

Stage victory in the climate trial against TotalEnergies

Paris, 19 June - In the climate legal case brought by 6 NGOs and 15 local authorities against TotalEnergies, the Paris Court of Appeal deemed the action admissible. The Court put an end to a procedural controversy that could have undermined the effectiveness of the French duty of vigilance law. This decision paved the way for the judicial examination of the case's merits. However, except for the city of Paris, the Court deemed the action brought by local authorities inadmissible.

In January 2020, a coalition of NGOs and local authorities [sued TotalEnergies](#) (1), joined later by the local authorities of Paris, New York, Poitiers, and Amnesty International France. The goal was to compel the oil company to take the necessary measures to align with the 1.5°C target of the Paris Agreement, in accordance with the law on the duty of vigilance.

In an order dated July 6, 2023, the pre-trial judge of the Paris judicial court declared the action inadmissible based on a [disputed and worrying interpretation](#) of the law on duty of vigilance. The coalition appealed the ruling.

Yesterday's decision paves the way for **the first climate lawsuit** against a multinational in France. After several years of proceedings, the French multinational will now have to justify compliance with its legal obligations in the climate field.

Towards a substantive judgment on the duty of vigilance

The Paris Judicial Court had ruled that TotalEnergies had not been duly served with formal notice, on the grounds that the demands made in the summons were not strictly identical to those in the formal notice sent to the multinational.

On the contrary, the Court of Appeal found that TotalEnergies had been given sufficient notice before being served with the summons. It considered that the claims presented to the court had to be sufficiently related to the claims set out in the formal notice, in terms of the risks of harm referred to. According to the decision, it is up to the judge to assess whether a company has complied with its obligations under the duty of vigilance law as well as the measures requested by the plaintiffs.

This decision puts an end to **a restrictive interpretation of the law** which, contrary to the legislator's objective of facilitating access to justice for victims of human rights violations and environmental damage, provided a loophole to companies.

The Court of Appeal also handed down two other decisions in the EDF/Mexico and Suez/Chile cases. The Court deemed the action admissible in the [EDF/Mexico case](#), considering that the summons and the formal notice could relate to different duty of vigilance plans. On the other hand, the Court of Appeal declared the [Suez/Chile case](#) inadmissible.

The Court also deemed the claims based on the prevention of ecological damage admissible. Contrary to what the pre-trial judge held, the case can be grounded on both the duty of vigilance law and the provisions aimed at preventing ecological damage. The Court

paves the way for a debate on the measures to be adopted by TotalEnergies to reduce its greenhouse gas emissions.

Limited access to justice for local authorities

However, the Court deemed the action brought by local authorities inadmissible on the basis that the existence of a particular harm or repercussion of global warming on their territory had not been sufficiently demonstrated. Only the city of Paris was recognised as having an interest in intervening (2). This decision restricts access to justice in the climate field for local authorities, although it does not completely close the door to judicial action.

The coalition will consider how the local authorities found inadmissible may remain involved in a landmark case that they have helped to build.

Notes

The three decisions concerning the cases: EDF / Mexico, Suez / Chile and TotalEnergies / Climate Change will be analyzed during **a webinar (in French)** organized by the three coalitions on Tuesday July 9 from 6pm to 7:30pm. To register, visit: <https://bit.ly/3Xqxig4>

(1) Sherpa, Amnesty International France, France Nature Environnement, Notre Affaire à Tous, ZEA, les Eco Maires and the cities of Paris, New York, Arcueil, Bayonne, Bègles, Bize-Minervois, Centre Val de Loire, Correns, Est-Ensemble Grand Paris, Grenoble, La Possession, Mouans-Sartoux, Nanterre, Sevran and Vitry-le-François.

(2) Paris joined the legal action in September 2022 as a voluntary intervener, enabling it to support the plaintiffs' claims without making any claims of its own.

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