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Climate Litigation as a Driver of Enhanced Environmental Disclosure and Corporate Accountability

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1. Introduction

In recent years, climate change has become one of the most pressing global challenges, provoking a growing demand for corporate accountability in environmental concerns. This increasing public awareness and regulatory frameworks evolution has intensified the scrutiny placed upon companies, not only for their environmental impact but also for how they disclose climate-related information (Action 4 Justice, 2020). In this evolving context, climate litigation has become a key tool to demand transparency and accountability from the private sector of the economy.

While years ago, climate lawsuits were focused on targeting governments for their lack of ambition or implementation failures, legal actions against private corporations have increased in recent times. These horizontal climate litigations encompass claims related to pollution, deforestation, misleading advertising (commonly known as greenwashing) and the failure to disclose climate-related risks in financial reports (Weller & Tran, 2022). As corporations increasingly advertise themselves as sustainable, they are now called to demonstrate the truthfulness of these claims.

This dissertation explores a landscape of corporate climate litigation outside the United States, with particular focus on how transparency and disclosure have gained relevance from both legal and reputational outlooks. Using data from the *Global Climate Change Litigation Database*, this study analyses 224 claims to identify patterns across legal categories, economic sectors, the most affected regions and the evolving expectations around corporate reporting (Sabin Center for Climate Change Law, 2025).

Additionally, this study analyses three emblematic case studies, TotalEnergies, ING Bank and Volkswagen, each representing different dimensions of climate-related legal risks and illustrating how legal scrutiny over environmental issues intersects with financial disclosures and corporate reporting obligations.

These cases provide insight into broader transformation of corporate accountability, where disclosure is no longer a voluntary action but a fundamental pillar to show transparency, performance and risks to stakeholders. By connecting litigation trends with corporate reporting, this dissertation highlights the growing relevance of environmental accounting and the critical role of transparency in navigating today's climate challenges.

2. Theoretical Framework

2.1 What is Climate Litigation?

Nowadays, the population is more concerned about firms not accounting for their environmental impact. Climate Litigation refers to the diverse range of legal actions initiated by individuals, communities, legal and state governments, regulatory businesses to hold corporations, governments and financial institutions accountable for their contributions to climate change. It covers cases directly related to climate damaging activities as well as cases concerning the Earth's ecosystems and environmental mismanagement (Weller & Tran, 2022). According to Sato et al. (2024) during the last two decades, annual climate lawsuits increased from 10 to 200 by 2021. Furthermore, 18% of these lawsuits were filed against corporations whereas governments and other entities accounted for 82%. Recent data from the *Grantham Research Institute on Climate Change and the Environment* and the *Sabin Centre for Climate Change Law* suggest that this increasing trend, has been persistent among the years, reflecting the continued growth of climate litigation as a tool for addressing climate-related harms (Tigre & Barry, 2025).

2.2 Vertical and Horizontal Climate Actions

There are plenty of approaches to classifying climate-related litigation, depending on the nature of the claims, the legal arguments sanctioned the identity of the parties involved, or the objectives pursued. A widely used framework proposed by Weller & Tran (2022) distinguishes climate litigation in vertical and horizontal actions. It is particularly relevant as this dissertation focuses exclusively on horizontal climate litigation.

Vertical climate actions refer to cases filed by individuals or civil society groups against States, discussing the adequacy of governmental climate policies. These types of lawsuits usually belong to the public law field and are filed in administrative or constitutional courts. They are often grounded in the protection of fundamental rights, human rights or obligations established by international environmental agreements (Weller & Tran, 2022). The main landmark example of vertical litigation is the *Urgenda Case* in the Netherlands. On the 20th of December 2019, Dutch citizens established that their government had the commitment to decrease its polluting emissions, and as a result, the Dutch Supreme Court (Hoge Raad) ordered the entire country to reduce greenhouse gas emissions by 25% compared to 1990 levels by the end of 2020. This was the first time that a court imposed a state to reduce CO₂ emissions and the first successful climate justice case. Many countries such as Belgium, Canada, Colombia, Ireland, Germany, France, New Zealand, Norway, the UK and Switzerland were inspired by this case requiring their institutional

courts to scrutinize national climate legislation against constitutional standards (Urgenda Foundation, n.d.). Overall, vertical climate actions, aim to enforce governments within ambitious measures to combat climate change, primarily through the implementation of protected rights and international commitments.

Horizontal climate actions, on the other hand, involve lawsuits between private parties, the most common practise is NGOs suing corporations. These lawsuits are generally filed under private law jurisdictions, particularly tort law ¹ and seek to establish corporate liability for environmental harm. They include claims related to pollution misleading advertising (greenwashing), lack of transparency or failure to account climate-related risks. One of the best-known examples is the case *Luciano Lliuya vs RWE AG*, in which a Peruvian farmer, Saúl Ananías Luciano Lliuya accused this German energy firm of a proportional contribution to glacier melt threatening the plaintiff's property and his town located by a glacier lake in Peru. While earlier attempts in the United States to hold Carbon Majors as the main responsible for climate damages were unsuccessful, Europe has experienced a growing number of horizontal cases particularly those focused on disclosure and ESG reporting (Weller & Tran, 2022). As previously mentioned, this dissertation examines horizontal litigation because this distinction, allows the analysis of corporate accountability in the private sector.

2.3 Climate Disclosure and ESG Transparency

Climate change is becoming a more urgent global issue as days go by, for this reason, companies are being asked to be more transparent about how they affect the environment. Two key concepts in this context are Climate Disclosure and ESG Transparency.

Climate-related disclosures are statements or reports issued by organizations, such as companies, banks and investment funds, about their carbon footprint, environmental impact, exposure to climate risk and how green their investments are. These disclosures help stakeholders to understand how much an organization is contributing to climate change and its vulnerability to the environmental, financial and regulatory consequences of warming the planet. Without this information, it becomes harder to assess how sustainable and financially stable a company is in reality (European Central Bank, 2024).

¹ A tort is a civil wrong that occurs where someone unfairly causes another person to suffer loss or harm. (LexisNexis, 2025)

ESG stands for Environmental, Social and Governance and it refers to a set of standards that measure business's impact on society, the environment and how transparent the governance is in terms of leadership, shareholder rights etc. Although they are often used together, there is an important conceptual distinction. According to Manifest Climate (2021), climate disclosures refers specifically to how companies report their climate-related risks, emissions and strategies to reduce their environmental impact. On the other hand, ESG transparency is broader, covering Environmental, Social and Governance factors including things like diversity, human rights or supply chain ethics. The CBI (Confederation of British Industry) demonstrated that two-thirds of investors take ESG factors into account when they invest in a company, this means that a proper ESG report, grows businesses' potential while contributing to the environment and our community in general (British Business Bank, n.d.).

In a recent study shared in SSRN, Freeman & Cornea-Madeira (2024), found that companies with weak ESG performance only begin disclosing a more detailed ESG or climate-related information after facing external pressure such as activism from investors or environmental groups, litigation or public scrutiny. When companies are aware that are evaluated and under supervision, are more likely to take action and improve their governance and environmental disclosures. In this way, disclosures are not just only informative but also act a soft form of regulation compliance.

Furthermore, high-quality climate disclosures allow companies to build trust, demonstrating an efficient accountability and it is a signal of resilience. When firms share this information openly, they improve the relationships with clients, investors and employees. Consumers make informed choices, it helps investors allocate capital more responsibly (Portanier, 2024). Being open, shows that the long-term future of the company is being considered and cared, even more than just profits.

In conclusion, climate disclosure and ESG transparency are closely linked but are not the same. For this dissertation, we look at how climate litigation affects companies. These two concepts are crucial and supports the idea that transparency is no longer optional but a crucial part of the current business environment.

2.4 Regulatory and Reporting Frameworks

Climate-related disclosures have evolved from a voluntary practise to a regulatory imposition; it has been modelled by many international agreements and standardized reporting frameworks. In this section of the dissertation, we outline the key initiatives shaping corporate climate disclosures: the Paris Agreement, the Task Force on Climate-related Financial Disclosures (TCFD), the

International Sustainability Financial Reporting Standards (IFRS S1 and S2) and the European Union's Corporate Sustainability Reporting Directive (CSRD) with the current development of the European Sustainability Reporting Standards (ESRS) by the EFRAG (European Financial Reporting Advisory Group).

The Paris Agreement, adopted in 2015 at COP21 is an international landmark that establishes a global framework in order to avoid dangerous climate change by the limitation of global warming to well below 2°C above pre-industrial levels, pursuing the limit to increase 1.5°C. (Hu, 2025). It requires all Parties to the UNFCCC (United Nations Framework Convention on Climate Change) to report regularly on their emissions and their implementation policies. This includes the publication of NDCs² and the participation on global stocktake every five years to assess collective progress towards achieving the agreement's goal (United Nations Framework Convention on Climate Change (UNFCCC), n.d.).

The Task Force on Climate-related Financial Disclosures (TCFD) was established by the Financial Stability Board in 2015. Its main purpose was to develop consistent climate-related financial risk disclosures for use by companies, banks and investors. The TCFD annually recommends disclosures in four key areas: governance, strategy risk, management and metrics. These recommendations aim to provide investors and other stakeholders with clear, comparable and consistent information to understand the financial system's exposure to climate-related risks (Task Force on Climate-Related Financial Disclosures (TCFD), n.d.).

The International Sustainability Standards Board (ISSB) under the IFRS Foundation, issued IFRS S1 and IFRS S2, its first two International Sustainability Disclosure Standards, that became effective from January 2024. Firstly, IFRS S1 provides a general framework and basic requirements for sustainability disclosures. It requires entities to disclose material information about all sustainability-related risks and opportunities that could be expected to affect financial outcomes such as cashflows, access to finance, cost of capital. It is a motivation to make economic and sustainable reports to keep investors more informed (Carroll, 2023). On the other hand, IFRS S2 focuses specifically on climate-related risks. It incorporates the TCFD recommendations emphasizing the need of this type of disclosure, governance, strategy, metrics and targets all

² Nationally Determined Contributions, which are nationally determined plans to reduce GHG Emissions (United Nations, n.d.)

climate issues related. It requires the disclosure of both, physical and transition risks, in addition it enforces upon providing a comprehensive framework for these reports (IFRS Foundation, 2023).

Lastly, the Corporate Sustainability Reporting Directive (CSRD) was adopted by the European Union, and it expands the scope on detail of sustainability reporting requirements. The CSRD obligates nearly 50,000 EU companies disclose their impact on the environment, including detailed information such as the amount of Greenhouse Gas emissions, energy consumption (Schmidt, 2025). The Directive requires companies to report according to the European Sustainability Reporting Standards (ESRS), which incorporate the principle of double materiality, considering both, the impact of climate change on the company and the company's impact on climate change.

These frameworks enhance transparency and comparability of climate-related disclosures, allowing stakeholders to make informed decisions.

2.5 Environmental Accounting and Corporate Liability

Environmental accounting is the process where environmental factors, for instance pollution, resource use and environmental risks are incorporated into financial planning and decision making. It is useful to companies and governments because it helps to understand how their activities make an impact on the environment, and the consequences that these harms might cost in the long term (ACCA, n.d.).

According to Ahman et al. (2010), environmental accounting plays an important role as it boosts sustainable development, because it allows decision-makers to balance the economic growth with environmental protection. By adding monetary value to nature and the resources it provides us, governments and companies have the possibility to evaluate how their actions impact these natural resources and adjust their strategies.

Regarding the European Union, Eurostat has developed accounts, which is a statistical system that matches environmental information with economic data. These accounts help to answer questions such as how production and consumption affect the environment, what is the effect of these economic policy measures such as environmental taxes and fines. In the end, this information is very useful contributing in a considerable way to the pathway the European Union wants to follow to achieve a greener future (Eurostat, 2025).

The Association of Chartered Certified Accountants (ACCA) also highlights the role of the Environmental Management Accounting (EMA). It is important to note that EMA is not the same as

Environmental Accounting. The former, helps businesses to track their environmental costs inside the company, for instance the waste, water use or energy, including them in pricing, costs and business decisions. On the other hand, environmental accounting encompasses environmental information both externally and internally, its main focus is to provide reports asked by shareholders and other stakeholders. For this reason, EMA is a subset of the second one (ACCA, n.d.).

To conclude, environmental accounting is crucial in today's society, not only improves transparency but also help companies to reduce legal and financial risks. When companies are honest and clear about their environmental costs and impacts, they are less likely to face lawsuits, fines or public criticism. This makes this type of accounting an important tool for sustainability and corporate responsibility.

3. Methodology

3.1 Source of the Data: The Global Climate Change Litigation Database

The data analysed in this study comes from the *Global Climate Change Litigation Database*; a legal research project run by the Sabin Center for Climate Change Law, at Columbia Law School, in collaboration with Arnold & Porter (Sabin Center for Climate Change Law, 2025).

This resource collects legal cases where corporations are accused of failing to comply with climate regulations, misleading advertising or environmental harm through their operations. The dataset is focused specially on cases from outside the United States, particularly lawsuits against corporations. It contains a wide variety of details providing a structured tool to track who is being sued, why and how courts are acting against climate related claims all over the globe.

To properly conduct this analysis, different data points were assigned to different categories based on its importance and valuable information such as type of case, status, applicable laws, claimants and type, respondent, industrial classification, and summary.

There are a plenty of details described, the key aspect documented is the type of case, it classifies the disputes based on the environmental and regulatory focus, it includes *Emissions Trading* (cases involving carbon markets and emissions allowances), *Climate Damage* (claims related to environmental harm such as logging or the cause of wildfires), *Carbon Credits* (disputes regarding contracts and illegal carbon credit projects), *Disclosures* (cases concerning the transparency in the climate-related reporting), *Environmental assessment and permitting* (failure in the regulatory approvals and compliance withing the environmental evaluations), *Financing and investment* (this

includes cases related to the funding of environmentally harmful projects), *GHG emissions* (lawsuits against corporation producing greenhouse gases), *Just transition* (legal actions addressing the social and economic impacts of transitioning to a low-carbon economy), *Misleading advertising* (cases focused on greenwashing) and *pollution* (lawsuits regarding contamination and environmental degradation).

The company name involved in the litigation is also recorded, the status of the case, which distinguishes between ongoing cases (Pending), resolved cases (Decided), or other legal types of status. It is important to clarify that the status decided, does not imply a favourable or disadvantageous outcome for the claimant, in fact, several cases listed as decided were afterwards dismissed, or found inadmissible. Therefore, decided in the dataset just indicates that the legal process has concluded regardless of the result. The date of the case is crucial to establish a timeline or identify a climate lawsuit trend, while country provides insight into the geographical distribution of the claims, showing which jurisdictions are more active when intervening corporations not following codes and regulations.

Another key component of the dataset is the applicable laws, which lists the legal frameworks mentioned in each case. These can range from international treaties such as the Paris Agreement, to national regulations controlling corporate accountability, emissions reduction or consumers and competitors codes.

The dataset also identifies the claimants (the parties initiating the legal complaint) and classifies them into NGOs, Government, Individuals, Corporations, International Organizations and Unknown claimants, with. On the other hand, the correspondents refer to the corporations that face the legal actions.

Another valuable aspect of this dataset is the industry classification. Following the International Standard Industrial Classification (ISIC) codes for economic activities each corporation is categorized in a group (United Nations Statistics Division, 2008). This allows to examine the sectors that are more frequently involved in climate-related lawsuits. By having this information, trends can provide insights into which industries face the majority of environmental claims or whether it is constant in the appearing industries.

Finally, each case includes a summary, offering a brief overview over the dispute, describing the environmental impact in question and the arguments to take into consideration. By examining the data, trends can be researched, assessing the prevalence of greenwashing accusations and

identifying patterns in how businesses from the same nature respond to climate-related legal challenges.

The dataset contains a total of 224 claims filed against corporations outside the United States in relation to climate change litigation. However, there is an important detail to mention. While the total amount of claims is 224, this corresponds just to 191 unique lawsuits. This mismatch arises from the fact that some lawsuits include multiple accusations, meaning that 33 of the total claims involve cases in which a single corporation is accused under multiple legal grounds. For instance, the lawsuit involving “Virgin Atlantic” and “British Airways” demanded by the environmental NGO “Possible”, simultaneously addresses issues of Climate Damage, Disclosures and GHG emissions reduction. This highlights the complexity of climate litigation, as corporations are often sued for many allegations within the same legal process.

3.2 Motivation of Selected Cases

In order to deepen the analysis of the potential relationship between climate litigation and corporate financial reporting, this dissertation includes the examination of three specific lawsuits extracted from the Global Climate Change Litigation Database. These cases have been selected following certain characteristics such as their direct connection to climate impact and environmental accounting, their relevance to the financial statements of the corporations involved and their European legal framework, where sustainability and corporate reporting standards are especially strong. Together the three cases cover a range of economic sectors, legal procedures and types of disclosure.

TotalEnergies case was selected to represent the fossil fuel sector, where the accuracy and scope of climate-related financial reporting is critical. The lawsuit filed by Métamorphose is based on the company’s not sufficient alignment with the Paris Agreement, and its failure to propose strategies and climate targets. It is particularly relevant as it offers a unique perspective on how legal challenges related to climate can go beyond the damage, affecting fundamental financial ratios, shareholders rights and corporate structures in this industry being known for being high polluters.

ING was chosen due to the fact of being in the banking sector, and that it is one of the first financial institutions facing claims under OECD Guidelines. This claim was brought by many Dutch NGOs demanding transparency on their financed emissions and its failure to set measurable climate targets. The case is especially valuable because ING responded to this complaint by implementing the Terra Approach, which is a methodology aiming to align its financial portfolio to the Paris

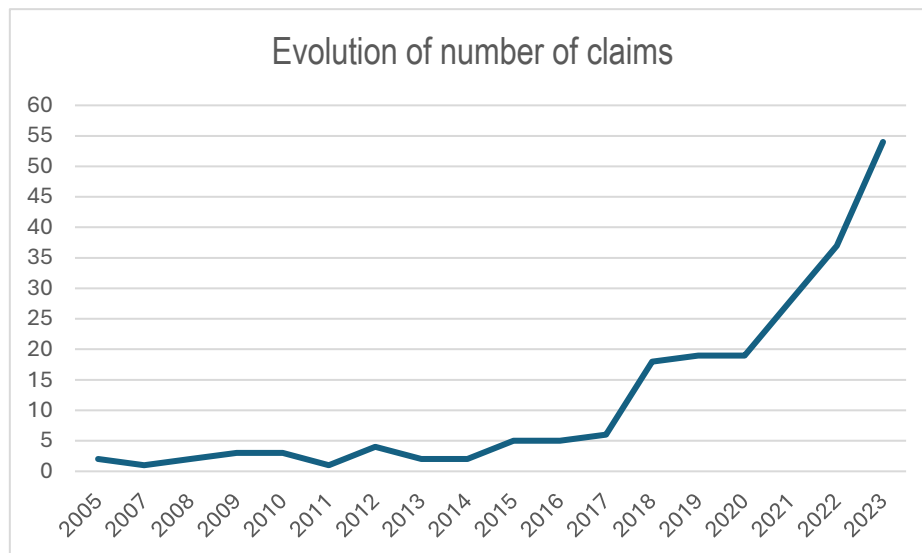
Agreement. It is a great example of how litigation can influence in financial institutions leading a more environmentally friendly future.

Volkswagen on the other hand, was included in this study because despite having been initiated before, this complaint remains one of the most known and influential example of climate litigation in Europe. The case combines an OECD complaint filed by *Germanwatch* in 2007 with the global *Dieselgate* scandal in 2015. It represents intentional environmental misrepresentation, where the failure in disclosure was not due to the lack of information or capacity, the opposite, it was a pure systemic fraud. This case had severe financial, legal and reputational consequences, that led to structural reforms among the company and its reorientation toward electric mobility. It demonstrates how litigation can have long-term effects, especially when reputational damage is done losing investors and consumers' confidence.

By selecting three cases from different sectors, energy, finance and automotive, we obtain a useful sight of different types of climate litigation. In addition, to dissertation also aims to provide a comprehensive idea of how legal pressure interacts with disclosure practises.

4. Analysis

Figure 4.1.- *Evolution of number of claims from 2005 to 2023*



Source: *Global Climate Change Litigation Database*

Figure 4.1. illustrates the evolution of the number of climate litigation cases that were filed between 2005 and 2023 against corporations. 2024 and 2025 lawsuits have been excluded from this graph

as the database does not reflect all the cases filed along those years, and therefore it would offer a biased picture of the claims evolution. There is a clear shift in the volume and intensity of climate litigation lawsuits among these almost two decades. From 2005 to 2017, the number of claims remained limited, rarely reaching 5 cases per year. This early twelve-year period shows a clear stagnation in corporate climate, demonstrating that few actors were using the legal system to hold corporations accountable for their environmental harm.

In 2018 a turning point is evident. The number of filings begins to rise more speedily, however in 2019 and 2020 there is a stable number of annual claims of 19 per year, this term triggers an upward trend. The significant increase in corporate litigation observed after this two-year period, coincides with a growing global awareness around climate change that may be attributed to the combination of regulatory consolidation, and broader systemic shifts. Although the Paris Agreement and the Task Force on Climate-related Financial Disclosures (TCFD) were introduced in 2015, it was not until the subsequent years when these policies were introduced, specially from 2020 in advance (Burger & Gundlach, 2017). In addition, the COVID-19 pandemic, marked a turning point. Beyond public health and economic consequences, the crisis increased awareness about building a more sustainable economy. Moreover, the Green Deal was proposed in December of 2019, adding pressure on corporations to align their policies to greener mechanisms apart from the adoption of ESG disclosure standards and the formalization of sustainability reporting obligations.

The steepest acceleration though, occurs after 2021. Between 2021 and 2023 the number of annual reports practically doubles each year, reaching 54 cases in the last year studied being the highest peak of these 19 years showed. As previously mentioned, the growth, can be attributed to factors such as the intensification of public scrutiny, the increasing regulatory pressure from national and international bodies. Additionally, legal tools have improved and become more sophisticated allowing NGOs to bring more legal actions in an easier way and to multiple jurisdictions at the same time.

Table 4.1. - *Categories and number of claims*

Categories	Number	%
Misleading Advertising	77	34.4%
Climate Damage	40	17.8%
Environmental assessment and permitting	37	16.5%
GHG emissions reduction	34	15.2%
Disclosures	17	7.5%
Carbon Credits	9	4%
Financing and Investment	5	2.2%
Just transition	3	1.3%
Emissions Trading	1	0.4%
Pollution	1	0.4%
Total	224	

Source: *Global Climate Change Litigation Database*

The data presented in Table 4.1. show the different types of legal claims filed against corporations in relation to climate litigation. It reveals clear trends in the categories highlighting where the legal scrutiny is more intense. Misleading advertising dominates accounting for 77 cases, a 34.4% out of the total. This while being the highest number, demonstrates an increasing attention on greenwashing practices, where companies falsify their environmental performance in their marketing or public communications. The prevalence of these cases highlights the rise of consumer awareness and regulatory action against false or exaggerated environmental commitments.

Climate damage (17.8%) and Environmental Assessment and Permitting (16.5%) are major concerns too being the second and third most common categories. The focus of these lawsuits is the direct environmental harm caused by corporations such as deforestation, pollution or contribution to climate disasters. The fact that these categories are top 3, indicates that climate litigation still maintains a strong focus on traditional environmental violations and those visible results that are easy to measure its damage.

Claims related to GHG Emissions Reduction amount a signification proportion of the dataset. 15.2% of the claims allude to the corporate responsibility for the carbon footprint. The lawsuits point out that companies have failed to adopt credible reduction strategies or have breached national or international emission targets. They reflect how climate litigation is increasingly linked to corporate

accountability in meeting decarbonization goals, as outlined in the Paris Agreement or national climate laws.

Other categories such as Disclosures (17 claims), Carbon Credits, Financing and Investment and Just Transition are less frequent but are the most relevant types regarding corporate transparency and climate finance. The few cases recorded demonstrate that frameworks that control this litigation are not as studied or developed as others such as greenwashing or direct climate damage. The low number of cases in Emissions Trading and Pollution suggests that these areas, despite its importance have lower public visibility or regulatory limitations.

In summary, this table shows how legal scrutiny is evolving, from traditional environmental harm to more complex and financial issues, like greenwashing or emissions disclosures.

Table 4.2 - Number of different categories per continent

Categories Continent	M.A.*	C.D.*	E.A.P.*	GHG E.R.*	D.*	C.C.*	F.I.*	J.T.*	E.T.*	P.*	Total	%
Europe	61	7	6	20	10	-	3	1	-	1	109	48.7%
South America	-	19	14	5	-	7	-	1	-	-	46	20.5%
Oceania	13	1	7	2	6	1	-	-	-	-	30	13.3%
Asia	-	13	4	6	1	1	2	1	-	-	28	12.5%
North America	3	-	1	1	-	-	-	-	1	-	6	2.6%
Africa	-	-	5	-	-	-	-	-	-	-	5	2.2%
Total	77	40	37	34	17	9	5	3	1	1	224	100%

Source: Global Climate Change Litigation Database

Table 4.2. provides an overview of the relationship between the continents where the corporations have faced these claims, and the environmental and legal category. These categories are: Misleading Advertising (M.A.), Climate Damage (C.D.), Environmental Assessment and Permitting (E.A.P), Greenhouse gases emission reduction (GHG.E.R.), Disclosures (D.), Carbon Credits (C.C.), Financing and Investment (F.I), Just Transition (J.T.), Emissions Trading (E.T.) and Pollution (P.). The horizontal axis of the graph represents the different claim categories, while the vertical axis corresponds to the geographical region where the claim has been filed. These geographical regions are based on Continents, except for North and South America. In addition, it

is important to note that US. Climate Litigations are not included in the dataset, North America is represented in this database by Canada, Mexico and Panama. Breaking down the analysis just in continents without separating both Americas, would have led to confusion.

Europe is the continent with more claims, reaching the 48,66% of lawsuits against corporations outside of the US. A significant proportion of these cases, are related with misleading advertising (61 cases), indicating that greenwashing is the main issue in this continent. Additionally, Europe has also a notable number of claims for GHG emissions, Disclosures and Environmental Assessment. Other categories such as Pollution or Carbon Credits are minimally represented or absent.

Following the lead, South America with a total of 46 cases (20.5%), has its main flaw in Climate Damage (19 cases) and Environmental Assessment (14 cases). This suggests that the main concern within this region is the environmental harm and compliance with regulation. There are also 7 cases concerning carbon credits, indicating some disputes over carbon projects. It is also noticeable that these continent lacks misleading advertising lawsuits.

Oceania (30 cases) has a smaller share of cases, with misleading advertising summing 13 cases and disclosure 6 cases being the most prevalent. This continent has also cases related to environmental assessment and permitting and GHG emissions. Legal actions here, target corporate communication strategies, compliance and financial transparency.

Asia (28 cases, 12.5%) shows a diverse distribution of categories, the main flaw of corporations in this big continent is Climate Damage (13 cases) and GHG emissions (6 cases). As well as in South America the main concern within this region is the environmental harm corporations could be generating.

North America (6 cases) has a very low number of cases compared to other continents, with misleading advertising being half of the cases and one case related to emissions trading, and the only lawsuit on emissions trading.

Lastly, Africa, has the lowest number of cases recorded, only 5, and all discussing environmental assessment and permitting. This leads to the conclusion that corporate legal disputes in Africa are largely focuses on regulatory compliance rather than broader climate-related litigation.

After the examination of Table 4.2. the following conclusions have been reached:

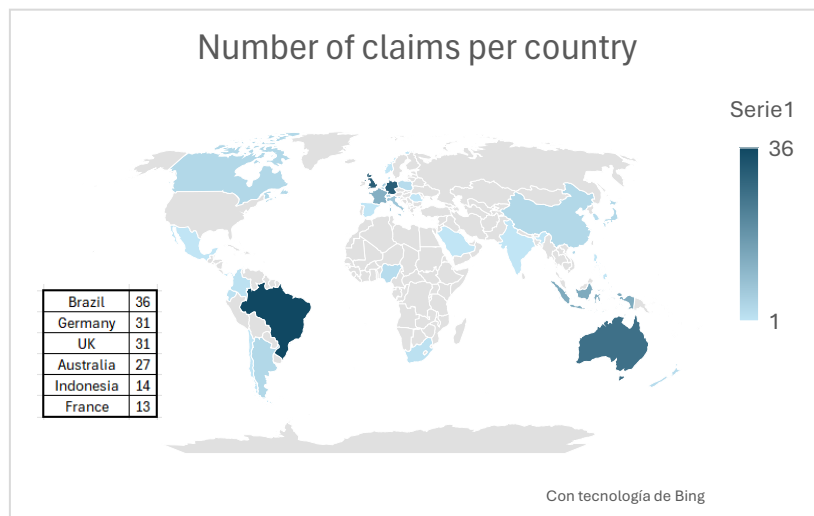
Greenwashing is the most legally debated issue worldwide with 77 cases related to misleading advertising, it is the most legal challenge faced by corporations outside of the U.S. This suggests that consumer protection and corporate accountability in sustainability claims are becoming a major focus of litigation, particularly in regions with stricter regulations like Europe and Oceania.

Europe dominates in corporate climate litigations, accounting nearly half of all cases. This high number of lawsuits could be due to the robustness of Europe's legal framework. The European Union's strict regulatory enforcement, active legal entities against environmental violations, consumer protection laws, and ambitious initiatives such as the Green Deal and corporate sustainability reporting directives are a key factor shaping its environmental policies. In addition, European consumers and advocacy groups are more engaged in corporations that have their climate impact into consideration, as they are highly aware of the environmental issues happening nowadays.

While Europe and Oceania focus more on corporate transparency and greenwashing, South America and Asia prioritize environmental harm and compliance issues. The high number of cases in climate damage and environmental assessment in the last two regions suggests that the litigation is more reactive with its focus on direct corporate harm rather than proactive consumer protection. Furthermore, Europe and Oceania representing a 94.4% out of all the Disclosures claims, suggests that perhaps this category is still developing, and legal standards around it, are not yet well-defined or clearly imposed.

South America, Asia and Africa have zero misleading advertising cases, reflecting different legal and economic priorities. Given that greenwashing is the most contested issue globally, the sum of 0 cases in these three regions is noteworthy. Nevertheless, this could be explained by the fact that many countries in these regions are still emerging markets, where legal action tends to focus more on immediate environmental harms rather than corporate sustainability claims. Regulatory bodies often prioritize issues such as pollution, land use or compliance with permission. Additionally, consumer protections laws are weaker in these areas, making lawsuits against misleading advertising less common.

Figure 4.2. *Number of claims per country*



Source: *Global Climate Change Litigation Database*

Figure 4.2. shows a heatmap that illustrates how claims regarding climate litigation against corporations are distributed among different countries (excluding the United States). The darker the colour, the higher number of cases have been filed in that country.

According to the figure, Brazil is the country with the highest number of climate-related lawsuits, closely followed by Germany and the United Kingdom, both accounting for 31 cases. Then Australia has 27, Indonesia 14 and France with 13. These six countries are the most representative making up a large proportion of the total 224 claims analysed in this dissertation.

The fact that developed countries (Germany, the UK and France) and emerging economies such as Brazil and Indonesia, demonstrates that climate litigation is gaining importance worldwide. This geographical distribution also helps to envision the individual role of certain countries within their regions. For instance, despite that Europe is the continent with more claims, the majority of them come from Germany, the UK and France, suggesting that some national legal systems and active societies may be playing a much significant role when holding companies accountable. In contrast, Brazil stands out in South America, with a considerable high number of claims compared to its neighbour countries.

Overall, this figure shows that climate litigation is spread across many countries, but some are more in the spotlight than others. This might be due to a better regulatory environment, more compromised citizens or stricter protection rules.

Table 4.3. – Procedural status vs Continent

Status Continent	Decided	Dismissed	On Appeal	Pending	Settled	Withdrawn	Total
Europe	60	2	1	45	-	1	109
South America	10	-	-	36	-	-	46
Oceania	15	3	-	11	-	1	30
Asia	19	-	-	8	1	-	28
North America	2	-	-	4	-	-	6
Africa	5	-	-	-	-	-	5
Total	111	5	1	104	1	2	224
%	49.6%	2.2%	-	46.4%	-	-	

Source: Global Climate Change Litigation Database

Table 4.3. reflects the procedural status of the climate litigation cases categorized by continent. This breakdown allows to obtain a comparative understanding of how litigation procedures variate among different regions, and an understanding of the different judicial dynamics worldwide.

As mentioned in Table 4.3. Europe account a total of 109 claims. 60 (55%) of them have been decided and 45 (41%) remain pending. This leads us to the conclusion that not only the litigation activity counts, but also the capacity to resolve climate-related issues in an efficient manner. Additionally, the European area registers 2 dismissed cases, 1 on appeal and 1 withdrawn case.

South America ranks the second in total cases (46) however the legal status distribution is quite different. Out of the total 36 cases are still pending whereas just only 10 have been decided. In conclusion, the judicial timelines is slower in this region where only 22% of the cases have been determined.

Oceania and Asia with 30 and 28 cases respectively show more balanced statistics. In Oceania 15 cases have been decided compared to 11 cases pending, Asia has similar results, 19 cases have been solved whereas 8 are pending. It is noticeable that Oceania accounts for the highest number of dismissed cases, leading to the conclusion that there can be stricter procedural barriers regarding some type of claims.

Finally, Africa and North America (excluding the United States) represent smaller numbers. All of the lawsuits recorded in Africa (2 in Nigeria and 3 in South Africa) have been decided,

demonstrating a great judicial management. North America has 6 claims and more than the half are unsolved.

Overall, out of the 224 claims 111 have been decided (around the 49.6%) while 104 remain pending (46.4%). The distribution is significant because it illustrates how climate litigation is expanding among the different continents. Nevertheless, the fact that almost half of the cases are still unresolved highlights the slow pace of these type of judicial proceedings. While a significant number of cases have already had a resolution either in favour or against the defendants, the current status of the cases indicate that climate litigation is still a lengthy and uncertain process and that the path towards a trend where judicial procedures become more efficient is still inexistent.

This data supports the wider hypothesis of this dissertation: regions with institutional and legal infrastructures which are more solid, such as the European, tend to process and solve climate-related demands with more efficiency. In contrast, zones with a poorer or newer legal frameworks represent a higher percentage of pending cases, which shows a weaker judicial development and a more restricted capacity to imply climate litigations.

Table 4.4. - Claimant Type vs Status of Climate Litigation Cases

Status Claimant Type	Decided	Dismissed	On Appeal	Pending	Settled	Withdrawn	Total	%
Corporation	2	-	-	1	-	-	3	1.3%
Government	49	-	-	32	-	-	81	36%
Individuals	8	-	1	11	-	1	21	9%
International Organization	-	-	-	1	-	-	1	0.45%
NGO	50	5	-	55	1	1	112	50%
Unknown	-	-	-	4	-	-	4	1.8%
Total	109	5	1	104	1	2	222	

Source: Global Climate Change Litigation Database This table reveals that the majority of lawsuits against corporations are initiated by non-governmental organizations (NGOs), which account for a total of 112. This represents the major proactive group in holding corporations accountable for alleged environmental misbehaviour, particularly greenwashing. Governments follow closely with 83 claims, highlighting that public authorities are imposing environmental regulations and corporate transparency. Individuals instead sum a total of 21 claims, personal activism is also present,

however it plays a minor role. A small number of lawsuits are driven by Corporations themselves (3 cases) and International Organizations (1 cases).

This distribution emphasizes civil action against environmental laws, especially NGO's reflecting a global trend where non-state actors significantly influence corporate ecological practices. As previously observed, Non-Governmental Organizations represent the most active groups, followed by governments.

Taken into consideration this distribution, the hypothesis proposed is that claims carried out by governments are more likely to reach a resolution compared to those initiated by NGOs. This assumption is based on the idea that state institutions, due to their legal authority and resources above any other institution, are better positioned to navigate legal processes efficiently, nevertheless NGOs, despite having initiated a greater number of cases, the proceedings can take longer and be more complex.

Examining the legal status across these categories important trends are revealed. Of the total cases, 109 have been decided, 5 have been dismissed, 1 remains on appeal, 104 are pending, 1 has been settled and 2 have been withdrawn. Additionally, two cases out of the total ones do not report its current status. This distribution indicates that the overall, the dataset is almost evenly split between cases that have already been resolved (decided, dismissed, settled or withdrawn) and those that are still active (pending or on appeal), the former accounting for 109 cases (49.6%) and the latter 104 (46.4%).

A deeper analysis reveals that the claims initiated by governments, exhibit a clear tendency towards resolution. Out of 81 claims filed by state institutions, 49 have been decided and 32 remain pending, this suggests that 60.5% of government cases have reached a decision. In contrast, lawsuits initiated by NGOs are almost evenly distributed between outcomes, 50 cases have been decided while 55 are still pending. Claims filed by individuals show a higher number of pending cases (11) compared to the decided ones (8). Corporations and International Organizations are not considered representative sample due to the few number of claims, nevertheless most of these remain pending.

These results provide preliminary support for the proposed hypothesis. They suggest that government-initiated claims are more likely to be resolved within law processes, while NGO led litigations, regardless of their frequency they exhibit the lowest rate of resolution.

Tabla 4.5 - *Economic sector vs number of claims*

Economic Sectors	Number of Claims	%
Primary Sector	84	38%
Secondary Sector	65	29%
Tertiary Sector	75	33%
Total	224	

Source: *Global Climate Change Litigation Database*

Table 4.5 presents the distribution of climate-related claims according to the respondent's economic sector, it follows the International Standard Industrial Classification (ISIC) framework. This classification groups companies in three sectors, primary, secondary and tertiary providing this way an overall view of which of these three sectors is the most targeted by climate-related lawsuits.

The primary sector, which includes activities like fishing, agriculture, forestry, mining and resource extraction accounts the highest number of claims with a total of 84 out of the 224. This is a consistent number; however, it drives to the conclusion that this economic sector is directly related to the exploitation of natural resources and the degradation of the environment. Extraction industries are linked to deforestation, emissions, and the usage of land tends to harm our planet, this is the reason why the defendants are trendier to be targeted.

The tertiary sector including services such as air transport, finance and everything else related to services follows with 75 claims. This growing number reflects the scrutiny that corporations face when financing high-emission projects, greenwashing, and the lack of transparency in the sustainability reporting. These companies confront more pressure due to the evolving disclosure regulations and the impact of stakeholders' expectations and beliefs.

Finally, the secondary sectors including all of the manufacturing and industrial processes, register 65 cases. While it is the lowest number in terms of claims, this is still a substantial number being the 29% of the total. Industries such as chemical production and basic metals are also litigated taking into account that the process of these products pollute in a considerable way the atmosphere.

Table 4.6 – Simplification of Industry vs Claim Category

Categories Industry (ISIC)	Misleading Advertising	Climate Damage	GHG Emissions	Total Cases	%
Agriculture, hunting	1	17	3	24	11%
Air transport	8	2	2	13	5.8%
Electricity, gas	3	1	5	17	7.5%
Extraction of petroleum and natural gas	18	3	8	38	17%
Financial Intermediation	2	2	2	18	8%
Manufacture of food and beverages	15	1	0	17	7.5%
Manufacture of motor vehicles	5	0	5	11	4.9%

Source: Global Climate Change Litigation Database

Table 4.6 presents a simplified overview of the distribution of climate litigation cases across key industrial sectors (following the ISIC classification) focusing of three main categories, relevant to this study which are misleading advertising, climate damage and GHG emissions reduction.

The data reveals that the extraction of petroleum and natural gas sector is the most affected, 17% of the total amount of complaints, with 18 greenwashing claims, 3 under climate damage and 8 on GHG emissions, apart from these, it accounts a total of 38 cases. This highlights this sector's exposure to reputational and regulatory risks on environmental issues and litigation.

The manufacture of food products and beverages sector follows the lead, having a significant number of greenwashing claims (15), but not a notable litigation regarding climate damage nor GHG emissions, this suggests that reputational concerns outweigh regulatory challenges in this industry.

Similarly, the air transport sector reflects a considerable number of greenwashing claims, adding 8 in total, together with 2 climate damage, and 2 emissions reduction cases, pointing to both reputational vulnerabilities and sustainability issues.

The manufacture motor vehicles and the electricity and gas sectors, show a more balanced exposure, regarding emissions reduction and misleading advertising. Contrarily, agriculture and hunting (11%) is predominantly targeted for climate damage claims summing these 17, and a minor representation of greenwashing, just one case. It emphasizes that direct environmental harm keeps being the main concern in natural resource-based industries.

Finally, financial intermediation exhibits moderate exposure across all categories with a 8%, indicating an increasing tendency to litigate against financial actors for both their environmental disclosures and actual emissions impacts.

Overall, these findings lead to the conclusion that industries facing consumers are more vulnerable to reputational risks linked to greenwashing, whereas extractive and industrial sectors face more regulatory and emissions related challenges.

5. Case Studies

5.1 TotalEnergies vs Métamorphose

5.1.1 Introduction to the case

The first case selected for this study is Métamorphose vs TotalEnergies, this lawsuit was filed under the auspices of the French Court on the 6th of July 2023. The lawsuit, was initiated by a group of shareholders of TotalEnergies, coordinated and supported by the French environmental association Métamorphose. This activist collective is composed of lawyers, accountants, auditors, professors, researchers and citizens committed to promoting the enforcement of legal and accounting rules in the energy sector, with the aim of demonstrating the fictitious nature of revenues reported by the petrol and crude oil extraction company (Collectif d'actionnaires activistes Métamorphose & Janot, 2023).

The plaintiffs allege that TotalEnergies distributed in an unlawful way, dividends based on mistaken financial accounts that failed to accurately reflect the company's exposure to climate risks. Moreover, they argue that the energy company misrepresented the future cost of its carbon and failed to properly account its GHG total emissions causing this an underestimation of regulatory risks and inflating asset values. As a result, the company failed to integrate the foreseeable impact into its financial statements. Consequently, profits were overstated, and dividends were distributed when these should have been restricted under the French Commercial Code, specifically article L232-12 (Sabin Center for Climate Change Law, 2025).

In addition to the concerns about the distribution of unlawful dividends, the claimants also highlighted deficiencies regarding TotalEnergies' accounting of climate-related risks. Specifically, they argue that this company has been using a significant lower price of carbon, compared to the reference values recommended by France Stratégies for companies committed to a Net Zero Emission trajectory as TotalEnergies claims to be. Furthermore, the company fails to accurately

account for its Scope 3 emissions³, leading to the underestimation of GHG emissions previously mentioned. This miscalculation directly affects the valuation of the company's assets contributing and inflated value of TotalEnergies.

In July 2023, when TotalEnergies proceeded to distribute 9.5 billion Euros in dividends from the 2022 fiscal year, a great number of activist shareholders questioned the legitimacy of accepting those dividends, while in the meantime criticizing the company's climate inaction, bringing up the concerns of 188 French IPCC (Intergovernmental Panel on Climate Change) experts who urged shareholders to complain about the climate strategy. By filing this lawsuit of fictitious dividends, and returning their dividends to the company, these shareholders seek to apply systemic pressure on TotalEnergies to accelerate its economic transition and redirect investments towards more sustainable sectors.

Beyond questioning the company's financial reporting practices, the plaintiffs highlight a broader concern: the systematic misrepresentation of climate transition risks by fossil fuel companies to sustain shareholder distributions and delay the transition towards sustainable energy models. Their initiative demonstrates the growing scrutiny of how carbon majors integrate or fail to integrate these type or risks in their financial disclosures, governance strategies and accountability towards investors (Collectif d'actionnaires activistes Métamorphose & Janot, 2023).

Although the lawsuit is still pending, this case exemplifies the emerging trend in climate-related litigation that moves beyond environmental damages to challenge financial transparency and corporate governance facing climate risks.

5.1.2 Shareholder Activism and Climate Pressure on TotalEnergies

In recent years shareholder activism has become an increasingly powerful tool to influence corporations. Instead of opposing these companies solely from the outside, it is a current general trend that environmentally conscious population have started purchasing shares to gain access to annual general meetings, to challenge directly the company's leadership on environmental and governance issues.

³ The GHG Protocol Corporate Standard classifies a company's GHG emissions into three 'scopes'. Scope 1 emissions are direct emissions from owned or controlled sources. Scope 2 emissions are indirect emissions from the generation of purchased energy. Scope 3 emissions are all indirect emissions (not included in scope 2) that occur in the value chain of the reporting company, including both upstream and downstream emissions. (Greenhouse Gas Protocol, 2024)

This strategy allows activist shareholders to submit written questions, demand the public accounting and raise topics into debate that are usually absent from the official communications. Even owning a single share grants the right to speak and question concerns during the meetings, forcing corporations to publicly respond critical inquiries regarding their climate policies and financial practices (L'Info Durable, 2023).

In the case of TotalEnergies, shareholder activism has taken strength. A considerable number of activists have purchased shares in the company with the goal of using their shareholders' rights to question and confront the management of this. The non-financial but strategic aim has come to practise when pledges and choices were questioned in these meetings, also asking for a greater transparency in financial reporting.

The activist shareholders' movement had already boosted earlier in May 2023, when 30% of TotalEnergies' shareholders voted in favour of "Resolution A", demanding the firm to align with Paris Agreement's objective of decreasing GHG emissions. This resolution, promoted by 17 other financial institutions with the support of the Dutch activist NGO, *Follow This*, demonstrated a persistent growth of pressure from investors to push TotalEnergies towards a more sustainable practise.

Despite these pressures, TotalEnergies announced plans in October 2024 to increase its oil and gas production in an annual 3% until 2030, mainly sustained by liquefied natural gas (LNG) projects. In addition, the company launched six new projects in 2024 across Brazil, Suriname, Angola, Oman and Nigeria with the purpose of intensifying the hydrocarbon output (Pécout, 2024). In addition, another project called the East African Crude Oil Pipeline (EACOP) is expected to generate over 379 million tons of CO₂ during its lifetime, with 1443 kilometres of extension. Additionally, the company assured a transition to cleaner energies, however it is expected that still by 2030, the 85% of their energy production were to come from fossil fuels, with only 15% from renewable sources.

Outside the boardroom, activists have also blocked access to Annual General meetings and have faced hostile reactions from traditional shareholders. In spite of legal and structural limitations, such as 0.5% of shareholding requirement to submit resolutions, these types of investors successfully apply reputational and institutional pressure, demonstrating this way that shareholder engagement can be powerful to complement litigation in the fight for corporate climate responsibility (Kokabi, 2023).

In conclusion, shareholder activism has become a complementary force to formal legal actions, combining financial engagement with public advocacy to pressure TotalEnergies to strengthen their climate commitments. The above-mentioned growing movement provides a broader context in which the lawsuit analysed in the following section takes place and illustrates the multiple fronts on which companies are being held accountable for their climate financial practices.

5.1.3 Legal Framework of the Case

The legal foundation of this case lies under the violation of Article L232-12 of the French Commercial Code which regulates the distribution of dividends. According to this article “dividends may only be distributed to shareholders if it is evident from a regularly prepared balance sheet that, after accounting for required depreciations and provisions, there exists a distributable profit [...] Any dividend distributed in violation of the rules set out above is a fictitious dividend.” (*Section 4: Des Bénéfices (Articles L232-10 à L232-20) - Légifrance, n.d.*) .

The claimants argue that TotalEnergies’ financial statements failed to reflect the material climate-related risks, which led to an overevaluation of assets, resulting of an inflation in the final annual profits of the company. This overestimation of profits is the main reason for the distribution of 9.5 billion euros in dividends in 2023. According to the lawsuit, these dividends do not come from real and distributable profits. In this context, the supposed omission of the appropriate provisions for climate-related risks such as the fixed cost of carbon, assets impairments, devaluations and emission liabilities turn directly this into an illegal financial operation.

Beyond the direct violation of Article L232-12, the lawsuit also makes a reference to Article L232-17, which establishes that “The company may not request from shareholders any repayment of dividends, except when the following two conditions are met:

1° If the distribution has been carried out in breach of the provisions of Articles L.232-11, L.232-12 and L.232-15.

2° If the company establishes that the recipients knew about the irregular nature of this distribution at the time of this or could not have been unaware of this given the circumstances.” (Government of the French Republic, 2000). This article allows the company directors and auditors to be the responsible party if they were careless in their duties and that negligence led to the illegal dividend distribution.

In this case, the real argument is that TotalEnergies may have ignored important financial risks like the future cost of carbon or other stricter climate regulations that were foreseeable. As this case is still pending, were the justice decided that they didn't include these risks properly in their accounting, then those who approved the financial statements, the auditors will probably face legal consequences.

In addition, the Autorité des Marchés Financiers (AMF), which is the French Markets Authority, has stated that companies must include proper climate-related risks in their financial reports. That means using realistic carbon pricing, taking into consideration whether their asset could be devaluated and being transparent towards investors. Nevertheless, TotalEnergies has been accused by the plaintiffs for using a carbon price that is far too low and not properly reporting its Scope 3 emissions, which could make its assets look more valuable than they really are.

This case reflects a growing legal trend, instead of just using environmental laws, climate activists are now using company law and financial regulations to demand responsibility. They are showing that ignoring the cost of carbon can turn out into a financial and legal issue, not just an environmental one.

Furthermore, adding up to the French legal framework previously mentioned, this case can also be interpreted under the international accounting standards, which an increasing number of companies are expected to follow when reporting climate risks. One of the most important is IAS 36 – Impairment of Assets, this accounting rule requires companies to adjust the value of the assets if they are no longer expected to generate economic benefits originally forecasted. This rule is especially relevant for fossil fuel companies, whose long-term assets may lose value due to regulatory changes, for instance the carbon pricing, shifts in the market demand or new laws linked to the environmental scrutiny.

According to the plaintiffs, TotalEnergies did not apply this standard appropriately. By relying on internal carbon price assumptions or aged ones which didn't follow the recommendations of the France Stratégies and failed to fully include its Scope 3 emissions, the company have overestimated the value of its assets and consequently, its net profits. This undervaluation affected in a direct way to the calculation of profits and supports the lawsuit of the distribution of unlawful dividends filed in 2023, corresponding to the year of the mentioned distribution.

The claimants' concerns are reinforced by other international frameworks such as the TCFD recommendations and the newly adopted IFRS S2 involving Climate-related Disclosures, both of

which highlight the importance of including transition risks in financial disclosures. Ignoring these standards, can expose companies to reputational damage, reduced investor confidence and legal challenges, as shown by the present lawsuit.

In conclusion, the *Métamorphose vs TotalEnergies* case illustrates a new phase in climate litigation, where financial and accounting norms are used as entry points to challenge the credibility of corporate climate commitments. By questioning the lawfulness of dividend distributions in the context of underestimated carbon risks and inadequate disclosure, the claim reflects a growing legal and strategic pressure on corporations to align their financial practices with climate-related obligations. This case exemplifies how legal exposure may arise not only from environmental harm but also from misleading financial reporting in a context of accelerating climate scrutiny.

5.2 BankTrack, et al. vs ING Bank

5.2.1 Introduction to the case

The second case studied in this dissertation is *BankTrack, et al. vs ING Bank*. This legal complaint was filed on the 8th of May 2017 and taken to the Dutch National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises. The complaint was raised by four Dutch environmental organisations, BankTrack, Milieudefensie (Friends of the Earth Netherlands), Greenpeace Netherlands and Osfam Novib against ING (Internationale Nederlanden Group), the biggest retail bank in this country, particularly committed to specialized digital banking and sustainability (Mileiko, 2024). It is important to note that this was not a court case and therefore, there was not legal proceeding in the court, but an official procedure under the OECD framework, which is designed to assess whether companies are complying with standards, including environmental diligence, disclosures and human rights (BankTrack et al., 2017).

The main argument made by the claimants was that ING's financing and investment practices were inconsistent with its sustainability commitments and climate responsibility. In accordance with the plaintiffs, this bank continued providing capital to fossil fuel companies without the proper measurement or reduction targets, not aligning its practices with the Paris Agreement (Greenpeace International, 2017). They argued that ING failed to be transparent about the climate impacts of its portfolio, especially regarding the environmental effects of its loans and investments. Furthermore, it did not adopt measurable targets to reduce its financed emissions. From the complainants' perspective, this encompassed a violation the OECD Guidelines especially regarding

environmental responsibility and proper disclosure, particularly Chapter III (Disclosure), Chapter VI (Environment) and Chapter VIII (Consumers Interest).

This case gained relevance since it shifted the focus of climate-related accountability to financial institutions, scrutinizing ING's integrity within their environmental disclosures rather than focusing on companies that directly contribute to climate damage. The claimants also emphasized that ING's climate reports and carbon footprint accounting lacked the clarity and reliability, thus misleading stakeholders and the general public about the bank's actual environmental performance. This complaint falls directly under the scope of environmental accounting and transparency in the financial sector.

In April 2019, the Dutch NCP issued its Final Statement. It acknowledged that ING had taken some steps to align its climate impact with the Paris climate goals but emphasized that there was still room for improvement. The NCP concluded that ING was making efforts and encouraged the company to perform further progress. Enhancing transparency, setting measurable objectives, intermediate emissions reduction targets and a more efficient management of climate-related risks. In the end, NCP decided that the retail bank was in accordance with the OECD Guidelines for Multinational Enterprises, promoting future improvements in line with the future expectation of the Guidelines.

During the dialogue process, ING agreed to implement the *Terra* approach, a climate impact framework based on international methodologies such as *PACTA*⁴ and *PCAF*⁵ to monitor and set emission targets across its financial portfolio (BankTrack et al., 2019). In addition, a joint initiative was proposed between ING and the four NGOs to encourage the Dutch Government to promote a 1.5°C aligned climate scenario from the International Energy Agency (IEA). Despite the claim, ING did not receive any legal penalty, it marked an important step towards holding financial businesses accountable for their investments and business relationships with environmental effects.

⁴ PACTA (Paris Agreement Capital Transition Assessment): "enables users to measure the alignment of their corporate lending portfolios with climate scenarios across key climate-relevant sectors and technologies." (Sustainable Finance Observatory, 2020)

⁵ PCAF (Partnership for Carbon Accounting Financials): "is a global partnership of financial institutions that work together to develop and implement a harmonized approach to assess and disclose the greenhouse gas (GHG) emissions associated with their loans and investments." (Partnership for Carbon Accounting Financials, 2015)

5.2.2 Legal Framework of the ING Case

The complaint against the retail bank ING was acknowledged under the framework of the OECD Guidelines for Multinational Enterprises, a set of international standards promoting responsible business behaviour (Organisation for Economic Co-operation and Development (OECD), 2023). The complainants argued that ING did not properly assess or reduce their financed emissions, also known as portfolio emissions. That is, “the greenhouse gas (GHG) emissions associated with the investment and lending activities made by an organization or individuals” (Sweep, 2025)). The violation is structured in three main aspects: lack of disclosure, insufficient environmental management and misleading public information.

Violation of Chapter III - Disclosure

According to the complainants, ING did not report the volume of emissions linked to its financial activities. It is known that in major financial institutions such as ING, the emissions caused by the indirect investments are greater than the direct ones. As a result, disclosure arise as an essential part of company’s reporting. The omission of this valuable information contradicts Article 3 of Chapter III, which encourages companies to disclose information on environmental performances and policies, this includes GHG emissions. In Paragraph 33 it is mentioned that “set of disclosure or communication practices in areas where reporting standards are still evolving such as, for example, social, environmental and risk reporting. This is particularly the case with greenhouse gas emissions, as the scope of their monitoring is expanding to cover direct and indirect, current and future, corporate and product emissions (Organisation for Economic Co-operation and Development (OECD), 2023)”. ING failed to disclose the large impacts of its lending and investment portfolio.

Violation of Chapter VI – Environment

The claimants, highlight that ING failed to implement appropriate management environmental systems for its financial activities. This is mentioned in Article 1 (b and c). These provisions require companies to define “measurable objectives and, where appropriate, targets for improved environmental performance (Organisation for Economic Co-operation and Development (OECD), 2023)”. They arise to doubt that the bank had no climate targets regarding the reduction of its finance emissions and did not monitor or disclose its performance in the environmental area.

Additionally, Article 4 of Chapter VI states that companies must take precautionary action on whatever it is in their hand to avoid environmental harm, even under scientific uncertainty. ING is accused of postponing action, despite growing scientific and social to shift away from fossil fuels financing. Articles 6 (b, c and d) emphasize that companies should reduce their climate impact, promote awareness among their clients and start facing the long-term improvements. On the other hand, ING, continued financing coal projects, therefore there was a failure of adoption policies that promoted the reduction of investment of oil and gas sectors. In addition, in paragraph 69 of the OECD Guidelines, it is mentioned the following: “The basic premise of the Guidelines is that enterprises should act as soon as possible, and in a proactive way” (Organisation for Economic Co-operation and Development (OECD), 2023), clear criteria that ING did not meet.

Violation of Chapter VIII – Consumer Interests

Finally, the complaint alleged misleading actions, as ING’s repeated used statement is “ING has been climate neutral since 2007”. Under Article 4 in Chapter VIII, companies are expected to avoid marketing messages that are misleading, known as greenwashing. Since the bank was based only on its direct emissions and excluded the much larger impact of its financial portfolio, it was considered an example of greenwashing, which could mislead customers and investors.

5.2.3 Final Assessment of the Case

The ING case shows how financial institutions can be responsible for their role in climate change, even if they are not the direct polluters. Instead of focusing on a company’s own emissions, the complaint targeted ING’s financed emissions, but like this, there are plenty of greenhouse gas emissions caused by companies and projects that multinational enterprises finance with loans and investments.

Even though ING didn’t face any legal action or sanction, the case has brought up important questions such as the lack of transparency in the banking sector, or until which point can a financial institution harm the environment in an indirect way.

The complainant argued that ING failed to report the real climate impact of its financing activities, and misleading messages, such as promoting the company with a public message that said, “climate neutral”. This shows that greenwashing can also happen in the financial sector, not only through campaigns sponsoring manufacture companies. In addition, not only is greenwashing

visible through advertising but also through incomplete or selected disclosure of environmental information.

Among other demands, the complainants asked ING to publish its total carbon footprint and to set measurable targets aligned with Paris Agreement. As a result of this public accusation, ING agreed to adopt the *Terra Approach*, which is a plan designed by the bank to align its strategies with the climate goals. The *Terra Approach* uses two international tools, specifically PACTA used to assess ING's portfolios to follow the alignment with global climate goals and the PCAF to measure financed emissions. This procedure, focuses on the most polluting sectors where the bank has investments, such as energy, transport, fossil fuels, cement and steel, thus ING keeps track of its portfolio and identifies in which sector must the bank develop new strategies or shift its capital to a lower emission activity (ING Türkiye, n.d.).

This approach represents a considerable step in ING's transition towards climate responsible finance. Furthermore, the timing and guidelines of its adoption makes clear that it was a direct response to the public criticism raised by the OECD complaint as ING did not have any public method to measure financed emissions, nor climate targets before 2017. This drives us to the conclusion that the complaints raised by the Dutch NGOs made an impact on how ING addressed its environmental responsibilities.

In addition, as part of the dialogue process, the retail bank with the four NGOs jointly requested the Dutch Government to call for the development of a -1.5°C aligned scenario to the International Energy Agency (IEA)) which develops response models for limiting global warming (Fornasari, 2023). This cooperation not only shows that the complaint caused internal changes in the bank but also contributed to shaping a stricter climate policy discussion at the national and international level.

Overall, this case demonstrated that even outside of the court, complaints can push companies to adopt changes. To conclude, the environmental disclosure is not a technical reporting duty but also a key instrument for accounting climate harm within the financial sector.

5.3 Germanwatch vs Volkswagen

5.3.1 Introduction to the case

The third and final case analysed in this dissertation is the well-known litigation involving Volkswagen, one of the world's largest company in car manufacturing. This case is usually referred as the "*Dieselgate*" scandal, although the public announcement occurred in 2015, the vehicles involved had been sold since 2006 to 2015 amounting a total of nine million cars. The earliest formal complaint was submitted by the NGO *Germanwatch* submitted to the German National Contact Point for the OECD Guidelines in 2007 (Anon, 2007). It was focused on Volkswagen's misleading advertising regarding its diesel vehicles, later confirmed by regulatory investigators.

In 2015 there were some revelations, however no formal litigations were filed. This fraud was first discovered by an independent scientific testing carried out by the International Council on Clean Transportation (ICCT) and West Virginia University in 2014-2015. The researchers found out the installation of illegal "defeat devices" in its diesel vehicles, which is a software designed to detect when a car is undergoing emissions testing and has the ability to reduce emissions output during the test (International Council on Clean Transportation (ICCT), 2015). Outside testing condition, these cars polluted up to 40 times higher than legal limits, while being labelled as "clean diesel" cars, and even having received in 2009 an award for "Green Car of the Year" by the *Green Car Journal*. (Rice, 2015). These findings were passed to the Environmental Protection Agency (EPA), which where the main launchers of the investigation, and in September 2015, Volkswagen publicly admitted to having installed these devices.

In 2007, Germanwatch filed a formal complaint to the German National Contact Point of the OECD, arguing that Volkswagen's claims around environmental performance were misleading and violating the OECD Guidelines for Multinational Enterprises, especially regarding disclosure and diligence (Heydenreich et al., 2007). This case was dismissed as the NCP rejected the complaint discussing that the violations were outside the scope of the OECD Guidelines. It was not until 2015 that the emissions fraud became public, triggering global litigations (The European Consumer Organisation, 2022). Unlike the other two cases examined in this dissertation, which are focused on the scope of climate disclosures, the Volkswagen's case represents a situation of environmental deception. The main difference is that the company did not fail reporting emissions properly but manipulated emissions testing data to promote its green image.

The significance of this case lies in its long-term impact of global regulatory frameworks. Due to the *Dieselgate*, Riley (2017) claims that Volkswagen paid over 27 billion Euros in fines and compensations, because of the subject to criminal investigations and multiple jurisdictions. This case influenced regulatory evolution in the European Union, urging the need to create a stricter and non-financial disclosure, such as the promoted by the CSRD.

In short, Volkswagen adds a historical and reputational layer to the analysis, demonstrating that early corporate opposition to environmental accounting can provoke long-term legal and financial consequences, apart from lost public image.

5.3.2 Legal Framework of 2007 Case

The legal framework of the Volkswagen emissions scandal can be analysed through its early OECD-based complaint and the wider global litigations that followed in 2015. The NGO *Germanwatch* in 2007 argued that Volkswagen had misled consumers and investors by promoting its vehicles as environmentally friendly and not reporting the proper emissions of these. As the complaint was brought against the German National Contact Point, alleging the violation of OECD Guidelines for Multinational Enterprises the legal framework is similar to the one in the *BankTrack, et al. vs ING Bank*.

It is important to clarify that while the Germanwatch complaint was submitted under these Guidelines, wider legal consequences emerged after 2015 when the US EPA revealed the manipulations of the test.

Violation of Chapter III – Disclosure; This chapter requires companies to disclose reliable and verifiable information. The car manufacturer however presented diesel vehicles as clean, while actively camouflaging their real emissions. This practice violated the duty to provide truthful and environmental data (Germanwatch, 2007).

Violation of Chapter VI – Environment; Chapter VI urges companies to avoid environmental harm and to act with diligence, Nevertheless Volkswagen's behaviour, designing the type of vehicles above mentioned, fails to fulfil this obligation. Rather than implementing a proper management of the environmental impact, the company purposely misrepresented this obligation.

Violation of Chapter VIII – Consumer Interests; Article 4 of this chapter, prohibits misleading marketing. There is a clear representation of greenwashing in this case as Volkswagen advertised

cars as environmentally responsible, despite the fact of knowing the real contribution to the pollution levels, far beyond the already established regulation.

In its final Statement, the German NCP alleged that Volkswagen's actions in 2007 were inconsistent with the OECD Guidelines and stressed the importance of clear environmental disclosure. In addition, they included in the final report "The German government is very committed to the protection and improvement of our climate and makes great efforts to assume a leading position internationally in regard to climate protection. Let me therefore assure you that we are equally interested in climate protection" (Germanwatch, 2007).

5.3.3 Final Assessment of the Case

The Volkswagen emissions scandal (*Dieseldgate*) represents a turning point in corporate environmental accountability. Different from the other two cases examined in this dissertation, which followed a soft law mechanism, this company faced many regulatory investigations after this. The consequences appeared immediately, undergoing criminal proceedings, investor lawsuits, consumer claims and a severe reputational collapse (The European Consumer Organisation, 2022).

From the litigation perspective, the case began with an early complaint under the OECD Guidelines, which already questioned the creditability of Volkswagen's environmental claims. Yet it was the public revelation in 2015 that transformed the complete view of this company. As a response to *Dieseldgate*, Volkswagen implemented significant structural changes. The company restructured its compliance and governance systems, launching a new environmental oversight procedure, and adopted a long-term climate strategy. The Volkswagen Group, launched a program called "goTOzero" that committed to reducing their CO₂ emissions by 30% by 2025, compared to 2015 levels and achieve carbon neutrality by 2050 (Volkswagen Group, 2021). The company has also made efforts to increase transparency on its sustainability reporting and how aligned it is to environmental disclosures.

Dieseldgate also had strong consequences for consumers, in the European Union for example, the European Commission launched a coordinated programme across the Member States to improve the enforcement of consumers rights (European Commission, 2018). Due to this idea, there was a promotion of reforms, to ensure mass harm cases and consumers receive compensation without having to deal with long legal proceedings.

This case powerfully supports the idea of this dissertation, that is, climate litigation and disclosure are tightly connected. Volkswagen's failure was not due to a lack of reporting, it was caused by a deception hidden by the term "Clean Diesel" (Oge, 2022). However, once this company was exposed, the pressure to lead a shift in strategy including investments and electric mobility, as well as decarbonisation, enhanced.

In comparison to other cases, the Volkswagen's *Dieselgate* case stands out for its scale and severity, it reveals what happens when environmental communication becomes untruthful. It adds a critical sight to this dissertation by showing that litigation can force companies to transform.

6. Conclusion

This dissertation intended to investigate whether climate litigation can influence corporate behaviour, focusing specially on environmental disclosure, financial reporting and corporate sustainability strategy. Along a combination of qualitative analysis, a European regulatory Framework and three cases studied in depth, the research offers a multi-layered perspective on how litigation can intersect with corporate climate commitments and more transparency in order to shape a better future.

The first part of the study summarized the evolution of disclosure which was voluntary in the beginning to sustainability reporting obligations, especially within the European Union where Corporate Sustainability Reporting Directive (CSRD) and IFRS S2 ask for a strict climate-related transparency. This theoretical framework allowed a visual sight of disclosure not only in the communication perspective, but also as a tool for accountability and risk management.

In the empirical section, a self-built database of 224 corporate climate-related lawsuits revealed some important trends. There is a clear rise in claims related to misleading environmental disclosure, especially concerning climate targets. Most claims are concentrated under European Jurisdictions and often target companies in fossil fuels extractions, finance or car manufacturers, where climate accountability is more scrutinized.

To explore climate litigation further, three case studies were analysed. The case TotalEnergies questioned the financial and legal credibility of the company's climate plans and how assets were being valued and is still pending. The complaint against ING was focused on disclosure and financed emissions, leading to a clear institutional response, the implementation of the *Terra Approach*. In the end the Volkswagen *Dieselgate* case, showed extreme consequences brought

from disclosures failure, combining deception with mass consumer litigation, this on the other hand, forced the company to shift towards electric mobility.

These cases illustrate different outcomes. Some litigations lead to a concrete reform, in other cases, it exposed reputational weaknesses. Across all cases, disclosure emerged as a common factor, either in a legal obligation or a key to build trust.

In conclusion, this dissertation confirms that climate litigation has real impacts on corporate environmental behaviour. While not all lawsuits succeed in court, they often succeed in questioning companies' transparency under public scrutiny. Ultimately, as climate litigation evolves, it becomes increasingly clear that transparency is not only a regulatory expectation but a strategic necessity, and when it fails, the consequences extend far beyond courtroom.

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