

Global trends in climate change litigation: 2023 snapshot

Key messages

- **2,341 cases** have been captured in the Sabin Center's climate change litigation databases. Of these, 190 were filed in the last 12 months (i.e. 1 June 2022 to 31 May 2023). Around two-thirds (1,557) have been filed since 2015, the year of the Paris Agreement. The overall growth rate in new cases filed may be slowing down, but the diversity of cases appears still to be expanding. Cases filed against corporate actors have increased.
- **Climate change litigation continues to be identified in new countries.** In the 12 months to May 2023, cases were identified in seven new countries: Bulgaria, China, Finland, Romania, Russia, Thailand, and Turkey. Overall, more than 130 cases have been filed in the Global South.
- **More than 50% of climate cases have direct judicial outcomes that can be understood as favourable to climate action.** In some cases these have led to well documented changes in policy. Whether successful or not, climate cases continue to have significant 'indirect' impacts on climate change decision-making beyond the courtroom. Many cases remain open, and may spark new litigation if successfully concluded.
- **At the international level,** three requests for advisory opinions from international courts and tribunals filed in the past 12 months, plus pending litigation before regional bodies, including the European Court of Human Rights, are expected to impact future litigation.
- **Domestic legal protections** such as constitutional protections for the right to a healthy environment, along with domestic climate legislation, also play a critical role in cases against governments.
- **The number of 'strategic' cases continues to grow,** with litigants employing recognisable strategies across different jurisdictions. Most recorded cases seek 'pro-climate' outcomes (or 'climate-aligned') cases, and are frequently filed by NGOs and individuals. However, not all strategic cases are aligned with climate goals and 'ESG backlash' litigation is an emerging phenomenon, particularly in the United States.
- **Outside the US since 2015, we find significant growth in the numbers of 'framework' cases** challenging the implementation and ambition of the climate policy response of governments (81 cases) and corporate actors (17 cases), and in 'climate-washing' cases, challenging the accuracy of green claims and the implementation of climate commitments (57 cases).
- **A total of 81 climate-washing cases against companies were filed around the world** between 2015 and 2022; 27 were filed in 2021 and 26 were filed in 2022, compared with just 9 cases in 2020 and 6 cases in 2019.
- **Cases against corporations are progressing through the courts,** with around 20 cases filed by US cities and states against the Carbon Majors now likely to go to trial.
- **The range of legal arguments employed in new corporate cases is becoming more complex.** Litigants are combining requests for relief to include compensation for past and present losses, contributions to future adaptation costs, and requests for courts to order high-emitting companies to align their activities with the goals of the Paris Agreement. Disinformation is also playing a critical role in cases seeking financial damages, with some cases relying on consumer protection law.
- **Litigation concerning investment decisions in the context of climate change is increasing.** Although courts have so far proved reluctant to be too prescriptive, litigation can help clarify the parameters within which investment decisions should be made.
- **High-emitting activities are more likely to be challenged at different points throughout their lifecycle,** from initial financing to final project approval. This includes fossil fuel expansion and, increasingly, agricultural practices that contribute to deforestation.