Corporate climate litigation: Current frontiers

Johannes Wendland | SELA Annual Workshop | 28 August 2026

HEKS EPER
Bread for all.

Categories of corporate climate litigation

Corporate framework

Milieudefensie v Shell (NL); *Asmania v Holcim* (CH); *NAAT v TotalEnergies* (FR); *Falys v TotalEnergies* (BE); *Greenpeace Italy v ENI* (IT)

«Red line»

Milieudefensie v Shell II (NL); *NAAT v TotalEnergies* (FR); *DUH v Mercedes/BMW* (GER)

Financers

Milieudefensie v ING (NL)

Loss and damage

Lliuya v RWE (GER); *Asmania v Holcim* (CH); *Pakistani Famers v RWE* (GER); *Odette Survivors v Shell* (UK)

Greenwashing

FossielVrij v KLM (NL); *Greenpeace France v TotalEnergies* (FR); *DUH v Lufthansa* (GER)

Transition risk

ClientEarth v Shell Board of Directors (UK)

Corporate framework cases

- Objective: Reduce overall emissions of company, reduction pathway

- Hague Court of Appeal *Milieudefensie v Shell,* November 2024:
  - Big polluters such as Shell have a duty to mitigate their emissions
  - Based on Dutch tort law and ECHR guarantees
  - However, no consensus regarding the exact rate of reduction -> dismissed
  - Currently under appeal at Dutch Supreme Court

- Central issue: How to define appropriate reduction pathway/budget for specific companies or sectors?

Loss and damage cases

- Objective: Obtain compensation for climate damages/cost of adaptation measures from major polluters

- Higher Regional Court Hamm *Lliuya v RWE*, May 2025:
  - «Carbon Majors» such as RWE can in principle be held liable for their contribution to climate damages, including in foreign countries
  - However, danger to claimant’s property was not established on the evidence in this case -> dismissed

- Central issue: Causation?

Conclusion

- Different categories of corporate climate litigation with varying objectives and legal bases
- Significant development in recent years: No fully succesful judgements yet, but cases starting to move past admissibility
- Impact beyond court room:
    - Strong media interest -> reputational risk for defendants and financers
    - Signs of negative impact on firm value (Sato et al 2024)
- Climate litigation as «anticyclical driver» for transition (Aykut et al 2025)