challenges facing litigants seeking to rely on pathways and scenarios in litigation, describing how some litigants are turning to 'red line' arguments about stopping new fossil fuel production or exploration, which inform different forms of request for injunctive relief. The new *Milieudefensie v. Shell* case discussed above is an example of a case that takes this approach.

Key insights from Section 1

The developments explored in this section suggest that the maturation of climate litigation is best understood not as a single linear progression, but rather as the consolidation of several reinforcing tracks that interact in different and new ways. What began as a field characterised by novel legal arguments and uncertain judicial reception has consolidated into a body of law with multiple reinforcing channels: apex court decisions affirming state obligations across jurisdictions; advisory opinions from international tribunals synthesising jurisprudence into customary international law; and a growing willingness of courts to hear corporate accountability claims on the merits.

The legal architecture governing state obligations in particular has reached a level of stability that would have seemed unlikely a decade ago. The corporate track remains more open, with no *systemic polluter pays* or *corporate framework* case yet producing a final, upheld order requiring behaviour change; but the procedural gains documented here are laying foundations that future cases will build on. Underpinning both tracks is a continually advancing scientific evidence base. The field's maturity is also visible in its breadth.

2. Expansion and innovation

In this section, we explore the geographical and thematic expansion of the climate litigation field over the past year. New jurisdictions, defendants, claimants and subject matter are emerging that continue to reshape what climate litigation is, and what it can do.

> "Before 2015, climate cases were recorded in only 17 countries; since then, the number has increased to 62 countries."

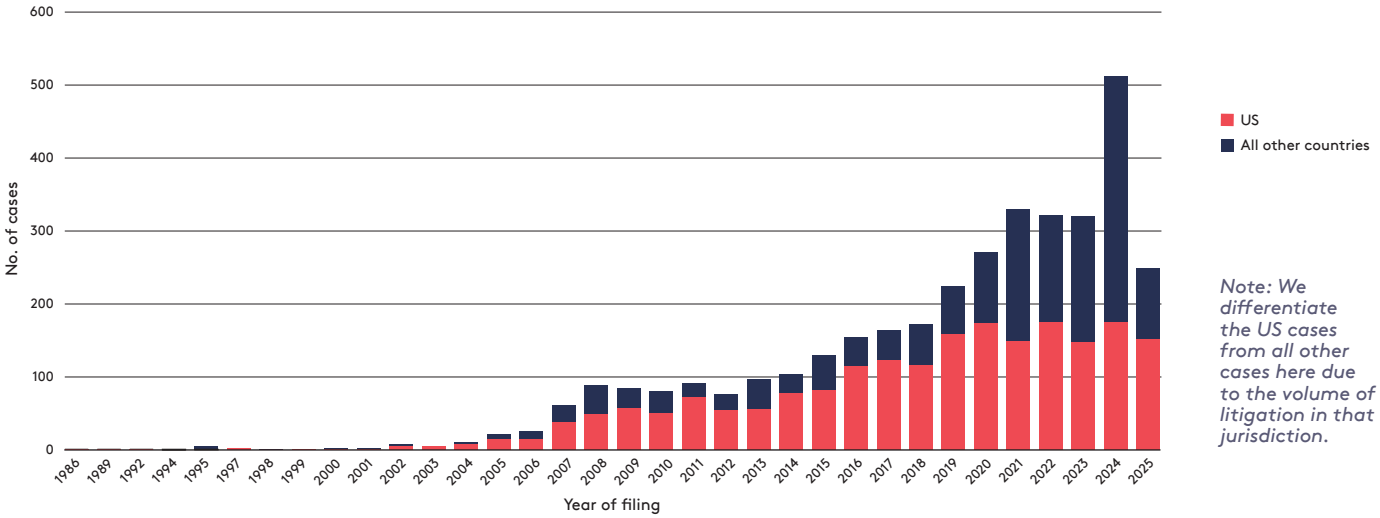
2.1. The geographical spread of climate cases

The data reviewed for this report now includes more than 3,600 cases. More than three-quarters of these have been filed since 2015, the year of the Paris Agreement (see Figure 2.1).

Over the past decade, climate litigation has also rapidly expanded in geographical scope, with cases filed in new and diverse geographies. Before 2015, climate cases were recorded in only 17 countries, and were brought before few international and regional courts and tribunals. Since then, the number of countries with recorded cases has increased to 62 (see Figure 2.2). Since the publication of our 2025 report, cases have been identified for the first time in Grenada, Guatemala, Kazakhstan, Malaysia, Singapore and Zambia.

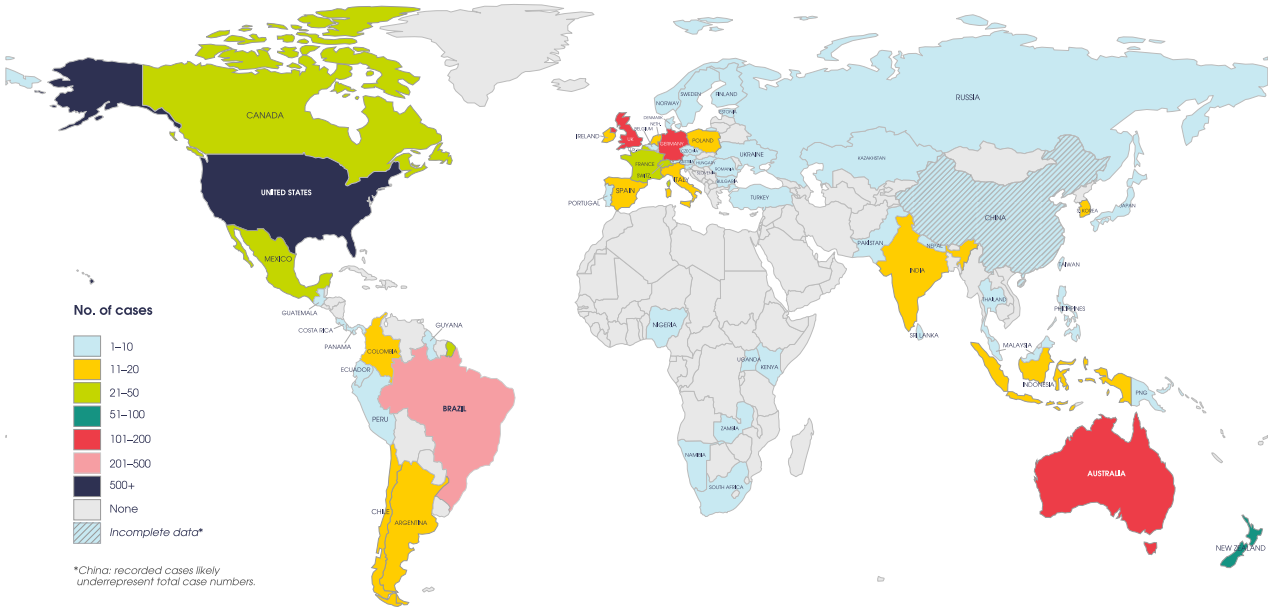
The geographical spread of cases remains uneven: 81% of cases have been filed in the Global North, 14% in the Global South and 5% before international or regional courts. The nature of climate litigation varies significantly depending on each jurisdiction's legal tradition, its experience of and contribution to climate change, and its governance context. In recent years, China has seen substantial activity on climate legislation and litigation, but the cases have not yet been systematically analysed, nor included in publicly available databases (see Box 2.1). Documented cases have also continued to increase in Brazil, where many *incidental polluter pays* cases, filed mostly against individuals and a few small companies between 2023 and 2025, have recently been entered into the database.

Figure 2.1. Number of cases filed by year, 1986–2025



Note: We differentiate the US cases from all other cases here due to the volume of litigation in that jurisdiction.

Figure 2.2. Number of cases filed before national courts around the world (from 1986 to end of 2025)



Box 2.1.
Climate litigation in China

China's climate legislation and litigation landscape has continued to evolve in 2025–26, shaped by institutional expansion, its environmental public interest litigation system, and a new legislative development that could have long-term significance for judicial engagement with climate issues.

In 2020, President Xi Jinping announced China's 'dual-carbon' goals: i.e. to peak emissions before 2030 and to achieve carbon neutrality by 2060. Since then, legislative, judicial and prosecutorial activity has increasingly aligned with that agenda.

The scale of the litigation could already be substantial, but the climate cases have not yet been systematically analysed, nor included in publicly available databases. The Supreme People's Court has reported that Chinese courts are handling more than 500 'dual-carbon-related' cases, spanning carbon market regulation, energy transition contracts and protection of carbon sinks (CCTV News, 2024). The Sabin Center's database records four cases from China, as there is uncertainty about whether the 'dual-carbon-related' cases meet the definition outlined in the Introduction to this report. In turn, Chinese scholars have been debating how to define the scope of 'narrow' climate change litigation in the Chinese context (Deng and Tang, 2025).

The role of prosecutorial and state-initiated climate litigation

A defining feature of the Chinese system is the central role of the Supreme People's Procuratorate (SPP). This national body has sole authority to initiate administrative public interest litigation and shares the standing to bring civil environmental public interest litigation with qualifying NGOs. In practice, prosecutorial litigation dominates: climate cases brought by prosecutors have addressed issues including non-CO_2 greenhouse gas emissions, damage to carbon sinks and data falsification in emissions reporting (SPP, 2023a).

This pattern reinforces scholars' observations that in China litigation functions as a tool of state-led climate governance, rather than as a challenge to it (Zhu, 2023; Chen and Li, 2023; Li, 2025). Administrative public interest litigation is best understood as a mechanism for supervising the executive and compelling government agencies to fulfil their stated climate obligations, rather than a means for advancing climate ambition beyond state commitments (Li, 2025).

China's Ecological and Environmental Code and possible new areas for climate litigation

The most significant legislative development in the period covered by this report is the adoption of China's Ecological and Environmental Code. This was approved by the National People's Congress in March 2026, and will come into force in August 2026. The Code consolidates 10 existing environmental statutes and, for the first time, introduces a general statutory framework for climate governance within a comprehensive environmental law instrument (Yuen and Higham, 2026). Section 4 of the Code (Articles 938-1051) addresses green and low-carbon development, climate change mitigation and adaptation, carbon markets and international climate cooperation. It references China's carbon peaking and carbon neutrality targets.

The Code sends a strong political signal on China's intention to fight domestic pollution and climate change, and it could provide prosecutors and courts with a legal basis to enforce climate obligations against specific actors (Hui and Karim, 2025; Li, 2025). Yet the Code also restricts NGOs from challenging state administrative acts, and prosecutors are unlikely to file cases against the Chinese government (Larson, 2026).

China's climate litigation landscape presents a distinctive model, characterised by high institutional capacity, but operating within structural limits that shape both the type of claims that can be brought and the ambitions they can pursue. Whether the new Code will result in more litigation, for instance, against corporate actors in the carbon market, will depend on how prosecutors and courts interpret the new provisions in practice.

2.2. Transnational exchange and the mechanisms of cross-jurisdictional learning

As we have highlighted, climate litigation continues to spread across the world, with cases now recorded in 62 countries. A striking feature is that new cases rarely emerge in isolation: they tend to replicate, adapt and build on the existing body of climate jurisprudence from other jurisdictions. This shows how the field operates as an increasingly connected transnational governance regime,[13] rather than a collection of discrete domestic legal activities (see Box 2.2).

The case of *Zambia Climate Action Network v. Attorney General*, filed under the country's Green Economy and Climate Change Act of 2024, illustrates this transnational pattern and its limits. The petition challenged the Zambian government's failure to implement several statutory mechanisms, including a new climate fund – making it a classic *government framework* implementation case. The Constitutional Court dismissed the case on jurisdictional grounds in March 2026, finding that the issues had not been presented in a manner that it could adjudicate.

However, the dismissal has forward-looking significance: the court's reasoning implicitly opens the door for equivalent claims to be brought before the High Court, which would be unable to decline jurisdiction on the same basis. In this way, the case illustrates a broader pattern in which early procedural setbacks in new jurisdictions can, nonetheless, advance the field by clarifying the appropriate forum and legal framing for future claims.

The trajectory of cross-jurisdictional learning is also evident in a new case filed in Malaysia by the environmental NGO RimbaWatch. The case challenges the failure of two Malaysian government ministries to regulate climate-washing in fossil fuel company advertising. Each ministry cites the other as the appropriate authority, thereby raising both a substantive climate-washing argument and a structural question about ministerial accountability for regulatory inaction. The petition explicitly references the climate-washing enforcement actions taken by other jurisdictions in the region and invokes the ICJ's advisory opinion, a pattern of cross-jurisdictional citation that is increasingly common (discussed below). A comparable invocation of the advisory opinions is visible in a Brazilian case filed in November 2025, *IDEC v. GOL Linhas Aéreas* (see Table A).

There is also growing evidence of South–South learning, with climate litigation actors in the Global South learning from each other, as a distinct channel of transnational exchange, alongside the more frequently documented North–South flows of learning (Climate Litigation Network, 2025). Cases filed in the Global South frequently reference not only landmark European decisions, but also cases from other Global South jurisdictions. As shown in Box 2.2, the decision in the case of *Leghari v. Federation of Pakistan* is among the most frequently cited.

> "New cases rarely emerge in isolation: they tend to replicate, adapt and build on the existing body of climate jurisprudence."

[13] The term 'transnational' in this context usually refers to governance beyond the state, established to govern global issues. It expands beyond acts issued by national policy and law-makers, and it includes action by non-state actors (e.g. subnational governments, corporations and NGOs) regulating worldwide challenges like climate change, pollution and biodiversity loss (Heyvaert, 2017; Etty et al., 2018).

Box 2.2.

Climate case law across borders

By Lucas Biasetton and Gustavo Rodriguez

The phenomenon of cross-jurisdictional citation discussed above is starting to be systematically explored by researchers using new large language model (LLM) research methods.

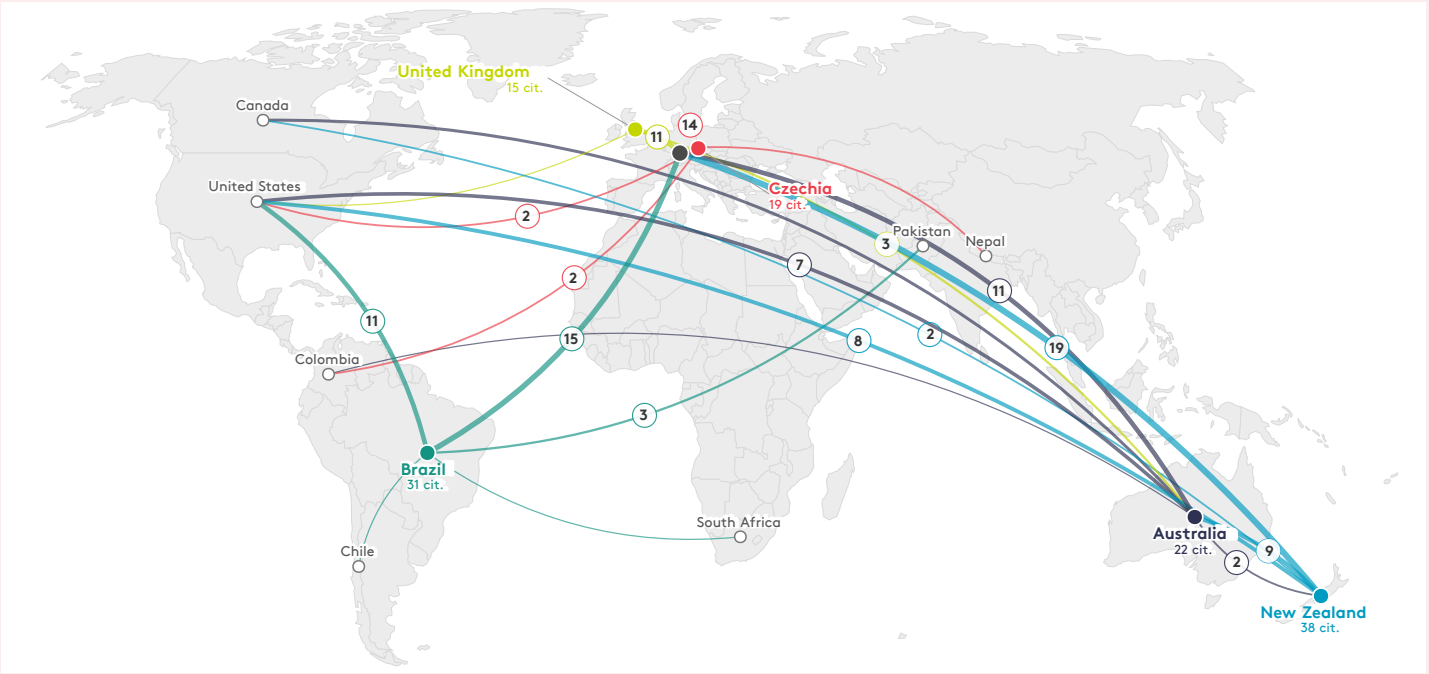
Which jurisdictions cite foreign caselaw most frequently?

The map adjacent shows the five jurisdictions whose **courts most frequently cite foreign climate litigation decisions**. They are:

- New Zealand: 38 citations from decisions in 7 jurisdictions
- Brazil: 31 citations from decisions in 7 jurisdictions
- Australia: 22 citations from decisions in 9 jurisdictions
- Czechia: 19 citations from decisions in 7 jurisdictions
- UK: 15 citations from decisions in 5 jurisdictions.

Among the most frequently cited foreign jurisdictional caselaw are the Netherlands (cited 52 times), US (48 times), UK (29 times) and Germany (28 times).

Notably, the US appears in this transnational citation network primarily as a cited jurisdiction (US judgments are cited 48 times by judges in 12 other jurisdictions). There are only 4 citations of foreign case law in US cases. This is consistent with a broader tradition in US legal culture, in which domestic courts have generally been reluctant to engage with foreign law and international legal sources (Law and Versteeg, 2012).



Which cases have the greatest global reach?

The boxes below show how five landmark cases, as per the preliminary count, have travelled geographically.

Urgenda Foundation v. State of the Netherlands

Origin: Netherlands

44 citing decisions across 20 jurisdictions

Australia	4
Belgium	4
Brazil	4
New Zealand	4
South Korea	4
Canada, Czechia, Germany, Ireland, Italy, Norway, United States, Argentina, Austria, France, India, Luxembourg, Papua New Guinea, Philippines, United Kingdom	24

Neubauer et al. v. Germany

Origin: Germany

19 citing decisions across 9 jurisdictions

Brazil	7
Czechia	3
Belgium	2
South Korea	2
Argentina	1
Australia	1
Austria	1
Italy	1
New Zealand	1

Massachusetts v. EPA

Origin: United States

18 citing decisions across 8 jurisdictions

Brazil	9
Czechia	2
Netherlands	2
Australia	1
Belgium	1
Canada	1
New Zealand	1
Philippines	1

Leghari v. Federation of Pakistan

Origin: Pakistan

10 citing decisions across 6 jurisdictions

Brazil	3
Netherlands	3
Belgium	1
Canada	1
Papua New Guinea	1
Philippines	1

Friends of the Irish Environment v. Ireland

Origin: Ireland

9 citing decisions across 5 jurisdictions

United Kingdom	3
Czechia	2
Germany	2
Canada	1
France	1

Notes: These figures are the product of a methodology based on LLMs systematically analysing judicial decisions available in the Sabin Center's Climate Litigation Database, extracting climate litigation case law citations and classifying references to foreign case law. Each citation is deduplicated at the level of the citing decision to avoid over-counting. The data and analysis are drawn from ongoing doctoral research by Lucas Biasetton at the University of São Paulo, and were conducted in collaboration with Gustavo Rodriguez and the Grantham Research Institute.

Through cross-jurisdictional citations, litigants and judges seek to grapple with similar challenges and complexities in applying established legal norms from different legal systems to questions about climate change. It has been argued that through this process, climate litigation challenges our notions of domestic legal systems being "hermetically sealed" (Affolder and Dzah, 2023). The data in Box 2.2 confirms and quantifies this pattern of transnational exchange.

However, claimants' attempts to draw on foreign precedents are not always received positively by the courts. Since the early days of *government framework* litigation, courts have scrutinised whether foreign precedents rest on legal foundations sufficiently analogous to those available in the domestic system. This is illustrated by early cases such as *Greenpeace Nordic and Others v. Norway*, where the Norwegian court declined to transpose the *Urgenda Foundation v. State of the Netherlands* reasoning to the human rights context in Norway.

The reluctance of common law courts to draw on civil law precedents seems to be a particular dimension of this broader challenge. In deciding *Pabai and Kabai v. Commonwealth of Australia* in July 2025, the Australian Federal Court made clear that it considered precedents from the Netherlands, France and Belgium inapplicable: not as a matter of conceptual disagreement, but because the claimants had not established that those decisions rested on mechanisms sufficiently analogous to the common law tort of negligence on which the Australian case was grounded. The decision has also been criticised as one in which 'climate overloading' by defendants (i.e. the strategic emphasis placed on the complexity of climate change and climate policy responses) led the court away from focusing on the specific facts and conduct complained of in the individual case (Hicks, 2025). In some circumstances, the reliance on foreign case law in some common law jurisdictions may offer limited strategic benefit to litigants, at least where the underlying doctrinal architecture differs materially from the source jurisdiction's legal framework.

This is why in examining the spread of climate cases and doctrines across borders, we must look beyond case citations to the broader mechanisms through which legal ideas travel. These include legal education, advocacy networks, and shared reliance on international instruments such as the Paris Agreement (UNEP Global Climate Litigation Report, 2025; Jackson and Setzer, 2026). The 'open-source' orientation of climate litigation, with litigants sharing strategies and learning from each other's experience has become a hallmark of the field (Garavito, 2025). Judges too have had opportunities to learn and exchange ideas through judicial networks and training programmes. This kind of transjudicial exchange is a well-documented feature of global legal governance, first identified by Anne-Marie Slaughter (2005). While not unique to climate litigation, it helps bring judges from different systems into direct dialogue.

2.3. Vulnerable groups in climate claims

In the past, most climate cases have been filed by NGOs, individuals or both acting together. This remains true for cases filed in 2025, with more than 70% involving these actors among the claimants.[14] However, within this group there is considerable diversity.

Cases with individuals as the claimants often introduce evidence that these claimants are uniquely vulnerable to climate change. There is a growing research literature focused on these cases. A new edited volume explores the potential for climate litigation to act as a mechanism for addressing both universal and particularised vulnerabilities experienced by communities in the Global South (Tigre et al., 2025). Other scholarship has focused on the role of youth (Parker et al., 2022; Lewis, 2021; Donger, 2022; Daly and Muller 2025; Nolan 2024; Pues et al., 2024; Tigre 2025); Indigenous Peoples (Tigre, 2022; Chen 2025) and women (Burri and Reyes, 2025; Lupin et al., 2024). Climate-related migration is a further topic under scrutiny, with early literature focusing on cases of international displacement (McAdam, 2015; Scott, 2016; Atapattu, 2018), and more recently expanding to encompass cases of internal displacement (Serraglio et al., 2024; Bustos, 2024).

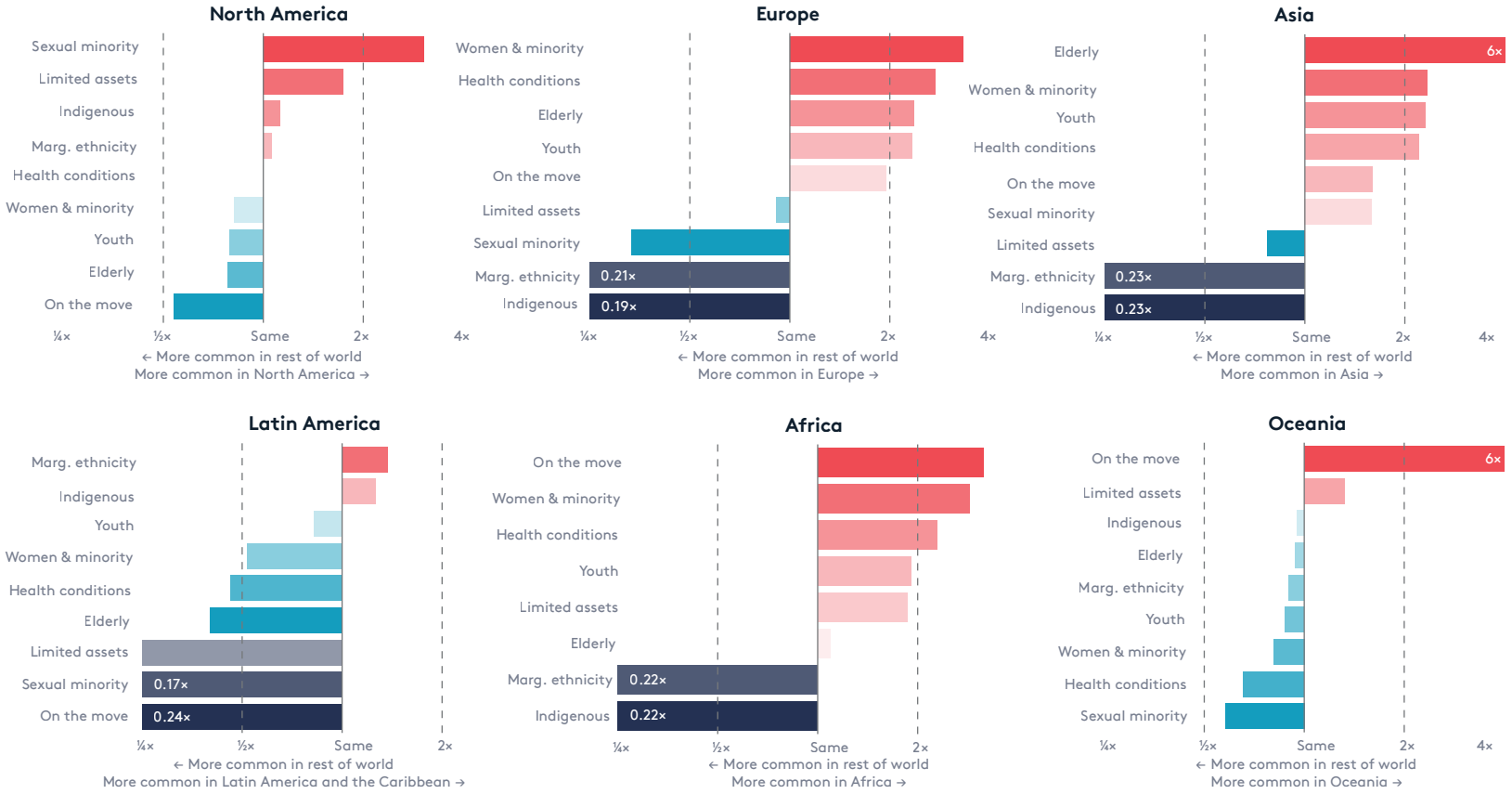
Analysis using the advanced features of the Sabin Center's relaunched database may help to shed further light on this aspect of climate litigation (see Figure 2.3). Using the 'impacted groups' topics filter, we examined how often different groups are mentioned in the litigation. Our findings, which are outlined in more detail in Annex 2, confirm that young and Indigenous people

[14] Cases involving NGOs as claimants make up nearly 45% of the total number of cases identified. This may point to a selection bias in the data. As NGO cases are often accompanied by press campaigns, they are more likely to come to the attention of researchers.

are the most frequently referenced vulnerable groups globally. The topics filter identifies all references to different impacted groups in the database, which means that the data in Figure 2.3 includes both incidental mentions of the group and cases in which the claim is brought by representatives of that group. As such, these results should be treated as preliminary, and further research is needed to understand the diverse nature of the references and their purpose within a given case.

There are also significant regional differences around which impacted groups are most represented. As expected, Indigenous Peoples are more frequently discussed in cases from the Americas. There are also more references to "people on the move" (i.e. climate migrants and internally displaced people) in cases from Oceania than the global average, which is unsurprising given the region's vulnerability to sea level rise. Interestingly, there are also more references to "people on the move" in Africa than the global average, a pattern that may reflect the relative receptiveness of the African regional human rights framework to the protection of displaced persons, including those whose movement is driven by environmental and climate factors (Mativo 2024). People with health conditions and disabilities, as well as women and people of minority genders, are more frequently referenced in cases in Europe, Asia and Africa.

Figure 2.3. Most over- and under-represented groups in each region compared with the global average



Note: For explanation of categories, please see Annex 2.

Some aspects of this regional variation may be determined by factors specific to each region. The high number of cases referencing Indigenous Peoples in the Americas, for example, are likely linked to the region's colonial history and the protections that Indigenous Peoples have under national laws and constitutions. However, in other areas the variation may suggest that some vulnerable groups are not yet being considered and engaged by the climate litigation movement. As discussed in Box 2.3, new databases have recently emerged focused on specific impacted groups, such as young people and climate migrants, which may start to bridge some of these gaps.

Box 2.3.

New databases tracking litigation involving vulnerable groups

In recent years, new databases have emerged tracking caselaw and related resources on litigation affecting particular vulnerable groups. Examples include the Youth Climate Lawsuits Database hosted by the youth climate empowerment organisation ClimaTalk and the Youth Climate Justice Case Law Database hosted by University College Cork; another is the Climate Mobility Case Database hosted by the Global Strategic Litigation Council. These databases can be seen as part of an effort to disseminate information about successful and unsuccessful climate litigation strategies with the goal of advancing protections for specified groups of individuals, constituting a new channel for contributing to the spread of strategies and doctrines discussed above. As contributors to the Climate Mobility Case Database write, the project aims to "empower legal practitioners, academics, NGOs and wider civil society to learn from past arguments and experiences, refine their strategies, and work to obtain protection for those who have been or may be displaced by climate change".

2.4. New frontiers in climate litigation against the private sector

Historically, the data shows that most climate cases have been filed against governments. However, in recent years, interest has grown in litigating against private actors, particularly companies.

In this section, we consider three new frontiers in climate litigation against private parties and their implications for the future of the field. First, the range of defendants continues to widen, with strategic cases filed against a broader range of actors involved in different sectors of the economy, such as individual landowners, the real estate industry, state-owned enterprises and institutional investors. Second, we consider new claimant dynamics, including shifts in the role played by government agencies and insurers, and a new focus for shareholder claims. Third, we identify emerging legal theories that connect corporate climate liability to adaptation, finance and corporate governance in ways that cut across established strategy categories.

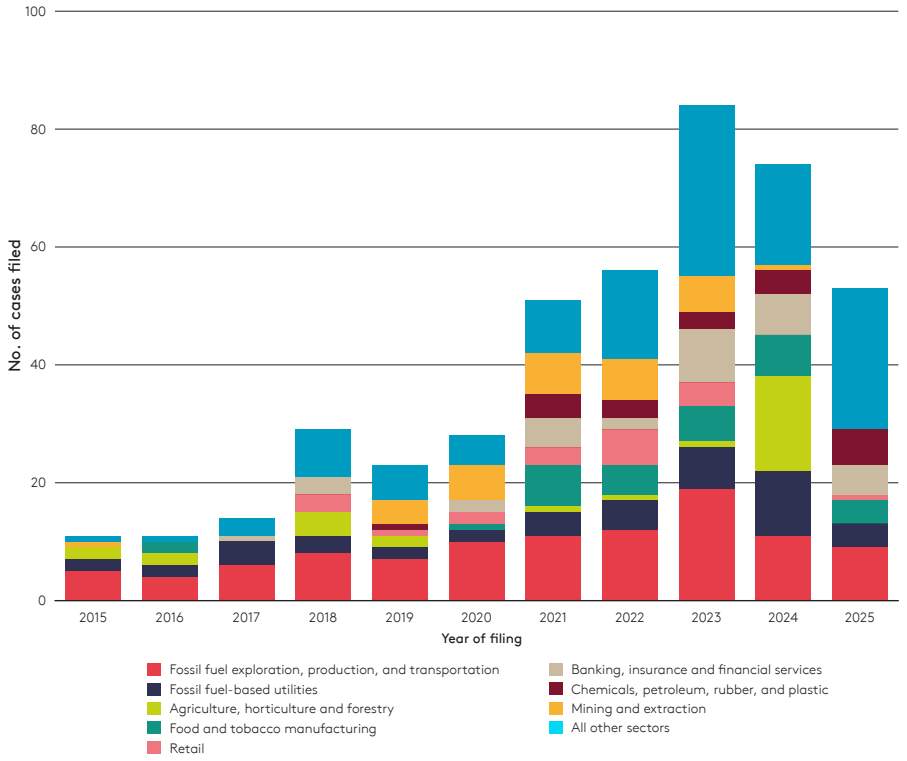
New defendants: who is being sued, and why it matters

Our analysis suggests that more than 50 strategic climate-aligned cases were filed against companies in 2025, bringing the total number of such cases filed since 2015 to 434. As Figure 2.4 illustrates, this group of cases involves companies from diverse sectors, including energy, finance, transport, real estate and consumer goods.

The data reviewed for this year's report also reflects a significant increase in cases involving corporate actors in 2024. This is partly driven by the inclusion of 18 *incidental polluter pays* cases against companies involved in agribusiness in Brazil. However, this is only a small fraction of the total number of *incidental polluter pays* cases filed in 2024, with the vast majority filed against individual defendants. The increase reflects the recognition that responsibility for climate action extends well beyond direct fossil fuel producers, and the growing sophistication of litigants in identifying the full range of actors along the supply chain of emissions-intensive activities.

Notes: See Annex I for notes on the sector taxonomy used for this graph.

Figure 2.4. Climate-aligned strategic cases filed against corporate actors, by sector of lead defendant company, 2015–2025



Real estate, pensions and the consistency gap

One of the more striking cases to emerge in recent months is a new *transition risk* case, a class action in the US filed against the employee pension fund of global real estate company Cushman and Wakefield. The case, supported by environmental campaign NGO Stand.earth, argues a breach of statutory fiduciary duties owed to the pension holders. The claimants argue that although the firm employs sophisticated climate-related risk management practices on behalf of its clients, it has failed to apply equivalent practices to its stewardship of employees' retirement savings.

This case is notable on two counts: first, it highlights the real estate sector as an emerging site of climate-related risk and litigation. Although real estate developers have long been involved in cases about the integration of climate adaptation and resilience measures into new buildings, this new litigation goes beyond project-focused cases to more systemic questions about risk-management practices. This phenomenon is closely connected to the insurance dynamics discussed below. Second, it exemplifies a pattern increasingly visible across *transition risk* and *climate-washing* cases: companies that are relatively active in the climate arena are being challenged not for inaction, but for the inconsistency of their engagement (see Section 1.2.).

Although this case implicates a new type of defendant, a real estate company rather than a fossil fuel company, it follows in the footsteps of earlier *transition risk* cases in which employees from coal companies sued over the continued investment of their retirement funds in fossil fuel assets, including the employer-companies themselves, in the face of the declining market for coal in the US (see *Lynn v. Peabody Energy*; *Roe v. Arch Coal*; see also discussion in Setzer and Higham, 2023).

Similar *transition risk* cases also continue to be filed against fossil fuel companies, such as a case against coal producer Thungela Resources in South Africa, a country whose power sector remains dominated by coal. That case concerns a refusal to allow activist shareholders to table resolutions on the management of climate transition risks. The claimants argue that this refusal implicates both the interests of the company and broader constitutional environmental rights protections.

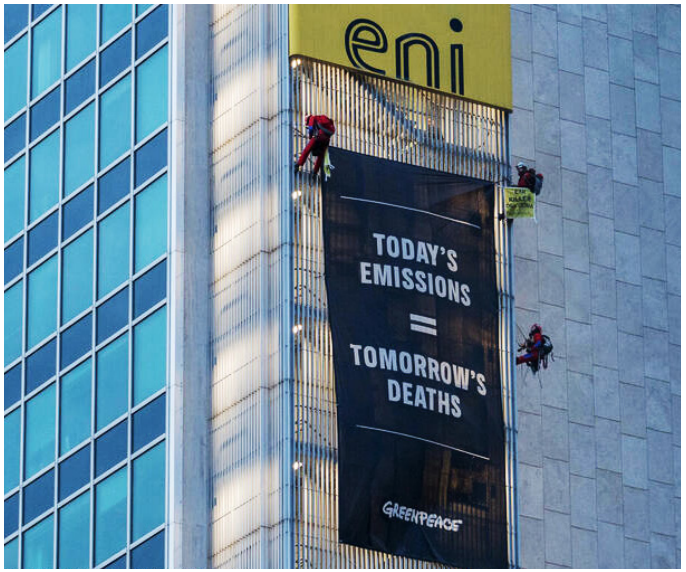
State-owned enterprises and state-owned financial institutions: from peripheral to central defendants?

Another area of defendant diversification involves state-owned or controlled enterprises (SOEs) and state-owned financial institutions (SOFIs), including multilateral institutions. Analysis of the litigation data shows that SOEs have been involved as defendants in at least 42 climate cases since 2015. The nature of these cases is diverse: several of the earlier cases involve export credit agencies that have been the subject of litigation over fossil fuel investments (e.g. *Friends of the Earth v. UK Export Finance*). We have written about these cases in earlier reports when focusing on the phenomenon of *turning-off-the-taps* cases, which see efforts to use litigation to shift the flow of finance, particularly public finance, away from high-emitting activities.

SOEs have also been listed among defendants in several US *systemic polluter pays* cases, although in many of these cases proceedings against foreign-owned entities have been dropped or dismissed. Earlier cases against government defendants have also incorporated arguments about state responsibility for the emissions of state-owned energy companies, for example in Sweden with *PUSH Sweden, Nature and Youth Sweden and Others v. Government of Sweden* and *Anton Foley and others v. Sweden (Aurora Case)*, and in Norway with *The Norwegian Grandparents' Climate Campaign and others v. Norway*. However, looking at the more recent data, we believe that the character of SOE involvement may be shifting.

As climate litigation expands into countries where SOEs play an important role, the number of cases in which SOEs are the primary corporate defendants has risen. More than 40% of the cases involving these defendants have been filed since 2023. In Brazil and South Korea, which have both seen significant growth in climate litigation in recent years, several cases have been filed directly against SOEs, including three in South Korea (*Kim et al. v. KOGAS*, *Kang et al. v. KEXIM and KSURE*, *Ma et al. v. KEPCO et al.*) and two against Petrobras in Brazil (*Observatório do Clima e outros v. IBAMA*, *Petrobras e União Federal* and *Ministério Público Federal v. IBAMA e Petrobras*) in 2025 alone (see Box 1.4). Among the South Korean cases, *Ma et al. v. KEPCO et al.* stands out as a *systemic polluter pays* case directly targeting a state-owned power company. The case alleges that KEPCO should contribute financial compensation for climate-related damages suffered by Korean farmers on the basis that it is responsible for more than a quarter of national greenhouse gas emissions.

Two recent judgments also illustrate the range of issues these cases are beginning to raise. In Mexico, the Supreme Court ordered the release of information relating to SOE oil company Pemex's methane emissions, despite accepting certain restrictions given the strategic nature of the company's operations. The case is an important transparency ruling at the intersection of climate accountability and state enterprise governance. More directly, in *Greenpeace Italy et al. v. ENI S.p.A*, the Italian Court of Cassation accepted that Italian state-owned financial institution Cassa Depositi e Prestiti, as well as the Italian Ministry of Finance, could in principle potentially be found legally liable under civil law for contributing to climate-induced harm through the way it exercised its controlling stake in the company (see Section 1.2).



Greenpeace activists unveil a protest banner on the offices of Italian oil and gas company, Eni in Rome.
Credit: Giuliano Del Gatto/Greenpeace

Two further new cases filed in 2025 extend the line of *turning-off-the-taps* cases referred to above. The first is the case of *Hirji et al. v. Canada Pension Plan Investment Board* in which youth claimants argue that a large public pension manager is mismanaging present exposure to fossil fuel assets and failing to adequately model and disclose climate-related financial risks. Among the arguments made is the claim that the ICJ's advisory opinion may increase the transition risk facing fossil fuel investments. The second is the case of *Bank Climate Advocates (BCA) v. United States Department of Treasury*. Filed in July 2025, the case targets a multilateral development bank through an access-to-information mechanism, rather than direct liability. The suit was filed against the US Treasury as the International Finance Corporation's (IFC) largest shareholder under the Freedom of Information Act, seeking disclosure of the climate due diligence assessments the IFC conducted before financing 13 projects, including natural gas plants, a cement plant and livestock facilities. The IFC had refused to disclose the underlying analyses on grounds of client confidentiality and deliberative privilege.

These new cases reflect a fresh focus on the role of SOEs and SOFIs in broader discussions about climate policy and climate governance. State-owned enterprises, particularly state power companies, are vital actors in the transition to low-carbon economies. However, there has been relatively little focus on the governance and policy interventions required to ensure that these actors become agents of transition, rather than barriers to change (Benoit et al., 2022). Further legal analysis focusing on interventions to turn SOEs into drivers of transition is needed to better understand this underexplored dimension of the climate governance challenge (Lim, 2025).

Efforts to fill these gaps are emerging. For example, a recent opinion by Lorenzo and Lin commissioned by campaign group Bank Climate Advocates highlights potential litigation risks for state shareholders in multilateral development institutions that continue to support new fossil fuel projects. This risk is heightened by the emerging norms on state approvals for new fossil fuel projects in the wake of the international advisory opinions (discussed in Section 1.1). If case numbers targeting SOEs and SOFIs continue to grow, it may help to clarify the specific accountability mechanisms that apply to these actors, as well as highlighting the broader role they must play in advancing climate action.

Four young Canadians (Chloe Tse, Rav Singh, Travis Olson and Aliya Hirji) have taken the Canada Pension Plan Investment Board, the sixth largest pension fund manager in the world, to court, claiming it is breaching its duty to invest in their best interests by failing to protect their pensions from climate risk. They are represented by lawyers from the charity Ecojustice and law firm Goldblatt Partners LLP.
Credit: Joshua Best and Ecojustice

New claimants: who is entering the field?

If the diversification of defendants discussed above reflects the broadening reach of climate accountability arguments, the diversification of claimants reflects something equally significant: a widening circle of actors with a stake in climate outcomes, with these stakes often being framed in financial terms. A significant development is the emergence of cases in which insurance companies act as claimants through subrogation claims. But the trend extends further. Governmental and quasi-governmental actors are also bringing new types of cases, and shareholders are filing *failure to adapt* claims that rely on clear arguments about climate risk management.

Insurance companies as claimants: commercial logic and its climate implications

Insurance companies have long had an indirect relationship with climate litigation in their capacity as underwriters of litigation risk, as subjects of regulatory pressure, and occasionally as defendants in cases concerning the scope of policy coverage for corporate defendants.[15] However, recent developments show that insurers' ordinary commercial practices are starting to generate climate litigation. Insurers have started to bring subrogation claims seeking to recover costs in the wake of climate-related disasters. Subrogation is the standard mechanism by which insurers seek to recover costs paid out to their insured clients following a loss event. Insurance companies do not seem to be acting as strategic litigants: rather, they are pursuing loss recovery. Yet the cases now emerging reveal an industry that is, perhaps inadvertently, entering the climate litigation landscape in ways that may have serious implications for climate justice, implications the industry is unlikely to have fully reckoned with.

The clearest illustration is a pair of parallel proceedings filed in KwaZulu-Natal, South Africa, arising from flooding that occurred in the region in April 2022 (see Field et al., 2025). In July 2025, Japanese insurer Tokio Marine filed a subrogation claim against Transnet, the KwaZulu-Natal Department of Transport, and the Municipality of eThekwini, alleging that their failure to provide adequate maintenance of stormwater infrastructure amplified the scale of flood damage suffered by Toyota's manufacturing facility, which shut down for three months with approximately 4,000 vehicles scrapped. A parallel claim was filed in August 2025 by the insurers of packaging companies Corruseal Properties and Corruseal Corrugated KZN against the same defendants. It is not yet clear how explicitly climate change features in these cases. Nonetheless, they raise complex distributional dynamics that are highly relevant for climate governance: an insurance company from the Global North recovering corporate losses from a cash-strapped municipality in the Global South, while the communities who bore the greatest physical burden of the floods remain uncompensated. These dynamics are examined further in Section 4.

This tension points to a paradox at the heart of the insurance industry's relationship with climate change. On the one hand, insurers are among the actors most vocal about the systemic risks posed by climate change. On the other hand, their core business model, which is built around compensating losses rather than preventing them, can work against climate justice goals. Whether and how the industry reconciles these two roles is itself becoming a question for the courts and legislators.

The potential for subrogation claims to address what the US Senate Budget Committee has described as a "climate change driven insurance crisis" is also beginning to be explored more systematically at the legislative level (Frith, 2025). Hawaii Senate Resolution 178 explicitly proposes authorising insurance companies to bring subrogation claims against major emitting companies as a way to recover costs in the wake of disasters. Similarly, California SB 982 would allow the state Attorney General to pursue responsible parties after climate disasters to recover damages. These proposals reflect the recognition that the insurance industry cannot absorb the costs of climate-driven losses indefinitely, and that fossil fuel companies should be required to internalise a share of them (Jones, 2025). They are also closely connected to other forms of polluter pays legislation, such as New York AB 72 and SB 4799, which aim to create broader liability for polluters.

The challenge that climate change creates for property insurance is also materialising in the courts through another channel. In November 2025, a law firm previously involved in claims against the tobacco industry filed the case of *Kennedy v. Exxon*, a class action filed on behalf of homeowners facing rising insurance premiums. The case resembles other US *systemic polluter pays* cases discussed above, but rests on current and quantifiable financial losses (i.e. the elevated premiums that claimants are paying now), rather than future or projected loss related to physical climate impacts.

The concerns raised on behalf of homeowners in *Kennedy v. Exxon* are legitimate. Nonetheless, the case highlights how legal systems in the Global North, where judgments against companies are most likely to be easily enforced, often have structural biases which may favour claimants who own substantial assets (Kysar, 2011). Similarly, in Australia, litigation over coastal adaptation has at times privileged property owners seeking to force authorities to build seawalls to protect their property rather than relying on policies of managed retreat from coastal areas. At the same time more marginalised coastal communities who do not own property face equivalent exposure from sea level rise, but without the equivalent legal recourse (Peel et al., 2020). Where losses are diffuse, hard to quantify or suffered by people with limited resources to pursue

[15] See Grantham Research Institute explainer on insurance and climate change litigation: www.lse.ac.uk/granthaminstitute/explainers/how-does-the-rise-of-climate-change-litigation-impact-insurers

claims, they remain outside the reach of legal redress. Such cases show there is a real risk that courts grant remedies for those most able to litigate, rather than acting to protect those who have the least financial resources to adapt to climate change.

A further dimension to the emerging intersection of climate litigation and insurance is illustrated by a US case brought by shareholder activist group As You Sow against insurer Chubb. As You Sow sought to put a proposal to a vote at Chubb's 2026 annual general meeting calling on the company to consider using subrogation claims against major fossil fuel emitters as a means of recovering climate-related losses. When Chubb refused to include the proposal on the proxy ballot, As You Sow filed suit to compel it to do so.

Although earlier examples of insurance companies acting as claimants in climate cases exist (Peel and Osofsky, 2015), the developments discussed in this section may signal a structural shift in the interactions between climate litigation and the insurance sector. In particular, the insurance industry may be starting to move from peripheral involvement towards a more active strategic form of participation in climate cases.

Shareholder derivative actions after extreme weather: a new hybrid theory

A second development involving new claimant dynamics is the emergence of shareholder derivative actions filed in the aftermath of extreme weather events. Our 2025 report noted *Assad v. Seu*, a derivative action filed against Hawaiian Electric Industries following the wildfires on Maui, Hawaii, in 2023. In 2025, a new case filed in the US, *Bark v. Pizarro* extended this pattern.

The complaint is a shareholder derivative action against the directors and officers of the US electricity utility company Edison International. It alleges breaches of fiduciary duty in connection with potential links between subsidiary Southern California Edison's equipment and the Eaton and Hurst wildfires of January 2025. But the complaint goes beyond the facts of the wildfires to be more explicit about the relevance of climate change than many previous examples of litigation after similar disasters. It alleges that Edison made materially false and misleading statements in proxy statements from 2021 to 2024 regarding its efforts to mitigate the risk of wildfires, specifically around statements that it was addressing the impacts of climate change through upgrading its electricity grid and improving its real-time situational awareness of its operations. The complaint argues that Edison failed to fulfil its obligations related to wildfire prevention and mitigation, contrary to the claims made in those disclosures.

This dual structure in a single set of proceedings, combining a *failure-to-adapt* claim (inadequate physical risk management in the face of foreseeable climate hazards) with a *misleading disclosure* claim (misrepresentation to shareholders about that management), is what makes such cases worth closer examination. This convergence of two previously distinct legal theories signals that the overlap between *failure-to-adapt* and *transition risk* litigation may be becoming a more established pattern. As extreme weather events become more frequent and intense, and companies face mounting exposure of their physical operations to wildfires, this type of derivative action is likely to proliferate. It also raises the prospect of a feedback loop between the phenomenon of *climate-washing* and *failure-to-adapt* litigation: companies that have made specific public statements about their physical risk management may find that those statements are used against them when infrastructure subsequently fails.

These cases share common features with earlier examples of climate litigation driven by shareholder activists, such as *ClientEarth v. Shell's Board of Directors* or *ACCR v. Santos* both of which were unsuccessful. However, where those cases involved questions about the prospective financial consequences of mismanaging and misleading investors, these new cases in the US involve actual financial losses to the company and shareholders that have already occurred. As such, they may have greater prospects for success.

Governmental and quasi-governmental enforcement actors

A third new area of climate litigation involves governmental and quasi-governmental actors entering the field using their enforcement capacities. While government actors have always brought a substantial proportion of climate cases in many jurisdictions, the past few years have seen government and quasi-governmental actors bringing new types of cases to enforce climate standards across a range of economic activities.

In Brazil, state and federal prosecutors have continued to drive a major wave of *incidental polluter pays* litigation under the Amazonia Protege programme, with almost 200 cases filed since 2024 targeting unlawful deforestation and seeking climate damages, among other remedies, from those responsible. This wave represents a fundamental shift in how prosecutorial actors engage with climate accountability: rather than challenging the ambition of climate policy, these cases enforce existing environmental law and attach a climate change dimension to it, deploying a standardised methodology, now formally adopted by the Brazilian National Council of Justice (see below). Many cases are filed against individual landowners identified through satellite imagery as responsible for deforested plots, reflecting the strict and objective character of Brazilian environmental civil liability, which attaches to the land and requires full reparation of the environmental damage. In the Amazon, individuals are most frequently the landholders of record. However, these individuals

may be acting as a proxy for the masterminds of an illegal clearing operation, and cases could, in principle, be dismissed or complicated on these grounds if the true beneficiaries of the illegal deforestation are not reached (Julião and Cirne, 2026).

These Brazilian cases share some features with prosecutor-led litigation in China (see Box 2.1); in both jurisdictions, prosecutors enforce existing legal obligations rather than pushing climate ambition beyond state commitments.

In the EU, in November 2025 the European Central Bank issued its first enforcement action against a supervised bank (Spanish bank ABANCA) for failure to conduct a materiality assessment of climate and environmental risks. This was followed in February 2026 by an action against French bank Crédit Agricole on similar grounds. These actions represent a new mode of governmental engagement with corporate climate accountability: not through the courts in the first instance, but instead through the regulatory architecture of financial supervision (Menegat, 2026). They signal that despite the anti-ESG pressures discussed in Section 3, European regulators continue to treat climate and environmental risk as material financial considerations subject to mandatory assessment and enforcement. A parallel, longer-standing, trend is visible in Australia. Recent cases include *ASIC v. Fiducian Investment Management Services* and *ACCC v. Australian Gas Networks*, both of which reflect the ongoing involvement of consumer and investor protection watchdogs as enforcement claimants in climate-related proceedings.

Taken together, these developments in governmental enforcement reflect the same dynamics visible in private sector claims: as the legal architecture governing climate obligations becomes more settled and detailed, the range of actors with the standing, the motivation and the tools to enforce those obligations through litigation is expanding.

New methodologies connecting corporate actors to climate impacts

The expansion of corporate climate litigation is not only a story about who is suing whom, it is also about how they are doing it. The past year has seen the emergence and consolidation of new methodologies that connect economic activities to climate change and its impacts in new ways. These include the institutionalisation of standardised methodologies for quantifying the climate-related damage, i.e. damage to the carbon sink capacity of forest ecosystems, and the use of new tools and resources to connect financial actors to emissions.

Quantifying damage to the climate system from unlawful activity: the Brazilian model

Brazil currently has the largest concentration of *incidental polluter pays* cases globally, with more than 249 cases including civil liability claims, for climate damage (Moreira, 2024). The legal architecture underpinning these claims draws on Brazil's environmental civil liability regime, which operates on the basis of strict as well as joint and several liability, a broad definition of polluter that encompasses indirect contributors and a principle of full reparation extending to ecological, economic and collective moral dimensions. This framework allows courts to characterise the climate dimension of environmental damage as a distinct and compensable category within the broader field of environmental harm (Moreira, 2026; Moreria et al., 2026).

In the past year, the methodology for quantifying that climate dimension by identifying the greenhouse gas emissions created by the damage and assigning a financial cost to those, has started to be applied by courts. The methodology, developed by the Association of Federal Prosecutors for the Environment (ABRAMPA) and the Amazon Research Institute (IPAM), values emissions at a carbon price per tonne of CO_2e. This price is then applied to the carbon stock estimated to have been lost through the deforestation of a given area. In September 2024, the Brazilian National Council of Justice formally adopted this methodology through its *Protocol for Judging Environmental Lawsuits*, providing judges with standardised parameters for quantifying the climate impact component of forest damage cases. This step avoids the need for experts to calculate the damage to the climate system on a case-by-case basis, providing a reproducible metric for climate damage awards that can be applied at scale.

The practical impact is already visible. In *Federal Public Ministry v. Oliveira Lima*, the 7th Federal Environmental and Agrarian Court of Amazonas ordered the restoration of 144.65 hectares of illegally cleared Amazon Rainforest and awarded climate damages of BRL$2.1 million (approximately US$423,000). This was calculated on the basis that the defendants' deforestation had led to the emission of 84,681 tonnes of CO_2e, which was then valued at US$5 per tonne, using IPAM's carbon stock figure and the Amazon Fund's pricing methodology. Significantly, the court acknowledged that this price falls below OECD and World Bank estimates of the social cost of carbon, signalling an opening for upward recalibration in future cases. Collective moral damages were set at 5% of total material damages, to be determined at the enforcement stage, with proceeds directed to a fund that supports the repair of environmental damage.

In a batch of 195 public civil actions filed between November and December 2024, the same methodology was applied at scale, generating a large set of standardised climate damages claims. However, procedural challenges around land title and registration have led to dismissals on standing grounds. For cases that proceed there are a number of obstacles: the endemic slowness of the Brazilian judicial system, the complexity of the cases and difficulties in enforcing judgments (Moreira, 2026).

The Brazilian model of *incidental polluter pays* cases is also beginning to expand beyond its original domain of Amazon deforestation cases. In August 2024, *Instituto Arayara v. Copel, Instituto Água e Terra and others (UTE Figueira)* became the first *incidental polluter pays* claim in the Brazilian energy sector. The case was filed by an NGO against a thermoelectric coal plant in Paraná on the grounds that irregularities in the plant's environmental licensing led to illegal greenhouse gas emissions over more than two decades.

The case demands reparation calculated according to the social cost of carbon, annulment of the plant's authorisation to expand and suspension of operations pending proper licensing. If the methodology used in this case is accepted by the court, it could be replicated against other industrial polluters whose greenhouse gas emissions are the product of unlawful or defective administrative processes, extending the *incidental polluter pays* framework beyond forestry and into the industrial economy.

The Brazilian National Council of Justice has adopted a methodology for quantifying in financial terms damage to the climate system caused by illegal deforestation.
Credit: Shutterstock

Extending attribution to financial institutions: an emerging frontier

One of the trends we have discussed in previous reports is the increasing number of climate claims being brought against financial actors, such as banks. Attributing responsibility to a bank involves an additional causal step compared with cases against direct emitters, but the connection between financial flows and emissions is becoming progressively easier to make. This is because the methodological infrastructure available to litigants is maturing.

Parties are using various tools as they seek to attribute special responsibility for climate-related harm to banks and other financial institutions, and to quantify their financed emissions (Díez et al., 2026). These include:

- the Partnership for Carbon Accounting Financials (PCAF) standard, which allocates a share of a borrower's emissions to each financier in proportion to their share of the company's enterprise value
- the Paris Agreement Capital Transition Assessment (PACTA) benchmarking against International Energy Agency Net Zero scenarios
- Stand.earth's Banks v the Amazon database, which ranks banks based on their contributions to financing Amazon deforestation
- the LINGO UK Overseas Carbon Bombs tracker, which tracks the contribution of UK banks to the world's largest proposed fossil fuel expansions
- and reports such as Banking on Climate Chaos and InfluenceMap's Big Four UK Banks report.

In the past such tools have been used to underpin complaints to quasi-judicial bodies such as the OECD National Contact Point and UN Special Procedures. In the coming months, however, they are likely to be tested in the courts in the case of *Milieudefensie v. ING*, which was formally filed in the Netherlands in March 2025. The case argues that ING's emissions reduction policies are insufficiently aligned with the Paris Agreement, focusing specifically on financed emissions, including scope 3. The litigants draw directly on the line of argument developed in *Milieudefensie v. Shell*.

2.5. Three areas of expansion to watch in the coming years

Having explored the expansion of climate litigation in terms of locations, actors, legal strategies and evidence, below we take a different approach, examining how new topics that are currently being debated in climate policy circles are also making their way into climate litigation cases. The cases we discuss involve infrastructure related to carbon dioxide removal and storage, the climate-related impacts of large data centres, and cases drawing closer connections between climate change and other environmental challenges, such as plastic pollution.

Carbon dioxide removal infrastructure

Carbon dioxide removal (CDR) has been a contentious issue in climate policy circles for decades. Those in support of CDR argue that its deployment is essential to address the fact that it is very difficult to fully reduce emissions from certain forms of socially beneficial economic activity, a position now supported by the IPCC (2022). Scepticism about CDR centres on uncertainty over its efficacy and the duration over which carbon dioxide can be securely sequestered at scale, as well as concerns about the environmental impacts of CDR deployment (Cox et al., 2025). A key question is whether and how to equate emissions that are avoided at source (e.g. the emissions avoided from an internal combustion engine vehicle when an electric vehicle is purchased instead) with emissions created, but then removed from the atmosphere (Rajamani et al., 2025).

Despite the concerns, global emissions continue to increase and therefore reliance on CDR is becoming more important as part of strategies to limit global temperature rise to the greatest extent possible (see Box 5.2). As a result, states and companies have increased their efforts to ensure a rollout of the infrastructure needed to remove and store carbon dioxide at scale. This has led to an emerging set of legal questions about where this infrastructure is sited, and about who bears the costs of creating it.

In the US, for example, a cluster of cases in recent years concern carbon dioxide pipeline projects and plans to store carbon dioxide underground. Several of these cases have been filed by property owners concerned about safety risks associated with these new technologies (see Webb, 2026). One recent example is a challenge filed in November 2025 under Louisiana's state Constitution (*Save my Louisiana Inc. v. State*). State legislation empowers the Department of Conservation and Energy to acquire pore space (i.e. cracks and fissures in the ground) under landowners' property for geological storage of carbon dioxide, even where owners do not consent. Among the issues made in the claim are questions about whether the storage of carbon dioxide constitutes a public good, justifying interference with landowners' property rights, or whether it simply allows the storage of waste products by oil and gas companies motivated by private gain. Ultimately, the case raises questions about who benefits from the use of carbon capture and storage technologies to support continued oil and gas extraction, and who should bear the associated costs.

In a very different regulatory context, related issues are now appearing in a new case filed in the EU challenging the obligation for oil and gas suppliers to create carbon storage capacity under Article 23 of the Net Zero Industry Act. This supplier obligation is part of the EU's strategy to ensure that there is sufficient storage capacity for carbon dioxide removed from the atmosphere or captured at source, which is understood to be crucial to enabling the EU to meet its mitigation targets. Twelve of the oil and gas suppliers assigned specific obligations under the legislation brought 15 actions challenging the validity of the legislation (Bellona Europa et al., 2026). The companies make a combination of procedural arguments, claiming that the legislative scheme was developed without sufficient consultation and impact assessment, and substantive arguments, claiming that the scheme unlawfully affects their property rights and infringes on the right to equal treatment. As in the US context, this case raises significant questions about who can and should be made to pay for creating the necessary infrastructure to scale up CDR.

These cases also link to a broader and more fundamental set of legal questions raised in recent cases regarding the degree to which states, and also companies, may rely on CDR to meet climate goals, and which types of CDR may be used. Researchers have started to examine this issue by combining scientific understanding of emissions removal options with analysis of the relevant obligations under international law (Rajamani et al., 2025). These issues are starting to be considered directly in litigation.

In New Zealand, for example, a recent challenge to the Emissions Reduction Plan mandated under the Climate Change Response Act argues that the substitution of emissions reduction measures with measures to remove carbon dioxide through afforestation is invalid. The reasons provided are the lack of equivalence between the two types of measures, the uncertainty about how long removals will actually last, the feasibility of the removals and the basis on which the volume of removals was calculated. The case has parallels with a case filed in Finland, which is the third of three attempts to challenge the Finnish government's over-reliance on the country's forests as a sink for carbon emissions in developing the measures needed to meet its carbon neutrality targets.

The questions raised in these cases about the integrity of state emissions targets are also closely connected to questions about how states can and should develop these targets to contribute their 'fair share' in controlling global emissions (see Section 5).

Data centres

As the use of AI and machine learning technologies proliferates so too does the physical infrastructure needed to support these digital technologies. Data centres are critical to every query asked of LLMs. Data centres are being promoted and approved at record speeds as countries seek to harness the potential competitive advantages of the 'digital revolution'. But they have significant environmental footprints in terms of their energy and water use, leading to major contestation over their situation and development.

The case of *Municipality of Cerrillos (Google Data Center) v. Evaluation Commission of the Metropolitan Region*, filed in Chile in 2020, has been identified as one of the earliest examples of climate litigation involving data centres (Jackson and Bradeen, 2026). The applicants raised concerns about the impact of a new data centre development on the city's already climate-stressed water supply.

In the last year, challenges to new data centres have also emerged in the US, UK and Ireland. Ireland in particular is expected to become a hotspot for litigation concerning data centre energy use as these facilities currently account for nearly a quarter of Ireland's total national energy demands (Central Statistics Office, 2024). The cases in both the US and the UK show how litigation can drive changes in climate-related decision-making even in the absence of positive judgments. In the UK, a challenge to a new 'hyperscale' data centre in Buckinghamshire resulted in an admission of an error by the government, who ultimately agreed that the facility should not have been approved without proper consideration of its environmental impacts. Without this litigation, it appears that the full scale of these environmental impacts would not have come to light. Similarly, a challenge to the permitting process for a new data centre in California in *Center for Biological Diversity v. City of Pittsburg* resulted in a settlement with claimants in December 2025 that included a commitment to use renewable energy to power the data centre and to use recycled water to cool the servers (Jackson and Bradeen, 2026).

Plastics

A body of scholarship has emerged in recent years that seeks to understand 'plastics litigation' as a field somewhat analogous to 'climate litigation' (Varvastian, 2023; Stone, 2025; Varvastian, 2025). The linkages between the two fields include major environmental NGOs campaigning on both issues, and the significant overlap between the companies and industrial processes involved in both fossil fuel production and plastics production. It is perhaps not surprising, then, that cases have emerged that can be considered examples of both plastics pollution cases and climate litigation cases, and in which the breadth of legal theories employed by litigants in the climate arena is also starting to be applied to the plastics context. In the last few years, cases have been filed by NGOs and investors alleging that fossil fuel companies such as Exxon Mobil and major food and beverage companies such as Coca Cola have contributed to both plastics pollution and greenhouse gas emissions through playing various roles in the plastics supply chain.

Now, however, government actors are increasingly becoming involved as claimants in plastics litigation.

In April 2025, the Commissioner of the Department of Licensing & Consumer Affairs of the US Virgin Islands, a consumer regulator, filed a suit against companies including Coca Cola and Pepsi. The case argues that the companies have been involved in a "campaign of deception" over the potential environmental benefits of recycling schemes, allowing them to downplay the real environmental damage associated with their products. The case parallels a strategy employed in a similar case filed by California against Exxon Mobil in 2024, but it extends the approach to companies further along the plastics supply chain. This linkage and exchange between climate and plastics litigation can also be seen in the evolving relationships between climate litigation and other forms of environmental litigation, such as biodiversity and nature protection (Fenn, 2025).

Key insights from Section 2

In this section, we have explored the expansion of climate litigation across several axes. Geographically, climate litigation has reached new jurisdictions, but the pattern is uneven. On the actor side, climate accountability arguments are being pursued by a wider range of claimants against a wider range of defendants. However, the insurance cases discussed illustrate how commercial actors can shape the litigation landscape without intending to, and not always in ways that serve climate justice. While innovations such as guidelines to calculate damages to the climate system, financed-emissions attribution tools and regulatory enforcement against banks are less visible than courtroom victories, they may prove more durable, and narrow the evidentiary gaps that have historically allowed corporate actors to contest causal responsibility at scale. Finally, the emergence of litigation focused on topical policy debates, from CDR infrastructure to data centres, signals that the boundaries of climate litigation are not yet settled. The significance of these cases lies less in their current outcomes than in the legal questions they are introducing into the system for the first time.

"The diversification of defendants reflects the broadening reach of climate accountability arguments; the diversification of claimants reflects a widening circle of actors with a stake in climate outcomes."

3.

Pushback: anti-climate cases, shrinking civic and judicial space and access to justice, and the rise of protective litigation

This section examines three intersecting dimensions of the pushback against climate litigation. First, we review anti-climate litigation as a direct counter-strategy to climate action, including anti-ESG strategies. Attention then moves to the shrinking civic and judicial space in which climate litigation operates, including strategic lawsuits against public participation and legislation that aims to shutdown climate cases. Finally, we examine the corresponding rise of protective climate litigation in response to regulatory rollback and countervailing forces.

> "What distinguishes the current moment is the scale, coordination and institutional depth of the backlash. This backlash now operates simultaneously through litigation, legislation and regulatory rollback, and increasingly these reinforce one another."

The expansion of climate litigation is unfolding against a geopolitical backdrop that could not have been predicted when the climate litigation movement first emerged. Longstanding domestic climate policy and regulation in the US, some of it linked to early climate litigation successes, is being overturned. The regulatory architecture of the European Green Deal negotiated during the last European Parliament is also coming under pressure, with competition concerns and the geopolitical implications of the wars in Ukraine and the Middle East leading to the revision of key instruments.

On the other hand, the global picture is more complicated, climate policies and regulations continue to be adopted around the world, with much of the progress happening outside Europe and North America (Oxford Climate Policy Monitor, 2025). These developments have nonetheless led some to argue that we are witnessing a new era of climate policy backlash (Patterson et al., 2026; Bosetti et al., 2025).

This backlash is reflected in ongoing developments in the climate litigation landscape. Since the very early days of climate litigation, there have been anti-regulatory cases, in which parties seek to challenge or delay climate policies and action (Hilson, 2010; Peel and Osofsky, 2015). Some of these anti-climate-action cases were a direct response to pro-climate litigation. This phenomenon continues at pace, particularly in the US (UNEP, 2025). What distinguishes the current moment is the scale, coordination and institutional depth of the backlash (Patterson et al., 2026). This backlash now operates simultaneously through litigation, legislation and regulatory rollback, and increasingly these reinforce one another (Eilstrup-Sangiovanni et al., 2025).

At the same time, the climate litigation movement has not stood still. Policy reversals and rollbacks have themselves become a spur to new litigation, with 'protective' climate cases being brought to resist regulatory rollback and preserve hard-won legal gains (Eilstrup-Sangiovanni et al., 2025), again particularly in the US (Silverman-Roati, 2021; Barry, 2026).

3.1. Anti-climate litigation: using the courts to obstruct climate action

Around 12% (in total, 31 cases) of new cases filed in 2025 can be understood as anti-climate litigation, which seeks to delay or dismantle climate regulation or prevent its implementation rather than advance it. This pattern is clearest and best documented in the US, where the political environment has created significant opportunities for industry actors and ideologically aligned states to use the courts as instruments of climate obstruction.

Outside the US, classifying cases as 'anti-climate' is often methodologically challenging, with litigants less likely to make the sort of arguments that can be found in the climate obstruction playbook (see Roberts et al., 2025). This means that typically only a handful of anti-climate cases filed in other countries each year clearly fall within the scope of the definitions used in this report.

In 2025, we identified only four cases outside the US that we consider examples of anti-climate litigation: a suit by insurance industry stakeholders against certain provisions of Brazil's proposed Emissions Trading System; a challenge to The Hague's ban on fossil fuel advertising; a challenge to the EU's Carbon Border Adjustment Mechanism filed by Russia to the World Trade Organization's Dispute Settlement System; and an investor–state dispute settlement claim against the UK by a Singaporean investor in a West Cumbrian coal mine. It is not clear whether the parties who filed the latter two claims were motivated by an anti-climate action agenda, but they were classified as such because they were brought through international legal mechanisms that are understood to have a chilling effect on climate action (see Box 3.1).

Box 3.1.

Developments in cases within the international trade and investment regimes

There is a growing body of literature focused on the chilling effect of investor–state dispute settlement claims on climate policy (Tienharaa, 2018; Cotula, 2023; Tienharaa et al., 2023). While these claims have been sparked by a range of energy-related government actions, including the withdrawal of subsidies for renewable energy (Fermeglia et al., 2024), the primary concern has been the potential for claims to be issued following government action that revokes licences or shortens the operating life of fossil fuel assets. Foreign investors may use international investment treaties to argue that they have been subjected to unfair or unequal treatment when such actions take place, often relying on arguments that they had 'legitimate expectations' of ongoing government support for projects, despite being sophisticated players well aware of the climate action agenda (Tienharaa and Green, 2025). The claim by the Singaporean investor in the West Cumbria coal mine in the UK is fresh evidence of this dynamic. The claim was issued following the revocation of the coal mine project's licence and its ultimate cancellation in the wake of the decision in *Finch v. Surrey County Council* (see Section 1).

The World Trade Organization's Dispute Settlement System within the international trade regime appears to lend itself far more to anti-climate litigation than to pro-climate claims (Asmelash, 2023). The majority of climate-related disputes under this system have largely consisted of challenges to domestic measures aimed at supporting the growth of renewable energy or sustainable biofuels (van Asselt, 2021). However, in recent years there have been challenges to more expansive climate policy regimes, including a dispute relating to various subsidies issued under the US Inflation Reduction Act brought by China in 2024 and the new dispute about the EU's Carbon Border Adjustment Mechanism brought by Russia in 2025. While the impact of these proceedings is uncertain, particularly when multilateral institutions are under significant pressure, they highlight the ongoing potential for international trade law to create barriers to climate action.

Challenges to state and city climate action in the US

The most prominent category of anti-climate cases is in the US, involving challenges to state and municipal climate initiatives. Under the current administration, the federal government has built on the record of the first Trump administration and become an ever-more active anti-climate litigant. In President Trump's first term, the federal government filed a suit challenging California's linkage of its greenhouse gas cap-and-trade programme with Quebec's.

The second Trump administration expanded this approach, and in May 2025 joined litigation by states, trade associations and business groups (Segal, 2025) by filing cases against New York and Vermont over state laws that would require fossil fuel companies to pay into funds for climate damages: laws that the administration characterises as unconstitutional interference with federal energy and foreign policy. The Trump administration also sought unsuccessfully to pre-emptively prevent Hawaii and Michigan from bringing new *systemic polluter pays* cases against major fossil fuel companies. Another lawsuit was filed more recently by the Trump administration seeking to enjoin the state of Minnesota from proceeding with its climate suit against fossil fuel industry defendants. The Trump administration has also continued to file suits challenging state and local climate action, including challenges to local building electrification laws (e.g. *United States v. Township of Morris*).

These extraordinary moves illustrate how the executive branch can function as an institutional vector for anti-climate legal strategy, not merely as a respondent in climate cases. The litigation follows the issuance of an executive order ('Protecting American Energy From State Overreach'), which ordered the Department of Justice to take action to prevent states from pursuing efforts to hold companies accountable for climate-related harm. As such, it forms part of a broader suite of actions, which sees the most powerful actors using litigation as a tool to advance their climate agendas.

Anti-ESG litigation

Beyond challenges to climate regulations, the US has also seen a sustained pattern of litigation against environmental, social and governance (ESG) policies and initiatives. Anti-ESG litigation cases seek to use antitrust, fiduciary duty and the US First Amendment law to challenge or chill corporate sustainability commitments and the institutional frameworks that support them. Ongoing research by the CSSN Accountability Group suggests that so far anti-ESG litigation has had a mixed record in US courts. Several early high-profile cases were dismissed on the merits (Field and Hanawalt, 2024), but in 2025 anti-ESG litigants achieved one notable victory in the case of *Spence v. American Airlines* when a federal court in Texas ruled that American Airlines had breached a fiduciary duty by allowing corporate and investment managers' ESG interests to influence their management of employee retirement plans. Litigation risk has also influenced corporate behaviour, contributing to a retreat from net zero coalitions and the withdrawal of sustainability commitments by several large financial institutions. The US Securities and Exchange Commission's (SEC) proposed climate disclosure rule was not finalised under political pressure, and ultimately the SEC proposed its rescission. Litigation against California's mandatory climate disclosure laws under the First Amendment remains ongoing.

A consequential development in this area in the period covered by this 2026 report is the settlement reached in February 2026 between Vanguard and 13 Republican state attorneys general. Led by the state of Texas, this was a multistate antitrust case alleging that major asset managers at Vanguard used their collective shareholdings in US coal companies to coordinate output reductions under the guise of ESG initiatives. Vanguard agreed to pay US$29.5 million and accepted strict passivity commitments limiting its ability to influence corporate strategy or support environmental and social shareholder proposals, while denying wrongdoing and admitting no liability (Wilson, 2026). The settlement also requires Vanguard to withdraw its US businesses from climate coalitions and refrain from joining any groups with climate-focused investment or stewardship objectives or that advocate for the setting of specific output or emissions targets (ESG Dive, 2026). Two other asset management companies, BlackRock and State Street have not settled and the case against them continues, but the reputational and operational costs of prolonged litigation appear to have been sufficient to produce behavioural commitments from Vanguard even in the absence of a court order. The Vanguard settlement is a reminder that the most significant effects of climate litigation on corporate behaviour do not always flow from judgments on the merits.

An additional layer of complexity results from the fact that the regulatory landscape for disclosing and considering ESG factors in the US is fragmented. Some states advance mandatory ESG disclosure rules, while others pass legislation prohibiting public pension funds from considering ESG factors. Litigation serves both to challenge and entrench these competing regulatory approaches.

Two recent sets of cases illustrate this. In November 2025, Florida sued two proxy advisors (i.e. independent firms that provide voting recommendations for shareholders), Institutional Shareholder Services and Glass Lewis, arguing that their advice on climate risk governance violated Florida's state laws. In December 2025, the same companies reacted by challenging new legislation in Texas which would require them to disclose if their advice is "not provided solely in the financial interest of the shareholder of a company". These cases may prove an interesting forum for arguments about the degree to which climate risk can and should be considered financially material.

3.2. Shrinking civic space and access to justice

In addition to the anti-climate cases discussed above, significant developments have also been made in cases that can be classed as *strategic lawsuits against public participation* (SLAPPs), and we have now seen the spread of legislative efforts to shutdown both climate protest and climate litigation in new jurisdictions.

SLAPPs and the use of legal tactics against climate advocates

SLAPPs are meritless or disproportionate cases filed by powerful actors to silence, exhaust and deter their critics from using the litigation process (OHCHR, 2024). SLAPPs constitute a form of anti-climate backlash, because their goal appears not only to be to win on the merits, but also to impose costs and create a chilling effect (Arvan, 2026).

In the most prominent recent example, *Energy Transfer LP v. Greenpeace International*, a North Dakota jury awarded Energy Transfer LP US$667 million against Greenpeace International in March 2025 over its role in supporting the Standing Rock protests against the Dakota Access Pipeline. The case has caused significant concern, not only for its potential to bankrupt Greenpeace, but also because it could embolden fossil fuel companies to use SLAPP tactics with impunity against a much wider range of actors (Eckes and Paiement, 2025). Although a judge has now cut the award by half, the deterrent effect remains profound. Greenpeace International has filed anti-SLAPP proceedings in the Dutch Courts in response to the litigation relying on Dutch anti-SLAPP legislation.

However, the litigation continues to divert resources and attention away from Greenpeace's campaigns and other actions.

Even the threat of SLAPPs already shapes climate litigation strategy in the US. An analysis of corporate climate change litigation filed between 2015 and 2024 finds that climate activists overwhelmingly file cases in jurisdictions with anti-SLAPP protections when suing corporate defendants: 73% of corporate climate cases were filed in protected jurisdictions, rising to 80% for cases against the carbon majors (Arvan, 2026). Conversely, fossil fuel interest-linked SLAPPs are overwhelmingly filed in jurisdictions without anti-SLAPP protections, consistent with a deliberate strategy of litigants filing cases in jurisdictions likely to be favourable to their interests. The same study finds that a state's anti-SLAPP protection status is positively and significantly associated with increased corporate climate litigation, suggesting that legislative action on free speech has clear and measurable effects on the development of climate law. Importantly, activists are seen to be adapting their own strategies: interviews with counsel at Greenpeace International and EarthRights International confirm that anti-SLAPP protection is a primary consideration in forum selection decisions, and that smaller, less-resourced organisations are often compelled to avoid high-risk jurisdictions entirely (ibid.).

At the same time, there is a push-and-pull dynamic between climate litigation and SLAPP suits. For example, Greenpeace Romania is facing a SLAPP case after filing litigation against a major new gas project being developed by Romanian state power company Romgaz. The EU's anti-SLAPP Directive, adopted in 2024, represents a partial institutional response, but its scope is limited to cross-border cases and its practical enforcement is untested. Most countries where climate litigation is emerging have no anti-SLAPP protections at all. Even where these protections exist, there may be

challenges in their implementation. In the Greenpeace case discussed above, Greenpeace International filed a lawsuit in the Netherlands seeking to hold the pipeline developer liable under the directive; in May 2026, the North Dakota Supreme Court ordered that Greenpeace be prevented from pursuing the lawsuit, which it characterised as a collateral attack on the jury's verdict.

The documented pattern of SLAPP activity reveals a broader strategic logic: fossil fuel interests are engaged in a form of legal arms race with climate activists, in which legal mechanisms are mobilised not only to resolve disputes, but also to shape the possible future litigation. SLAPP threats may not deter the most sophisticated and well-resourced organisations, but they impose disproportionate burdens on smaller groups (Arvan, 2026). Greater understanding is needed of the cumulative, systemic effects of SLAPP exposure on the climate litigation ecosystem – including the cases that are never brought.

The erection of legislative barriers to climate protest and climate cases

The potency of SLAPPs rests not only in the potential for major civil damages awards, but also in the threat of related criminal charges. The SLAPPs database compiled by the Business and Human Rights Centre provides a sample of SLAPPs filed globally and includes both civil and criminal charges. Growing criminalisation of environmental protest through anti-protest laws in the UK, Italy, Germany, Australia and elsewhere is creating a hostile environment in which the distinction between formal legal challenge and informal intimidation is increasingly unclear (Eilstrup-Sangiovanni et al., 2025). Such legislation can also be found in several states in the US, and its development has been linked in the literature to the use of SLAPP cases by corporate actors (Nosek, 2020).

At the same time, new forms of legislative intervention are being targeted not at climate protest but at climate litigation itself. This includes laws at the national level in the US, New Zealand and Germany that seek to create a liability shield for companies that might see some form of climate liability imposed by the courts.

In the US, a senate bill, the Stop Climate Shakedowns Act of 2026, was introduced by Republican lawmakers in April 2026. It seeks not only to prevent climate cases against companies from continuing (such as those discussed in Box 1.2), but also to block state efforts to introduce legislation that would make high-emitting companies responsible for paying some of the costs of climate adaptation efforts. In New Zealand, government ministers have announced plans to introduce legislation to shield companies from climate liability, in direct response to the New Zealand Supreme Court's ruling in the case of *Smith v. Fonterra*, discussed above. A similar bill has also been proposed in the German state of Bavaria in response to the decision in *Lliuya v. RWE*. Moves by governments to shut down climate cases without the development of legislative alternatives to facilitate sharing the costs of adaptation and loss and damage are deeply short-sighted (Bookman, 2026).

3.3. Protective climate litigation: protecting climate action through the courts

The current political environment has also produced a substantial body of cases that can be understood as protective climate litigation: brought not to advance new climate ambitions but to resist regulatory rollbacks and funding freezes, and preserve hard-won legal gains. This is not a wholly new phenomenon. Similar cases arose during President Trump's first term (Silverman-Roati, 2021) and under President Bolsonaro's administration in Brazil (Setzer and Winter de Carvalho, 2021). However, the scale and geographical spread of this form of litigation is now greater.

While the increase in these cases is most visible in the US, the trend goes wider. In Canada, the seven young Ontarians behind the landmark *Mathur et al. v. Ontario* case returned to the province's Court of Appeal following the Ford government's rollback of provincial climate legislation, seeking a ruling on whether that record violates their Charter rights. This is a move that could have been prompted by the risk that the case would otherwise be rendered moot (Ecojustice, 2025).

In this section, we examine examples of protective litigation from the US, Europe and Brazil, where a significant number of relevant cases were filed in 2025.

Protective litigation in the US

In the US approximately 20% of climate cases filed in 2025 can be classed as protective litigation: challenges to executive orders rolling back environmental regulations, administrative law challenges to the abandonment of existing rules, and constitutional challenges to federal actions that override state and municipal climate policies.[16]

The scale of US federal regulatory rollback under the current administration is unprecedented (as documented by the Climate Backtracker hosted by Columbia Law School). Statutory provisions, regulations and guidance pertaining to climate change have been targeted for repeal, often without the procedural steps established by the Administrative Procedure Act. This creates significant litigation exposure for the administration, and civil society organisations, state attorneys general and municipalities have been quick to respond. The legal landscape of protective climate litigation in the US is evolving rapidly and will be a critical area to track through the remainder of 2026.

One of the most critical areas to monitor is the litigation following the repeal in February 2026 of the Environmental Protection Agency's (EPA) endangerment finding for greenhouse gases, the foundational scientific and legal determination that underpins federal climate regulation in the US. Its reversal removes the regulatory basis for many existing rules and is likely to trigger a new wave of both pro- and anti-climate litigation as parties fight to determine whether state regulations are pre-empted by a revised federal framework (Gerrard, 2025; Turner, 2025). The interaction between Clean Air Act regulation, state-level cases and the possibility of a Supreme Court pre-emption finding is discussed in Box 3.2.

> "The scale of US federal regulatory rollback under the current administration is unprecedented."

[16] Building on previous analysis by the Sabin Center, Barry has categorised such cases as "Defending Climate Change Policies and Decisions from Attack" and reports that during the first Trump administration, 13% of cases fell into this category (Barry, 2025, citing Silverman-Roti, 2021).

Box 3.2.

What does revoking the Environmental Protection Agency's endangerment finding mean for US climate litigation?

In February 2026, the EPA rescinded its 2009 greenhouse gas endangerment finding. The finding was made under the Obama administration and followed the landmark case of *Massachusetts v. EPA (2007)*. The finding established that greenhouse gases from motor vehicles endanger public health and welfare under the Clean Air Act (CAA). This then provided the legal basis for federal regulation of greenhouse gases.

The formal rationale provided by the Trump administration for revoking the endangerment finding was primarily legal: the agency claimed it lacked statutory authority to make the original finding. It claimed that the finding had rested on a "profound misreading" of the Supreme Court's 2007 judgment (EPA Final Rule, February 2026). In parallel, the EPA advanced a *de minimis* argument that regulating US greenhouse gas emissions would have had "no material impact" on the global climate. This argument sits in significant tension with the explicit rejection of analogous reasoning by the Supreme Court in *Massachusetts v. EPA (2007)* and, more recently, by the Montana Supreme Court in *Held v. Montana (2024)* (Carnwath, 2026).

The revocation of the endangerment finding has been accompanied by the recission of several regulations that were based on it, including the vehicle emissions standards to which it gave rise. The agency has also, since January 2026, stopped assigning any monetary value to human lives saved as a result of the vehicle emissions regulations in its cost–benefit analyses. Commentators argue that this move is "a paradigmatic example of 'arbitrary and capricious' conduct prohibited by the Administrative Procedure Act" (Revesz, cited in Gerrard, April 2026).

The repeal of the endangerment finding is being challenged in courts in a swathe of cases filed by states and municipalities (such as *Massachusetts v. EPA (2026)*) and environmental and public health NGOs (for example *American Public Health Association v. EPA*). However, it is also likely to shape the future of US climate litigation in other ways:

- **Pre-emption risks for state and municipal climate litigation.** The revocation creates a more uncertain environment for state and municipal climate litigation. The pre-emption question (i.e. whether US federal law displaces state-level climate claims) has been central to the *polluters pay* cases filed against fossil fuel companies now working their way through US state courts. In the past, courts have generally found that the CAA did not bar state tort law claims where claims rested on state rather than federal causes of action (UNEP, 2025). For example, in *Board of County Commissioners of Boulder County v. Suncor Energy* (2025), the Colorado Supreme Court rejected both federal pre-emption and foreign affairs power as grounds to dismiss the claims. This is one of the issues at the heart of the U.S. Supreme Court's review of *Boulder County v. Suncor* discussed in Box 1.2.

  Whether the revocation of the endangerment finding will itself be argued as a factor bearing on pre-emption in the Boulder County case remains to be seen, but there are good reasons to anticipate that the claimants will argue that the revocation makes their anti-pre-emption argument stronger. As a result, some have speculated that the revocation of the endangerment finding may ultimately benefit the cities' and states' climate claims, even as it weakens the federal regulatory framework (Noor, 2026).

- **A parallel track: air quality litigation.** An important additional dynamic is that the revocation does not dissolve the scientific record underlying the endangerment finding or the years of research showing that greenhouse gases are often emitted alongside other air pollutants. Analysis by the *New York Times* of the EPA's communications reveals a notable pivot towards local pollution and environmental remediation as the EPA's new public-facing mission (Friedman and Stevens, 2026). This suggests that a return to the earlier generation of litigation based on air pollution grounds could be a more promising strategy for climate-aligned claimants. Where direct greenhouse gas regulation is now foreclosed at the federal level, arguments based on the fact that regulation will bring co-benefits in terms of improved air quality may offer a supplementary or alternative legal basis for defending climate action, particularly in states with strong constitutional environmental rights provisions.

The broader context is one of significant uncertainty. As Gerrard (2025) observes, what happens to these federal- and state-level contestations will be substantially shaped by the outcomes of the 2026 and 2028 elections, alongside the swarm of litigation now moving through the courts. The endangerment finding revocation opens a new phase of contestation, one in which the executive branch, the federal courts, state regulators and the Supreme Court will each play crucial roles.

Protective litigation in Europe

The turn to protective climate litigation is also visible, though less dramatically, elsewhere. In Europe, anti-ESG litigation of the kind seen in the US has not materialised at scale. However, the European Commission's Omnibus packages of regulatory simplifications, announced in 2025, represent a legislative rather than judicial form of backlash that has had significant chilling effects. The first of these packages, Omnibus I, effectively proposes to narrow the scope of the Corporate Sustainability Reporting Directive (CSRD) so that 80% of companies to which it would have applied are now exempted and to delay the introduction or reduce the stringency of obligations under the Corporate Sustainability Due Diligence Directive (CSDDD). Civil society organisations and a group of academics have raised concerns about the legality of aspects of the rollback process, and complaints have been filed with the EU Ombudsperson. Whether these challenges will generate formal litigation before the EU's Court of Justice remains to be seen.

The UK, by contrast, has indicated a move in a different direction. The Financial Conduct Authority is proposing a mandatory reporting regime aligned with UK Sustainability Reporting Standards. This would require companies listed on the London Stock Exchange to disclose their climate risks, transition plans and measurable governance commitments. Subject to finalisation, most requirements would apply for financial years beginning on or after 1 January 2027. Similarly, a survey by the Asian Development Bank suggests that many financial regulators in Asia are forging ahead with mandatory disclosure standards (ADB, 2025). Whether this divergence will generate litigation from corporate actors resisting mandatory disclosure, as has occurred in the US, will be important to monitor.

At the national level, cases challenging the adequacy of government implementation of existing climate laws (see Section 5) show that protective and framework implementation litigation are increasingly converging: where governments fail to implement their own legal commitments, litigation to compel compliance serves a protective function even when framed in positive terms. This dynamic does not just involve challenges to government failures to implement climate laws, but also failures around the implementation or enforcement of climate judgments. In Germany, for example, new cases have been filed by civil society groups seeking to enforce decisions from earlier climate litigation cases (*see DUH v. Federal Republic of Germany (Climate Protection Programme 2026)*). While this shows the potential of litigation as a channel for ongoing accountability, it also highlights structural challenges in overreliance on climate litigation to influence policy change: in the absence of political will and/or sustained campaigning by civil society judicial rulings may never be adequately implemented.

Protective climate litigation in Brazil

The protective dimension of climate litigation in Brazil is illustrated by a cluster of cases pending before the Federal Supreme Court that challenge state laws specifically designed to end a successful voluntary environmental governance mechanism. *ADI 7775* and *ADI 7774*, concerning laws in Rondônia and Mato Grosso respectively, challenge state legislation that withdraws fiscal benefits from companies that adopt environmental practices that are more stringent than the law requires. The practical effect is an inversion of the polluter pays principle: companies doing only the legal minimum receive tax incentives, while companies going beyond it are penalised (Greenpeace, 2026).

The immediate target of these cases is the Soy Moratorium, a voluntary sectoral agreement established in 2006 between civil society, major soybean exporters and government, which committed signatories to refusing purchases of soy produced on land deforested after July 2008. The Moratorium demonstrably worked: between 2009 and 2022, municipalities under its monitoring saw a 69% reduction in deforestation while planted area in the Amazon biome grew by 344%, demonstrating that agricultural expansion and forest protection are compatible (Talles et al., 2025). By 2026, however, with the state laws in force, major agribusiness companies including Cargill, Bunge and Amaggi had abandoned the Moratorium, concluding that the fiscal penalties made continued participation commercially irrational (Greenpeace, 2026).

The claimants argue that Brazil's Constitution positively requires the state to incentivise corporate environmental commitments beyond the legal minimum. This makes the use of fiscal instruments to penalise such commitments directly unconstitutional, as well as a form of environmental regression prohibited under the non-regression principle recognised in Brazilian constitutional jurisprudence.

The broader stakes extend well beyond soy. A ruling upholding the state laws would create a constitutional precedent that could be replicated across other voluntary sectoral agreements in cattle, mining and timber supply chains, effectively authorising state governments to use fiscal policy to foreclose private climate governance mechanisms across Brazil's agricultural economy. The case therefore illustrates a distinctive dimension of protective climate litigation, with the litigation defending the institutional conditions under which voluntary climate governance can function.

Key insights from Section 3

Over the past year the backlash against climate litigation has become more strategic and mutually reinforcing across litigation, legislation and executive action. This is most pronounced in the US where the federal government is pursuing active anti-climate litigation. The revocation of the EPA endangerment finding shows how the executive branch is deploying law offensively to foreclose climate action. New legislation in the US and potentially in Germany and New Zealand is also explicitly targeting climate litigation, limiting scope for access to justice. Against this backdrop, protective climate litigation has emerged as a response, constituting approximately 20% of US cases filed in 2025, with analogous dynamics visible in other parts of the world. These developments could point to litigation becoming a mechanism of ongoing accountability and resistance to regulatory rollbacks or reduced climate ambition.

“Over the past year the backlash against climate litigation has become more strategic and mutually reinforcing across litigation, legislation and executive action.”

4.
Complexity: when climate action generates its own disputes

This section examines non-climate-aligned cases. These are cases that are not straightforwardly pro- or anti-climate, but which challenge the way in which climate action is being designed or implemented, rather than opposing the need for such action. It highlights developments in two established categories of non-climate-aligned litigation: *just transition* cases and *green v. green* cases. It ends with a consideration of an emerging category of non-aligned climate adaptation cases, a new development since in the past adaptation litigation has been predominantly pro-climate.

> "The emerging litigation landscape is not simply one of strengthening pro-climate adaptation cases. It also contains new non-aligned dynamics in which adaptation claims generate trade-offs and distributional tensions."

Unlike the backlash, which is driven primarily by opposition to climate policy itself, and the protective cases which respond to this (see Section 3), the cases considered in this section arise from disputes about how and where climate action is being implemented, and at whose cost. They are often brought by litigants who may share the overarching goal of addressing climate change, but who contest the specific means chosen, the distributional consequences or the adequacy of safeguards for other environmental and social values.

We call these *non-climate-aligned* cases: they neither straightforwardly advance nor oppose climate action, but they reflect the complex trade-offs that characterise the implementation phase of the transition. These cases may add additional costs, risks and delays to the transition from fossil fuels to renewables. However, by exposing climate measures that are being executed in a way that may violate rights and procedural safeguards, such litigation could also ultimately lead to a fairer transition, and one with greater social acceptability. In examining this litigation as it emerges around the world, policymakers and others may also identify opportunities to proactively address the issues raised in these cases before they emerge in new jurisdictions.

Analysis by the Sabin Center of US climate litigation during the Biden administration illustrates this dynamic of non-aligned cases (Barry, 2025). Barry notes that "challenging adaptation measures or energy transition projects" emerged as a distinct and significant case category during this period, with challenges to federal approvals of offshore wind projects constituting a large proportion of the cases. Some of these challenges may be based on legitimate grounds and reflect genuine local opposition to projects. However, in others there is evidence that such local opposition may be being instrumentalised by anti-climate interests (see Box 4.1). Either way, the pattern suggests that litigation targeted at transition infrastructure is now a structural feature of the climate litigation landscape.

4.1. *Just transition* litigation

Just transition litigation refers to cases brought by or on behalf of individuals and communities who are, or foresee they will be, structurally disadvantaged or negatively affected by climate action measures (Savaresi et al., 2024). These cases raise questions over the justice and fairness of laws, projects or policies adopted to address climate change, and typically draw on human rights arguments focused on ensuring that the shift to a low-carbon economy does not reproduce or deepen existing injustices (Savaresi et al., 2024; Tigre et al., 2023; Urzola et al., 2024). Critically, this category is defined by who brings the case: *just transition* litigation is the domain of workers, Indigenous Peoples, frontline communities and others bearing disproportionate burdens of the transition. Cases brought by companies challenging climate policy do not qualify, even where they invoke property rights arguments or the protection of jobs.

The justice angle in these cases can be understood through three interconnected dimensions of justice (Savaresi et al., 2024):

- Distributive justice: the allocation of benefits and burdens of climate action
- Procedural justice: the fairness of the processes through which decisions are made
- Recognition justice: whether the interests, experiences and voices of affected groups are adequately acknowledged.

The geographical spread of *just transition* litigation is notably broad. The Business and Human Rights Centre's Just Transition Litigation Tracking Tool (BHRRC, 2025) documents 95 cases filed globally since 2009 by Indigenous Peoples, frontline communities, human rights defenders and workers harmed by renewable energy or transition mineral projects. Approximately 77% of these cases have been filed since 2018, tracking the recent acceleration of transition-related project development. Alleged harm includes environmental degradation (77% of cases), water access impacts (80%) and violations of Indigenous rights, especially the right to free, prior and informed consent (55%).[17]

A recent analysis of *just transition* cases found in the Sabin Center's Climate Litigation Database found that more than half of them alleged harmful impacts from locally implemented climate projects, with all such cases grounding claims in recognition or procedural justice (Chan and Vélez-Echeverri, 2024). Many of these project-focused cases do not appear to be motivated by opposition to climate action per se; instead, they call for the transition to be implemented with dignity, equity and respect for rights. Nonetheless, their practical consequences for decarbonisation timelines can be significant, including project delays, court-mandated modifications, financial losses and, in some cases, cancelled projects. Among the *just transition* cases filed in 2025 was the unusual case of *In re Dartbrook Operations Pty Ltd*, which concerned the impact of plans for the closure of a coal mine in New South Wales, Australia on the workforce. While the case can still be understood as project focused, it concerns the winding down of existing assets now stranded by the shift to a new green energy economy, rather than the implementation of a new climate project.

[17] These figures are cited here as contextual evidence for the scale and growth of *just transition* litigation globally, rather than as data that has been independently analysed for this report. Many *just transition* cases are framed primarily in human rights, labour or environmental law terms, without explicit reference to climate change. They therefore fall outside the scope of the Sabin Center's database, which is the quantitative backbone of our analysis.

Just transition litigation also carries a transboundary dimension that is visible in some cases. The Zapotec community of Unión Hidalgo in Oaxaca, Mexico, for example, filed a case in France alleging that energy company EDF failed to establish and implement appropriate measures to prevent human rights abuses and adverse environmental effects in the course of its Gunaa Sicarú wind park project. The claimants invoked EDF's obligations under France's Duty of Vigilance Law, which requires large companies to identify and prevent human rights violations in their operations and supply chains (Cambou and Buhmann, 2026). In June 2024, the Paris Court of Appeal admitted the civil case against EDF, reversing an earlier decision that had declared the claim inadmissible on procedural grounds. This is one example of an approach in which European NGOs work alongside affected communities in the Global South to advance climate and environmental justice claims through transnational legal interventions in the home jurisdictions of multinational companies, using mandatory human rights due diligence frameworks as the legal vehicle.

The legal infrastructure supporting this approach was strengthened by a significant ruling in March 2026, though one whose direct subject matter falls outside climate litigation. In *Sherpa, ActionAid France and Petrol-İş v. Yves Rocher*, the Paris Judicial Court found the Yves Rocher Group liable for failing to comply with the Duty of Vigilance Law in relation to the mass dismissal of more than 130 workers at its Turkish subsidiary, who had joined a trade union. This ruling matters for transboundary *just transition* cases, as well as other climate cases, because it confirms that French courts can and will apply the Duty of Vigilance framework to harm that has occurred abroad, even where the defendant seeks to invoke a more restrictive foreign legal regime to defeat the claim. It has parallels with recent cases in the UK, which have also seen incremental developments that have circumnavigated procedural aspects of private international law to allow transboundary claims against UK domiciled multinationals to proceed (Palombo, 2021; Castro 2025).

The transboundary dimension of *just transition* litigation is likely to continue, particularly in relation to critical minerals such as lithium, cobalt, copper, nickel and others, which are essential for transition technologies including batteries, wind turbines and solar panels. More than half of the land areas most critical for the mineral extraction needed to supply the energy transition intersect with the territories of land-connected peoples, including Indigenous communities, smallholder farmers and rural populations whose rights are often inadequately protected in national legal frameworks (Owen et al., 2023). If the green transition remains on its current trajectory, prioritising speed of extraction over compliance with rights, continued sustained community resistance and litigation in this area are likely. The Business and Human Rights Centre's just transition litigation tracker already reflects the early stages of this dynamic, which is likely to intensify as demands for critical minerals essential to the energy transition increase in the next decade.

An analogous dynamic is visible in the governance of carbon markets. Carbon credit schemes are driving a new wave of land grabs targeting community territories in Africa and elsewhere, with project developers claiming carbon rights over forests and grasslands on which Indigenous Peoples and local communities depend, frequently without adequate consent or benefit-sharing (Grain, 2024). This scramble for land-based carbon credit projects is replicating colonial patterns of land appropriation in ways that are beginning to generate litigation challenging these schemes. Carbon credit projects in countries including Brazil have been contested on grounds that Indigenous Peoples and local communities were fraudulently excluded from decision-making and financial benefits (Chan and Setzer, forthcoming). These cases show how corruption can operate through the exact financial instruments designed to fund and enable the transition to a low-carbon economy. There could be significant potential for such litigation to develop along further transboundary lines (Chan et al., 2026).

4.2. *Green v. green*: biodiversity, species protection and community objections

Green v. green litigation arises where climate policies negatively impact other aspects of the environment, particularly biodiversity. This category captures a structural tension: the statutory frameworks governing biodiversity protection, species conservation and environmental impact assessment were largely designed before climate change became a central consideration in infrastructure planning, and they contain no hierarchy of environmental objectives. Courts are therefore increasingly being asked to adjudicate conflicts that legislatures have not resolved, balancing the imperative to decarbonise rapidly against obligations to protect specific ecosystems, species and landscapes that renewable energy projects may disturb. At the same time, *green v. green* cases are distinct from the anti-regulatory litigation examined in Section 3, as the legal arguments are, or appear to be, made in good faith, with claimants seeking to protect ecological values.

Green v. green cases have been recorded in diverse locations including India, Romania and Australia. Germany also provides a developed body of jurisprudence on the conflict between renewable energy expansion and other environmental obligations. The CLICCS Climate Lawsuits database hosted by the University of Hamburg records 22 cases classified as *green v. green*, seeking to constrain the rollout of wind and solar infrastructure.[18]

Prominent among these German cases is a series decided between 2022 and 2025, in which operators of licensed wind farms have challenged administrative orders requiring the operation of wind turbines to be halted during specific time windows to protect red kites, ospreys and bat populations. Courts have generally upheld the authority of nature protection agencies to impose such conditions retrospectively, as amendments to existing permits (see Federal Agency for Nature Conservation, 2025). The frequency of this litigation in Germany reflects specific features of the country's administrative system. Turbine operators obtain permits through many regulatory layers, each of which may impose additional conditions over the lifetime of a project. The resulting multiplicity of actors and approval stages creates repeated opportunities for legal challenge that may not arise when permit regimes are more consolidated.

In green v. green cases judges are often asked to assess perceived trade-offs between protections for biodiversity and climate action
Credit: Shutterstock

Several cases challenging wind farm permits have also been brought by environmental NGOs on species protection and environmental impact assessment grounds (Toller et al., 2024). Cases decided in April 2025 show environmental NGOs obtaining preliminary injunctions against wind farm approvals on the grounds that there has been inadequate assessment of collision risks to protected breeding birds.

This litigation could create challenges for Germany reaching its targets for expanding onshore wind power. The German legislature has partially responded by amending the Renewable Energy Sources Act in 2022 and introducing the Onshore Wind Energy Act, which creates a statutory presumption that renewable energy development is in the "overriding public interest", making it easier to grant exemptions from the strict protection regimes of the EU Birds and Habitat Directives (Geißler and Jiricka-Pürrer, 2023).

This type of litigation and the tensions underpinning it are not specific to Germany. In India, the Supreme Court addressed an analogous conflict in *MK Ranjitsinh v. Union of India*, in which petitioners sought judicial protection for the critically endangered Great Indian Bustard against the expansion of solar and wind energy infrastructure in its grassland habitat.

The Irish courts have also addressed tensions about the planning and siting of renewable energy projects, albeit from a different angle. In 2025, the courts began to articulate a positive obligation on planning authorities to integrate climate objectives into infrastructure decisions. In *Coolglass Windfarm Limited v. An Bord Pleanála*, the High Court found in favour of a wind farm developer whose planning application had been refused on visual amenity grounds. Considering obligations

[18] These cases are not included in the overall number of 'climate cases' for Germany used in Section 2 as climate change has not been assessed as a central issue. Nevertheless, their relevance for climate action is clear.

under both domestic and European human rights law, the court found that the planning authority had not given sufficient consideration to the climate implications of refusing the project. It held that Ireland's Climate Action and Low Carbon Development Act required an "imperative reading", with public bodies acting in conformity with climate plans and objectives unless it is impracticable to do so (Jackson, 2025). This decision has since been narrowed in scope by the Supreme Court, which nonetheless confirmed that consistency with local climate plans is a key factor for renewables development. Complementary questions arose in *Friends of Killymooney Lough v. An Coimisiún Pleanála*, where the court considered whether a failure to engage directly with a climate action plan could vitiate a planning permission.

Viewed together, these Irish cases reflect a distinct approach to climate-consistent planning, in which climate change is a material consideration in infrastructure decisions. Whereas German courts are performing a case-by-case balancing exercise in the absence of a statutory hierarchy, Irish courts are constructing such a hierarchy through interpretation of existing climate legislation.

Box 4.1.

Offshore wind litigation in the US: beyond *green v. green*

The trajectory of offshore wind litigation in the US is distinct from the just transition and *green v. green* litigation in other parts of the world. Some of the legal challenges have been brought by coastal fishing communities and local environmental groups, invoking the National Environmental Policy Act (NEPA), the Endangered Species Act and the Outer Continental Shelf Lands Act to contest the procedural adequacy of federal approvals for offshore wind projects. This includes cases such as *Save Long Beach Island v. US Department of Commerce*, challenging approvals for the Atlantic Shores South and Empire Wind projects.

Some of these cases sit at the intersection of *just transition* and *green v. green* litigation: fishing communities raising concerns about livelihoods and marine ecology represent the kind of affected community whose interests the concept of the 'just transition' was developed to protect. Their arguments about procedural fairness and inadequate consideration of coastal livelihood impacts are recognisable just transition claims, even when framed in the language of NEPA procedure.

The character of this US litigation, however, requires careful qualification. Social science research reveals that local opposition to offshore wind in the US is directly connected to pro-fossil fuel interests. A mapping of the network of anti-offshore wind organisations active on the US East Coast identifies so-called "information subsidies": fossil fuel-funded organisations supplying local opposition groups with arguments, legal resources and scientifically questionable claims that the local groups deploy as if independently generated (Slevin et al., 2025). The study finds that local anti-turbine groups are functioning as vectors for fossil fuel industry agendas, whether or not they are directly funded by these interests. While community concerns may be genuine, their legal and rhetorical capacity might have been amplified by actors whose primary interest is in slowing down the energy transition. The boundaries between authentic community grievance and instrumentalised opposition are difficult to draw.

In addition to these *green v. green* challenges, the expansion of wind energy in the US has been challenged by direct obstruction from the executive, which in turn has led to counter-litigation from developers. In January 2025, a Presidential Memorandum halted all federal wind energy leasing and approvals in the US. This act was subsequently challenged in *New York v. Trump*, where a federal court vacated the Memorandum, in part. This case is now under appeal. Since then, the Trump administration has issued several stop-work orders to pause construction of offshore wind projects. Each has generated its own litigation (e.g. *Revolution Wind, LLC v. Burgum and Vineyard Wind 1 LLC v. US Department of the Interior*). In several cases, state governments have filed as parallel claimants in support of projects which they view as being in the interests of the state (e.g. *Rhode Island v. U.S. Department of the Interior* and *New York v. Burgum*).

These examples illustrate how litigation has become a feature of the energy transition in the US, with regulatory approvals generating potential grounds for challenge, and executive interventions generating counter-litigation. The cumulative effect, regardless of the intent of any individual claimant, is a thickening web of legal risk, cost and delay around the build-out of renewable infrastructure. The US context might be extreme, shaped by the current polarised federal politics, and the vulnerability of offshore wind to both community opposition and executive interference. But the underlying dynamic in which the legal frameworks surrounding the energy transition create friction that compounds across cases and jurisdictions is one that policymakers and developers are likely to encounter in the years ahead.

4.3. Complexity in adaptation cases

The underrepresentation of adaptation in the data

Cases related to adaptation have been underrepresented in climate litigation. The vast majority of strategic climate cases concern mitigation. This is true even in the Global South, where countries are small emitters overall, but are highly vulnerable to climate-related impacts (Luporini, 2023). This picture, however, requires an important qualification. The underrepresentation of adaptation in climate litigation databases may itself reflect a definitional bias towards Global North litigation patterns. Cases in the Global South relating to drought, land conflicts and agrarian debt fundamentally concern issues of climate vulnerability, adaptation and rights, and are not classified as climate litigation in the narrow sense (Ohdedar, 2022; see also Field, 2024).

Our own analysis using the topics classifiers on the Climate Litigation Database confirms that adaptation is less central to climate claims than mitigation:

- 31% of cases in the database contain no reference to adaptation-related topics
- 28% of cases mention adaptation-related topics five times or fewer
- Only 26% of cases show deeper engagement, mentioning relevant topics 15 times or more.

References to adaptation do not necessarily mean a case is "about adaptation" so these numbers are likely an over representation of the proportion of true adaptation cases in the data (see Annex 2). This is consistent with a review of US *failure-to-adapt* litigation that finds that while such cases have increased, they have so far sought specific, incremental and relatively small-scale adaptation measures rather than the systemic, large-scale action that would parallel strategic litigation designed to increase climate change mitigation activity (Waisman, 2024).

This is not to say there is no strategic litigation on adaptation. Another recent analysis suggests that adaptation issues are raised in around one-third of *government framework* cases (Chan et al., 2026). Several pending claims relate to states' obligations to implement adaptation measures under human rights and constitutional law (e.g. *Greenpeace France, Notre affaire à tous et Oxfam v. France* and *Friends of the Earth, Kevin Jordan and Doug Paulley v. UK*, which is currently pending before the ECtHR). Nonetheless, given the close connection between the adequacy of adaptation measures and individual climate-induced harm, the relatively small number of claims to date is remarkable.

The shift: adaptation claims might become more common

There are at least three reasons to think that adaptation cases may become more prevalent. The first links to the discussion in Section 1: international courts are making adaptation obligations more explicit. The ECtHR noted in Verein *KlimaSeniorinnen Schweiz and Others v. Switzerland* that parties to the Convention have obligations to put in place and effectively apply adaptation measures in accordance with the best available evidence (para. 552), and the ICJ confirmed that states have obligations to ensure adaptation measures are in place, including through the regulation of private actors (para. 403). Alongside this, the advance of *systemic polluter pays* cases, which are fundamentally about the costs of adaptation, and loss and damage, may lead to further cases (Keller and Heri, 2025).

The second reason why we may see more adaptation claims is that, as new research has highlighted, the stock of global adaptation laws has increased significantly over the past five years (Chan et al., 2026). Significantly, three-quarters of adaptation finance-related laws and policies identified come from countries in the Global South. This reflects both the concentration of climate vulnerability in Global South countries and the extent to which adaptation has become a domestic legislative priority in the parts of the world where adaptation is most needed. However, research also shows that there is a significant compliance gap, with countries not necessarily implementing the new laws and policies they create. In this way, where clear legal obligations exist alongside documented non-compliance, the conditions for new litigation are present.

Finally, as it becomes increasingly uncertain whether the world will be able to significantly reduce global greenhouse gas emissions on the timescales needed, the urgency of adaptation claims will only increase. Given that the obligation to adapt rests with the territorial state regardless of its contribution to global emissions, the causation problems that complicate mitigation litigation are much reduced. This makes human rights arguments for adaptation particularly tractable (Luporini, 2023).

However, the emerging litigation landscape is not simply one of strengthening pro-climate adaptation cases. It also contains new non-aligned dynamics in which adaptation claims generate trade-offs and distributional tensions that complicate any characterisation of this category as climate-aligned.

Non-aligned dynamics emerging within adaptation litigation

The *failure-to-adapt* strand of climate litigation has, until recently, been largely pro-climate in its operational logic: cases have been brought against governments for inadequate adaptation planning, or against companies for failing to protect facilities, communities and ultimately shareholders from foreseeable climate hazards. These cases aim to push decision-makers to act, e.g. to build sea walls, reinforce coastal terminals, prepare infrastructure and plan for the unavoidable impacts of climate change. This remains the dominant pattern. But in 2025–26, new non-aligned dynamics became apparent, complicating any simple characterisation of *failure-to-adapt* cases as being aligned with climate action.

One illustration of non-aligned dynamics observed in the past year has involved cases invoking adaptation as justification for decisions whose dominant foreseeable consequences are harmful to the climate system. This type of 'adaptation capture' sees the use of genuine, climate-change-driven adaptation pressures to legitimise infrastructure or policy choices that trade off badly against both mitigation objectives and long-term climate resilience.

The Brazilian case of ADPF 1215 (Paving of BR-319) illustrates this. The case concerns the proposed paving of an 885-kilometre highway cutting through one of the most preserved areas of the Amazon Rainforest, linking Manaus and Porto Velho. The adaptation argument advanced in support of the highway project is real: worsening droughts linked to climate change are affecting Amazon River levels and its use for transport, potentially creating demand for alternative new road links across the country (Clarke at al., 2024; Lima et al., 2024). But the environmental evidence runs decisively against the road's construction. Brazil's Environment Ministry concluded that constructing the highway would increase deforestation and generate billions of metric tonnes of CO_2 by 2050, running counter to Brazil's commitments to eliminate deforestation and meet its Paris Agreement targets. The pattern of Amazon deforestation is well-established: around 95% of deforestation occurs within 5.5 kilometres of highways, with smaller roads branching off in the characteristic 'fishbone' pattern that extends the deforestation frontier deep into previously intact forest (Spuldar, 2025).

The case presents courts with the task of adjudicating a claim in which real adaptation pressures are deployed to justify an infrastructure decision whose foreseeable environmental consequences include billions of metric tonnes of additional CO_2 emissions and a major extension of the deforestation frontier. The litigation challenges whether the environmental impact assessment of the highway project adequately weighed up this adaptation–mitigation trade-off, and whether, when adaptation and mitigation objectives are in direct conflict, courts have a role in scrutinising the quality of that analysis. This is a question that is likely to recur as climate change impacts intensify and the pressure to justify infrastructure decisions using the adaptation argument grows.

Another example of non-aligned adaptation litigation runs in a different direction. Here, the issue is not that adaptation framing is being misused, but that a legitimate *failure-to-adapt* accountability claim generates distributional consequences that raise profound questions of climate justice across the Global North-South divide.

This argument is used in two claims filed following the most catastrophic recorded natural disaster in South Africa's history, the April 2022 floods in eThekwini

Evidence shows that Amazon highway projects such as BR-319 typically result in an increase in deforestation along the route, with smaller roads branching off in a 'fishbone' pattern that extends the deforestation deep into previously intact forest. Credit: Shutterstock

municipality; scientists have attributed the extreme rainfall to global warming (Field et al., 2025). The two related cases are *Tokio Marine and Nichido Fire Insurance v. Transnet and others* (filed in July 2025) and a parallel claim by insurers of the Corruseal packaging companies against the same defendants (see Section 2). The claimants are a Japanese insurance company and the insured interests of large industrial companies, including a global auto-manufacturer. The defendants are a South African municipality and state-owned entities operating in a country where public resources are severely stretched and where the 2022 floods killed 544 people, displaced more than 40,000 people and damaged or destroyed more than 4,000 homes, belonging to communities with no access to insurance at all.

In both cases, the insurance companies are using subrogation claims to recover from state entities costs paid out to their business clients, including Toyota, whose factory was flooded and shut down for three months. The Tokio Marine claim alone is R6.5 billion (approximately US$368 million). The legal theory is that the state defendants failed to maintain the stormwater canal that should have diverted floodwaters away from the industrial area, and that this negligence amplified the scale of disaster-related loss.

These cases resemble earlier *failure-to-adapt* cases filed against governments for inadequate maintenance of infrastructure. The core accountability argument is that if public authorities failed to maintain climate-critical infrastructure to an adequate standard, there is a principled case for liability (used, for example, in *Tsama William and Others v. Uganda's Attorney General and Others*). If successful, the cases could strengthen government accountability for adaptation investment and signal to municipal authorities that infrastructure neglect carries financial consequences. But the justice implications of the cases are significantly more complex than earlier examples in this category.

The same organs of state facing claims in these cases for hundreds of millions of dollars in corporate insurance recovery are also responsible for maintaining the infrastructure on which those vulnerable communities depend (Field et al., 2025). If successful, the cases would effectively redirect scarce public adaptation resources towards compensating Global North corporate insurance losses, rather than towards the communities who bore the greatest physical burden of the floods. The cases therefore illustrate the risk that, as adaptation governance scales up and financial instruments proliferate, the question of who captures the benefits and who bears the costs of adaptation accountability may become as contested as the question of whether to adapt at all (Vanhala et al, 2020).

Key insights from Section 4

The phenomenon of non-aligned adaptation litigation examined in this section is not yet a large or consolidated body of litigation. Nonetheless, taken alongside the *just transition* and *green v. green* cases, it suggests that legal questions about how climate action is implemented, and what trade-offs it entails, are increasing. Courts may not be well-positioned to resolve questions of this magnitude, but they are increasingly the arena where these questions are being formally raised. The pattern of cases discussed here suggests the field will need new conceptual tools to track and understand what comes next. Legislators and policymakers will need to carefully consider this growing body of litigation to understand how best to balance competing interests between climate action and social and environmental protections, as well as understanding the very different motivations of stakeholders involved in such litigation.

Flood damage in the province of KwaZulu-Natal, following the floods of April 2022, the most catastrophic recorded natural disaster in South Africa's history. Credit: Shutterstock

5. Implementation and impacts of climate litigation

This section explores the implementation of decisions and the impacts of climate litigation through several case studies. First, we examine the impacts and unanticipated consequences arising from *Finch v. Surrey County Council*, a case from the UK that seeks the integration of climate considerations in decision-making processes, and which could have an international reach. Second, we consider the implementation challenges facing *government framework* cases, drawing on examples from South Korea and New York State. We also provide an overview of recent research on the impacts of climate litigation.

> "Creating accountability mechanisms that are consistent with governance realities can help bridge the gap between ambitious judicial rulings and practical climate action."

Recent years have seen a marked increase in academic papers and research projects focused on understanding the impact of climate cases. Much of this research looks beyond the direct judicial outcomes of cases to understand how climate litigation is influencing the behaviour of a range of different actors. Box 5.1 provides a synthesis of the field, articulating a new phase in research efforts to understand the impacts of climate cases.

Box 5.1.

Beyond win or lose: understanding the impacts of climate litigation

By Giuseppe Naglieri

Assessing the impacts of climate litigation involves two core challenges: defining impact and establishing causation.

In relation to defining impact, a focus on judicial outcomes captures only a fraction of what litigation may set in motion (Sato et al., 2024; Peel et al., 2022). Impacts can be positive or negative, intended or unintended, and a single case can produce different kinds of impact simultaneously: for example, when a ruling strengthens climate governance in one domain, while provoking political or legal backlash in another (Rodríguez-Garavito, 2022; Peel and Markey-Towler, 2021). Impacts can be material, such as the refusal of a licence for a fossil fuel project or the amendment of a climate law, or discursive, such as the reframing of climate-induced harm as a human rights violation (Jodoin et al., 2020). Impacts can affect different types of actors in different ways, and they can unfold across radically different timescales.

When it comes to establishing causation, it is important to understand that climate litigation does not operate in a social vacuum. Policy shifts, corporate transformations and social mobilisation are the products of political, economic, scientific and social forces. Disentangling the specific contribution of a court decision from this complex governance environment is challenging.

An empirical evidence base is nonetheless taking shape across distinct research fronts:

- **Legislation and policy frameworks:** landmark *government framework* rulings have prompted legislative reform in countries including Ireland, Germany, the Netherlands and South Korea (Climate Litigation Network, 2025; Williamson et al., 2025; Averchenkova et al., 2024; Tigre, 2025).
- **Financial markets and risk perception:** case filings and adverse court decisions can reduce firm value, with the largest effects observed against major fossil fuel producers (Sato et al., 2024), while claimant victories in *government framework* cases boost renewable energy stock prices and depress coal stock prices (Voeten, 2025; Kolaric, 2024). In a recent survey of investor perceptions of climate risk, respondents regarded climate litigation as financially material, but they differed systematically in how and when they believed it mattered (Gostlow et al., 2026). Financial regulators are increasingly treating climate litigation as a material component of climate-related financial risk (Network for Greening the Financial System, 2023). Litigation has also shaped corporate governance and disclosure practices (Smoleńska et al., 2025).
- **Civil society, public discourse and social mobilisation:** litigation can catalyse collective action, shape media narratives and redefine societal expectations about governmental and corporate climate responsibilities (Vanhala, 2022; Rodríguez-Garavito, 2022, 2025; Wonneberger and Vliegenthart, 2021; González et al., 2025). In Germany, it has been identified as a substantial "countercyclical driver" of transition, allowing social movements to "translate social pressure into legal processes" (Aykut et al., 2025; see also Zengerling et al., 2024). Research suggests there is greater social acceptance for climate policy measures when they are framed in the context of legal rulings protecting rights (Schönhage, 2024).

Many individual research projects and at least four dedicated research

Box 5.1. *continued*

programmes are addressing the conceptual and methodological challenges involved in understanding the impacts of climate litigation:

- **Climpact** (University of Bari), funded by the Italian Science Fund, is analysing around 500 cases globally through an interdisciplinary design that integrates legal, sociological and economic analysis with process tracing (i.e. tracing step-by-step mechanisms that connect a trigger event to an observed result). The aim is to reconstruct causal mechanisms across multiple impact domains.
- **LitDem** (University of Amsterdam), is investigating the direct and indirect consequences of strategic climate litigation for democratic governance across six European jurisdictions.
- **TransLitigate** (Tilburg University), funded by the European Research Council, examines the agency of transnational strategic litigators in shaping global environmental governance.
- **The FLACSO study** (Facultad Latinoamericana de Ciencias Sociales) is investigating the impacts of climate litigation in Latin America through a climate justice lens.

The study of climate litigation impacts is at an important juncture. The field has moved beyond documenting the growth of cases. However, it cannot yet offer confident, comprehensive answers about the conditions under which climate litigation drives real-world change or falls short. Bridging this gap will require mixed-method research designs that combine legal analysis with quantitative techniques, qualitative approaches, such as process tracing, and diverse data sources, including legislative records, media coverage, stakeholder surveys and corporate disclosures (Young, 2025; Silbert, 2022). The answers will matter for anyone wanting to understand the role of courts in climate governance, and deciding where and how to use the law to advance climate action.

The research programmes described in Box 5.1 are beginning to trace impacts with greater empirical precision. Implementation is part of the impact story, but the two should not be conflated. Last year's report identified implementation as the frontier to watch; that is still true: implementation and enforcement of climate decisions remain uneven and insufficiently explored. A recent report discusses how implementation is shaped not only by the remedies sought and granted, but also by the existence of supervised implementation processes, by expert advisory bodies and through staged implementation with clear benchmarks (Lozada and Çalı, 2025). Creating accountability mechanisms that are consistent with governance realities can help bridge the gap between ambitious judicial rulings and practical climate action (ibid.).

5.1. Hitting the target: the impacts of *Finch v. Surrey County Council*

Early research exploring the impacts of climate litigation identified a group of climate cases that aim to 'hit the target' of a high-emitting project (Bouwer and Setzer, 2020). Although such cases often rely on procedural failures as legal hooks, their ultimate goal is to prevent projects that could substantially exacerbate climate change. These cases also aim to create an environment in which the potential for delays to such high-emitting projects becomes one of many factors reducing their appeal to developers and investors (see Box 1.1).

The UK Supreme Court's decision in the case of *Finch v. Surrey County Council* in 2024 provides an illustration of both the intended impacts and unanticipated consequences of such cases. The decision, in which the court indicated that the scope 3 emissions must be quantified and assessed before the development could proceed, has been widely welcomed by the climate movement and sparked several positive impacts.

First, there have been substantial legal impacts. As described in last year's report, a group of further fossil fuel projects planned in the UK also saw their licences suspended in the wake of the decision. Since then, new government guidance has been issued for developers of oil and gas projects that has been welcomed by campaigners as setting a robust test for new projects (Carthy et al., 2025). There have also been "ripples beyond the energy sector" (Shapalova, 2025), with the case cited in planning decisions regarding agricultural development (Kaminski, 2026). Outside the UK, the case has been directly cited in several judgments, including a case filed by prosecutors in Brazil against Federal District regulators.

Second, there have been material impacts: drilling at the oil well site in Surrey was suspended following the court ruling. Despite the project developer, Oil and Gas UK Plc, stating that it intended to submit a revised environmental impact assessment and consents for the project, this has not yet happened. In addition, Oil and Gas UK Plc is temporarily suspended from trading on the London Stock Exchange due to delays in the company publishing its annual report. With regard to the material impacts on other projects, at least one, a coal mine in West Cumbria, has been permanently shelved by developers (see Box 3.1).

While these impacts are positive, the case has also contributed to consequences that are less straightforward to assess and analyse. This includes questions around whether equivalent standards should apply to the lifecycle emissions of renewable energy infrastructure, including embodied carbon in manufacturing, land use change and end-of-life disposal for products. A UK government review of planning rules for low-carbon electricity, the Nuclear Regulatory Review 2025, similarly recommended a simplified assessment process for renewable energy projects. The review proposes to prevent the application of the principle from *Finch v. Surrey County Council* to low-carbon electricity projects on the grounds that equal treatment of fossil fuel and renewable energy infrastructure would create a counterproductive impediment to the energy transition. The prospect of such a legislative carve-out has generated debate about its compatibility with the UK's environmental law obligations and the Aarhus Convention.[19]

Similar debates are playing out elsewhere. In Ireland, for example, the Climate Action and Low Carbon Development (Amendment) Act 2021 has underpinned several successful challenges to

[19] The United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

infrastructure projects on the basis that they had not been adequately assessed for consistency with climate goals (see Section 4). There is now discussion about amending the legislation to limit the scope for fresh litigation challenges (Leahy, 2026). These developments flow from both successful pro-climate cases and the existence of non-aligned cases in which litigation results in very real challenges for developing low-carbon-transition infrastructure. As such, they show the challenge of any effort to show the impact of a single case out of context. Striking a balance between creating a supportive environment for rapid changes to address rising emissions and ensuring sufficient protections for the environment and environmental rights is a significant challenge. It will require a delicate balancing act from policymakers considering reforms to the planning processes.

5.2. The political afterlife of *government framework* cases: case studies from South Korea and New York State

The transnational legal norms around state obligations to act on climate change have never been stronger, and this is already generating momentum for new *government framework* cases citing international and regional precedents (see Section 1). However, understanding how and when positive judgments in *government framework* cases result in real change is critical. Substantial evidence suggests that cases in France, Germany, Ireland and the Netherlands have had a significant impact on climate policy in those countries (Averchenkova et al., 2024; Wonneberger and Vliegenthart, 2021; White and O'Callaghan-White, 2021; see further Peel et al., 2022). Nonetheless, two recent decisions from South Korea and New York State in the US illustrate that ensuring compliance with ambitious legal frameworks is far from straightforward.

In August 2024, the South Korean Constitutional Court issued a landmark decision in the case of *Do-Hyun Kim et al. v. South Korea*, consolidating four petitions from claimants representing different segments of society, from young people through to the elderly. The court confirmed that the constitutional right to a healthy environment required South Korea to rapidly reduce greenhouse gas emissions. However, it found that the Carbon Neutrality Framework Act failed to guarantee this right fairly: it set a 2050 carbon neutrality goal without establishing interim targets for 2031–2049. In this way, it shifted the burden of emissions reductions inequitably to future generations. This aspect of the judgment has close parallels with the decision of the German Constitutional Court in the case of *Neubauer et al. v. Germany* and the Belgium courts in *VZW Klimaatzaak v. Kingdom of Belgium & Others* (Fantozzi and Udell, 2024). The South Korean court did not find a sufficiently established methodology on which to base its own assessment of the minimum emissions reductions required to protect constitutional rights. As such, it ordered the legislature to correct the deficit by setting the missing targets by the end of February 2026.

However, prior to the deadline, the executive branch was required to prepare and submit South Korea's new nationally determined contribution (NDC) through the UNFCCC process. This sparked significant national debate around the emissions reduction targets for 2035, in which the court's ruling was a significant factor (Youn, 2026a). Ultimately, the NDC target was set at a 53–61% reduction in net greenhouse gas emissions by 2035 compared with 2018 levels, reflecting a significant political compromise between industry, which favoured a 53% linear target to 2050, and climate activist and youth groups, who pushed for a higher target based on analysis of South Korea's fair share of global reductions in emissions. The inclusion of the upper end of the range seems to be linked to the political momentum created by the court decision. Youn Sejong of the NGO Plan 1.5, who represented the young claimants, notes that without the ruling, the NDC would likely have been weaker still (Youn, 2026b).

The NDC is not the end of the implementation story. The February 2026 legislative deadline was missed, in part due to the political instability following President Yoon's impeachment. The National Assembly is now working towards an amendment to the Carbon Neutrality Act. To inform that process, a deliberative

polling exercise was conducted in February 2026: a panel of around 300 randomly selected citizens, following several weeks of structured discussion and four televised debate sessions, concluded that South Korea's greenhouse gas reduction targets should, at the minimum, align with the IPCC's 1.5°C pathway, with reductions front-loaded rather than deferred. The results were presented to the National Assembly's Special Committee on Climate Crisis in April 2026 (Kaminski, 2026). The case shows that through sustained campaigning and engagement with the political process, civil society has been able to effectively leverage the court decision to change the national narrative around South Korea's climate ambitions.

The case of *Citizen Action of New York v. New York State Department of Environmental Conservation*, filed in 2025, highlights a different facet of the complexity of implementing ambitious climate change action at speed. New York's 2019 Climate Leadership and Community Protection Act set emissions reduction targets of 40% by 2030 and no less than 85% by 2050 from 1990 levels. The legislation charged the New York Department of Environmental Conservation (DEC) with responsibility to put in place regulations to achieve these emissions reductions by January 2024.

In March 2025, a group of NGOs issued legal proceedings against DEC for failing to develop the regulations. In response, DEC indicated that the delays related to the complexity of implementation. Ultimately, DEC argued that although draft regulations to achieve its statutory mandate existed, implementing those regulations was "infeasible" due to the "extraordinary and damaging costs" the regulations would allegedly impose on New York residents. The New York court held that such an assessment was not a legally valid ground on which DEC could refuse to comply with a clear statutory mandate. It set a new deadline of February 2026 for the promulgation of the regulations, which allowed time for legislative intervention if the legislators saw fit. Since then, DEC has appealed the decision, resulting in a stay of the order to promulgate the regulations. It has still taken no action to implement the necessary regulations or the judgment. In parallel, and more significantly, New York State Governor Kathy Hochul is now publicly engaged in lobbying around the softening of the legislative targets (French and Zhang, 2026).

The two cases illustrate how the political afterlife of *government framework* cases can lead to quite distinct scenarios. In the South Korean case, the landmark decision from the Constitutional Court has led to an increase in the country's climate ambition, enabled by sustained campaigning and engagement with the judgment by civil society actors. In contrast, the New York case illustrates the challenges of using litigation to ensure compliance with ambitious domestic emissions reduction targets, even in the context of strong legally binding frameworks.

The press conference organised by NGO Plan 1.5 in front of the South Korean National Assembly after the results of the deliberative polling were announced, urging the Assembly to respect the conclusion. Credit: Climate Crisis Emergency Action Coalition

Box 5.2.

The future of framework cases in the context of a shrinking global carbon budget

Recent scientific assessments suggest that the remaining global carbon budget for global average temperature rise to stay below 1.5°C of warming is likely to be depleted in the next few years (Forster et al., 2025). However, temperatures may stabilise if the world achieves the goal of net zero emissions globally by 2050. If emissions become net negative, then temperatures are predicted to start to fall again. In this scenario of net zero emissions followed by net negative emissions, there is a reasonable possibility that the temperature rise may return to around 1.5°C above pre-industrial averages by 2100 (Riahi et al., 2026).

This scenario is often referred to as 'overshoot': the global temperature goal is first exceeded but subsequently realised. Given the increased legal relevance of the 1.5°C temperature target following the international and regional jurisprudence discussed in Section 1.1, it is now vital that the legal community engage with this issue of overshoot.

To some academics, the imminent depletion of the carbon budget for 1.5°C suggests that litigation strategies that rely on carbon budgets and fair-share analyses to assess a county's contribution to global emissions reductions may be ineffective (Wegener, 2024; Bluwstein, 2025). Under this assessment, such cases may have limited impacts in terms of reducing emissions within a particular country or state.

However, this assessment relies on an arguably simplistic analysis of the arguments in many framework cases. New analysis argues that the current generation of framework cases focused on states' climate ambition is addressing the challenges of the shrinking carbon budget head-on (Fantozzi and Williamson, 2026). Claimants in climate cases often take a multi-step approach. First, they seek to establish what a state's fair share of global emissions reduction efforts should be, taking the global carbon budget for 1.5°C of warming as a reference point. At this stage, the claimants' analysis suggests that many developed countries in the Global North will either be on the point of exhausting their share of the budget, or in some cases will have already done so. Next, they seek to establish what states can do to reduce emissions as rapidly as possible domestically. In many cases, the feasible territorial emissions reductions within states will not be enough to meet their fair share of the emissions reductions needed, leaving states with a 'mitigation shortfall'. At this stage, the analysis then turns to what states can and must do to address this shortfall, whether through providing financial support for emissions reductions in other countries, or through other means, such as increased carbon dioxide removals.

An example of a recent *government framework* case focused on questions that go beyond the issue of territorial emissions reductions is a UK case filed by three activist groups: *R (SOS UK, Tipping Point and Save Hemsby Coastline) v. Secretary of State for Net Zero*. The case does not challenge the fundamentals of the UK Climate Change Act, which governs territorial UK emissions reductions. Instead, it argues that to meet its fair share of the burden of meeting the 1.5°C temperature target, the UK needs to supplement measures under the Act with measures targeted at supporting and accelerating reductions elsewhere. This includes providing climate finance to other countries, reducing the emissions from imported goods and stopping new oil and gas extraction projects which could lead to scope 3 emissions overseas, building on the ruling in *Finch v. Surrey County Council*.

Some elements of the logic informing such litigation can be seen in the recent judgment in *Greenpeace Netherlands and 8 citizens of Bonaire v. The Netherlands* (see Table A). The court acknowledged that for a country like the Netherlands to meet its obligations to protect human rights under the ECHR, it should commit to making "greater efforts overall than the minimum required of average and less developed member states" [11.13.4]. However, it noted that this did not necessarily lead to a legal requirement for the state to increase domestic emissions reduction targets. Instead, the state had a significant margin of appreciation in determining what "greater efforts" should look like. The court observed "the State may choose to provide additional support to other countries in reducing their emissions or in taking adaptation measures" but refused to engage in a prescriptive exercise to determine how the Netherlands should address the current weakness of its mitigation framework (de Jong and van Asselt, 2026). Nonetheless, the judgment may signal more extensive judicial engagement with the questions set out above in the future. Whether such engagement ultimately moves us closer to a world where warming is limited to 1.5°C will depend on the political afterlife of the relevant cases.

Bonaire residents and Greenpeace Netherlands face the Dutch State in court for climate lawsuit – The Hague. Credit: Marten van Dijl/Greenpeace.

Key insights from Section 5

The cases and research explored in this section resist any simple verdict on the effectiveness of climate litigation. The UK case of *Finch v. Surrey County Council* illustrates how a single successful ruling can simultaneously advance climate goals and generate policy dilemmas that require careful navigation. The South Korean case shows that even with a positive judicial outcome, ensuring that a judgment is implemented in practice can require prolonged political processes. The New York case suggests that even where courts issue clear orders requiring executive action, political pushback and opposition may present real barriers to their implementation.

Nonetheless, all three examples show that moving the question of climate ambition and action into the legal realm can restructure the terms of that political contest: clarifying rights and duties, creating new sites of civic engagement and making it harder for decision-makers to avoid acting on climate objectives. The question of whether climate litigation drives change in the real world, then, may be less a matter of win or lose, and more a question of what kind of change, over what timescales and for whose benefit. It is questions like these that a maturing research field is now beginning to answer.

Conclusion

> Climate litigation is now a permanent feature of the global governance landscape. The question is not whether it will matter, but how much, in whose favour and at what pace."

The findings in this report will speak differently to different stakeholders involved in climate governance. A government ministry assessing its legal exposure, a judge receiving a novel climate claim, a company facing regulatory scrutiny, a financial institution weighing up transition risk, an NGO claimant planning its next filing, a scientist preparing to serve as an expert witness or a regulator reviewing permitting frameworks will each gain different insights. The table below summarises the most relevant findings for each stakeholder group. These are not a set of recommendations, but rather an attempt to communicate the latest analysis in a way that speaks to the diverse range of people who engage with or are affected by climate litigation.

What this report means for you: findings by stakeholder group

Stakeholder	Key findings
Governments, legislators and regulators	• **State obligations are settled law in many jurisdictions.** The consolidation of duties across apex courts and three major advisory opinions means the question is no longer whether to act, but whether the action being taken is sufficient. Governments should continue driving emissions reductions, protecting vulnerable people, and safeguarding the planet's resources for present and future generations in line with obligations under international law, international human rights law and, in many cases, domestic constitutional and statutory requirements. • **Climate impact assessment requirements are spreading.** In many jurisdictions, EIA frameworks that do not explicitly account for downstream emissions may create litigation risks. • **Deregulation can be challenged through protective litigation.** Where policy rollback occurs, courts are being used to preserve existing climate standards. This creates litigation exposure for governments pursuing deregulation. • **The transition generates its own legal challenges.** *Just transition* cases, *green v. green* disputes and adaptation conflicts require inclusive project design and genuine prior consultation, and may point to the need to streamline permitting procedures. Legislation may be required to give clarity on how different interests should be balanced. • **Implementation is a defining challenge.** Favourable judgments require sustained political will to translate into change. The South Korean and New York case studies (Section 5) illustrate the potential for gaps to emerge between legal mandate and policy reality. Legislators and governments need to show leadership to ensure climate ambition remains a priority.
Judges and courts	• **Many climate arguments now carry substantial international and transnational authority.** The advisory opinions from ITLOS, IACtHR and ICJ, the ECtHR's *KlimaSeniorinnen v. Switzerland* judgment and rulings from apex courts around the world provide an increasingly consolidated body of legal authority that courts in all systems can engage with. • **Transnational judicial dialogue is accelerating.** Cross-jurisdictional citations are frequent; awareness of how other apex courts have reasoned on similar issues supports the application of settled doctrine to novel questions even when foreign judgments do not carry precedential value. • **The science–law interface is maturing.** End-to-end attribution methods, sectoral pathways and guidance provided by judicial bodies (as in Brazil's National Council of Justice formally adopted methodology for quantifying damage to the climate system resulting from deforestation) are providing courts with useful evidentiary tools. • **Corporate cases are passing procedural hurdles**. Courts are increasingly being called upon to rule on the merits of corporate climate liability cases. Awareness of the factual and methodological foundations of these cases is increasingly important. • **Remedies need to be implementation ready.** Litigation can produce real-world impacts, but these depend on how remedies are framed. The growing body of impact research may increasingly inform what kinds of orders are enforceable.

Stakeholder	Key findings
Companies	• **Corporate climate liability has crossed a critical threshold.** No *systemic polluter pays* or *corporate framework* case has yet produced a final upheld damages order, but courts across multiple jurisdictions now accept these cases may be admissible on the merits. Although we may see significant jurisdictional divergence, it appears likely that the question is no longer whether liability is arguable, but at what stage and on what evidence a claim will be upheld. • **Well-evidenced transition plans reduce litigation risk.** *Climate-washing* cases continue to succeed at high rates. Honest, substantiated disclosure reduces litigation risk; silence or pre-emptive retreat does not. • **New defendants are being reached.** Real estate, state-owned enterprises, institutional investors and companies further along supply chains are now within the scope of climate litigation. Inconsistency between how a company manages climate risk for its corporate clients, consumers or employees is itself an emerging litigation ground. • **Adverse rulings produce measurable financial effects.** Stock price impacts on fossil fuel producers following adverse decisions are now empirically documented. Climate litigation is a financial risk for companies. • **The anti-ESG backlash creates its own legal exposure.** Adopting the practice of "greenhushing", i.e. withdrawing from sustainability commitments in response to political pressure does not eliminate legal risk; it may shift it. Companies should continue working to reduce emissions across their value chains and protect vulnerable communities affected by their activities.
Financial institutions	• **The *turning-off-the-taps* category is growing.** Cases challenging public and private finance flows to high-emitting activities are increasing. The legal architecture is immature but developing fast. Institutions should align financing decisions with emissions reduction goals to protect people and the planet. • **Financed emissions are becoming legally traceable.** The methodological infrastructure for attributing responsibility to banks is now being tested in legal proceedings. *Milieudefensie v. ING* is one of the forthcoming test cases. • **Regulatory enforcement is a parallel track.** The European Central Bank's (ECB) enforcement actions signal that supervisory bodies are treating climate and environmental risk as a material financial consideration, at least in some jurisdictions.
Civil society, NGOs and affected communities	• **Doctrinal consolidation strengthens new cases.** Arguments that were novel a decade ago now carry substantial weight. There are different jurisdictional pathways for deploying international authority in domestic proceedings. • **Anti-SLAPP protection should be taken into consideration.** Forum selection when targeting corporate defendants must account for SLAPP risk. Campaigns for anti-SLAPP legislation may increase access to justice. • **Cross-pollination between strategies and jurisdictions is accelerating.** Successful strategies travel across borders within months. New databases tracking litigation brought by or related to young people, migrants and other vulnerable groups are enabling more targeted knowledge transfer. • **Preserving standards is an important achievement.** Protective climate cases, in which claimants use the courts not to advance new ambitions but to defend existing climate standards, might be needed to oppose rollback and deregulations even where this diverts resources from pushing for increased ambition. • **Implementation and enforcement are emerging as distinct strategic phases.** Understanding what cases have achieved, and under what conditions, is as strategically important as identifying claims and causes of action to assert. Dedicated resources for post-judgment follow-up are essential. • **The field is expanding to serve more communities.** *Just transition* cases, adaptation litigation and cases involving Indigenous Peoples and climate migrants are growing. The goal remains to drive emissions reductions, protect vulnerable people and secure the planet for future generations.

Stakeholder	Key findings
Scientists and researchers	• **End-to-end attribution is now methodologically feasible.** New research demonstrates that linking individual emitters to quantifiable economic losses from extreme heat is achievable. This substantially strengthens the prospects for *systemic polluter pays* and adaptation cost recovery cases. • **Standardised approaches to quantifying damage to the climate are scaling up.** Brazil's National Council of Justice has formally adopted a methodology for calculating damage to the climate system in deforestation cases, streamlining judicial decision making. • **The US EPA endangerment finding revocation undermines scientific consensus,** despite being based on legal arguments. Its implications for US federal climate regulation are hugely significant and will require engagement from the scientific community. • **Dedicated impact research projects and programmes are producing findings.** Research is beginning to answer questions about the conditions under which litigation drives real-world change. This work is essential to understanding how litigation can most effectively advance action to reduce emissions and protect people and the planet.

Looking ahead

Nine years ago, the question animating the first report in this series was whether climate litigation could work at all: whether courts would accept jurisdiction, whether arguments grounded in science would be treated as legally cognisable or whether governments could be held to account for contributions to a global commons problem. Some of those questions have been answered affirmatively and the field has moved on to potentially more challenging questions.

These harder questions now concern implementation: whether the obligations courts have recognised will be met in practice; whether the backlash now underway will erode the doctrinal gains of the past decade; whether the growing complexity of disputes will be resolved in ways that advance a just and rapid transition or merely add friction to all sides equally; whether the evidence base for understanding what litigation actually achieves will develop at a pace that allows strategic actors to learn and adapt; and whether and how litigation, given how slowly cases often progress, can keep pace with shifts in the scientific understanding of climate change and its impacts.

The complexity of these questions takes them beyond the scope of this report series. Instead, what we have aimed to do is provide an accurate and comprehensive picture of what is currently happening in the climate litigation field as a starting point from which such questions can be explored. That means considering not only the landmark cases that reshape doctrine, but also the 'under-the-radar' filings that reveal how arguments travel; not only the victories, but also the defeats; not only the cases that fit cleanly within established categories, but also the cases that resist classification and therefore signal where the next wave of litigation is forming.

Climate litigation is now a permanent feature of the global governance landscape. The question is not *whether* it will matter, but how much, in whose favour and at what pace. The developments documented here suggest that the answer will be shaped in the coming years by the cumulative effect of hundreds of cases, in dozens of jurisdictions, advanced by actors who are learning from each other across legal systems and continental boundaries with increasing speed.

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