PARIS COURT ORDERS TOTAL ENERGIES TO ADDRESS CLIMATE RISKS FROM CUSTOMERS' USE OF ITS PRODUCTS

FIDELIS LEADERSHIP INSTITUTE

www.fidelis-institute.org

For more information call
+256 707 815 003

In a landmark ruling on June 25, 2026, the Paris Judicial Court held that French energy major Total Energies must identify, disclose, and set out measures to address climate related risks stemming from Scope 3 greenhouse gas emissions (those generated when customers combust its oil and gas products). The decision applies France's 2017 corporate duty of vigilance law and marks a significant step in holding fossil fuel companies accountable for the downstream climate impacts of their products.

The court found Total Energies' existing vigilance plan incomplete because it failed to include these indirect emissions, which account for the vast majority (around 91%) of the company's overall greenhouse gas footprint. Judges ordered the company to update the plan within six months by incorporating Scope 3 emissions into its risk mapping and outlining corresponding mitigation measures. The court will review the revised plan, with proceedings expected to continue into early 2027.

01 / BACKGROUND OF THE CASE

The lawsuit was filed in 2020 by a coalition of NGOs, including Notre Affaire à Tous, Sherpa, France Nature Environnement, and others, joined by the City of Paris. Plaintiffs argued that Total Energies' vigilance plan inadequately addressed climate risks linked to its activities, particularly the emissions from end use of its fossil fuel products. They sought broader remedies, including binding emissions reduction pathways aligned with limiting global warming to 1.5°C, specific cuts to oil and gas production, and an immediate halt to new hydrocarbon exploration and projects.

France's duty of vigilance law ***"Loi relative au devoir de vigilance"*** requires large companies to establish, implement, and publish plans assessing and preventing serious risks to human rights and the environment arising from their own operations, subsidiaries, and supply chains. The court rejected arguments that the law does not cover climate change or customer emissions. It ruled that climate related risks and impacts fall within the law's scope and that Scope 3 emissions result from the group's activities due to the "inherent link between oil and gas production and the combustion of the products by users."

The judges emphasized that extracting, refining, and marketing oil "inevitably leads to its combustion," tying the company to downstream emissions. At the same time, they clarified that the law does not make companies responsible for all climate risks from human activity since the Industrial Revolution, but requires them to act according to their situation and influence.

02 / A PARTIAL VICTORY

While the ruling was hailed by campaigners as a “landmark decision” and an important recognition that multinationals, especially oil and gas firms, must address their full climate impact, the court stopped short of imposing the specific operational restrictions sought by the plaintiffs. It declined to order production cuts, bans on new projects, or precise emissions targets, stating that the law does not authorize judges to substitute themselves for the company in setting detailed business measures. Instead, the court retains oversight to review whether the company’s measures adequately correspond to identified risks.

Total Energies noted the court’s request to include customers’ emissions in its vigilance plan and indicated it would update the plan accordingly, drawing in part on information already in its sustainability reporting, such as efforts to help customers reduce emissions through biofuels, renewable electricity, and other low carbon offerings. The company expressed satisfaction that the court did not uphold claims seeking to prohibit new oil and gas projects or mandate production reductions.

03 / BROADER IMPLICATIONS

Observers describe the ruling as the first in France to bring a company’s full climate impact, including product use emissions, within its legal duty of vigilance.

It reinforces that climate risks are a legal obligation rather than a voluntary practice and could influence similar litigation elsewhere, as well as interpretation of European due diligence frameworks.

04 / GLOBAL TRENDS AND WHERE COURTS APPEAR TO BE LEANING

The Total Energies decision fits into a maturing landscape of climate litigation against fossil fuel companies, where courts worldwide are increasingly willing to recognize corporate responsibility for climate impacts, including those from product use, while remaining cautious about dictating specific business strategies or quantitative reduction targets.

In Europe, courts have shown a clearer trajectory toward affirming duties of care or vigilance that extend beyond direct operations. The landmark ***Milieudefensie v. Shell*** case in the Netherlands initially ordered Shell in 2021 to cut its entire emissions footprint, including Scope 3, by 45% by 2030 relative to 2019 levels. On appeal in 2024, the Hague Court of Appeal upheld the existence of a corporate duty of care rooted in Dutch tort law, human rights instruments, and climate commitments, but overturned the specific percentage target, finding insufficient consensus on how to allocate individual company reductions. The case reached the Dutch Supreme Court, with hearings held in May 2026 and a decision is expected in early 2027. This pattern of affirming principle and duty while rejecting rigid operational mandates, closely mirrors the Paris court's approach.

In Germany, the ***Lliuya v. RWE*** case saw the Higher Regional Court of Hamm dismiss the Peruvian farmer's claim for contribution to protective measures against glacial flood risks in May 2025, primarily on the factual grounds of insufficient proof of concrete danger to the plaintiff's property. Critically, however, the court established that major greenhouse gas emitters can, in principle, be held civilly liable under German law for climate related harms they contribute to which formed another recognition of potential accountability for historical and ongoing emissions without awarding immediate remedies.
Italian courts have also confirmed jurisdiction over climate claims against ENI in the ***"Giusta Causa"*** case, allowing it to proceed on the merits. Belgian proceedings, such as the ***"Farmer Case"*** against Total Energies, have cleared admissibility hurdles, enabling victims to sue foreign based emitters in their home courts.

By contrast, U.S. litigation dominated by public nuisance, failure to warn, and consumer protection claims by states, cities, and tribes, has faced steeper barriers. Many cases have been dismissed on federal preemption grounds, with courts holding that interstate and global emissions issues are primarily for federal regulation rather than state tort law. The U.S. Supreme Court agreed in early 2026 to review the Boulder, Colorado case against Exxon and Suncor, focusing on whether federal law bars such state law claims for climate injuries. Outcomes remain mixed and often procedural, with fewer substantive wins on liability or remedies compared to Europe which has advanced liability to a point where we see real accountability.

What is a clear trend now is that courts are more receptive to arguments grounded in science, human rights, and existing statutory duties like vigilance/due diligence laws, tort duties of care, etc. They increasingly treat Scope 3 product use emissions as relevant to corporate risk mapping when a clear causal or inherent link exists.

Remedies tend toward process oriented measures like updated risk assessments, disclosure, and enhanced vigilance or transition plans, rather than court imposed production caps, project bans, or fixed percentage cuts. Judges repeatedly signal reluctance to “take the place of the company” or second guess complex commercial and energy system decisions.

Litigation volume continues to grow with thousands of climate cases globally, hundreds involving corporate defendants, many against fossil fuel firms, shifting from pure damages claims toward governance, “climate washing,” and framework cases that pressure strategy and transparency.

Success remains jurisdiction specific, being stronger in civil law systems with explicit due diligence statutes or expansive tort interpretations like in Europe, but more constrained where federalism or political question doctrines dominate like in the US. In short, fossil fuel companies cannot ignore the climate risks of their full value chains, including product use, but judicial intervention is calibrated to compel accountability and planning rather than to redesign corporate portfolios.

The Total Energies ruling reinforces this emerging consensus and will likely be cited in parallel proceedings across Europe and beyond as litigants test the boundaries of corporate climate responsibility.

05 LIKELY IMPLICATIONS FOR NEW OIL PRODUCERS IN DEVELOPING COUNTRIES

The Total Energies ruling and the broader European trend toward treating Scope 3 emissions and full value chain climate risks as matters of corporate legal duty carry significant indirect implications for emerging oil and gas producers in developing countries nations such as Uganda, Guyana, Namibia, Uganda, Senegal, Mozambique, and others pursuing or expanding hydrocarbon projects as engines of economic growth and energy access.

1. The Rise of Partnership And Financing Cost

Many new projects in the Global South rely on joint ventures, off take agreements, technology, or capital from European majors like Shell and Total Energies, or from banks and investors subject to European due diligence regimes, including the French vigilance law and the EU Corporate Sustainability Due Diligence Directive (CSDDD).

If parent companies or financiers must map and mitigate climate risks from product combustion, they face stronger incentives to scrutinize, delay, condition, or exit high emission upstream projects. This could translate into tighter contractual climate clauses, higher cost of capital, or reduced appetite for green field oil developments whose output will inevitably contribute to Scope 3 inventories.

2. Extraterritorial Reach of Litigation Exposure

European courts have already shown willingness to examine climate impacts linked to activities abroad when European companies are involved like in the Total Energies and Shell cases. Local communities, NGOs, or affected parties in developing countries could increasingly invoke these precedents, either by suing European partners in their home jurisdictions or by bringing domestic challenges that cite international standards and the growing body of case law recognizing product use emissions.

The 2025 ICJ advisory opinion on climate change obligations further bolsters arguments that states and, by extension, companies operating under their jurisdiction or with their partners, must prevent foreseeable climate harm, potentially opening pathways for challenges to new licensing or production decisions.

3. Intensification of Domestic Policy And Regulatory Pressure

As European jurisprudence normalizes the idea that producing oil for combustion creates attributable climate risk, governments in producer countries may face heightened domestic or international advocacy demanding stricter environmental impact assessments, emissions reduction conditions, or alignment with Paris Agreement pathways.

While many Global South jurisdictions currently focus climate litigation more on government implementation of existing policies or project level EIAs than on corporate Scope 3 duties, the European precedents provide ready legal templates that local activists and courts can adapt.

At the same time, these implications are not one sided. Developing country producers retain strong sovereignty and development arguments like the fact that their historical emissions contribution is minimal, that their energy poverty remains acute, and that hydrocarbon revenues are essential for financing the energy transition itself.

Courts in the Global South have generally been more restrained in imposing production constraints, and political pushback against “climate colonialism” remains potent.

New producers may respond by accelerating diversification into gas which is sometimes branded as transitional, carbon capture, or renewable co development, or by seeking non European partners less constrained by vigilance style laws.

06 CONCLUSION

In practical terms, the ruling is likely to raise the compliance and reputational bar for any project involving European capital or markets. It does not ban new production, but it embeds climate risk accountability deeper into the commercial DNA of the international oil industry thereby making it harder for emerging producers to treat Scope 3 impacts as someone else’s problem.

Over time, this could slow the pace of certain high cost or high emission projects, reshape partnership structures, and push developing country governments to integrate more robust climate risk analysis into their own resource strategies if they wish to remain competitive for responsible investment.