French Duty of Vigilance Law: Paris Court Issues Landmark Climate Ruling on Scope 3 Emissions in Vigilance Plans

24 August 2026

On 25 June 2026, the Paris Civil Court issued the first judgment on the merits applying France's Duty of Vigilance Law of 27 March 2017 (the "Vigilance Law") in relation to *climate change*. The Court held that climate-related risks, including greenhouse gas ("GHG") emissions arising from the use of products by customers, commonly referred to as "Scope 3" emissions, fall within the scope of the Vigilance Law and that TotalEnergies' vigilance plan was incomplete for failing to address them. TotalEnergies has been ordered to revise its vigilance plan within six months to include risk mapping of Scope 3 GHG emissions and appropriate prevention and mitigation measures.

TotalEnergies has appealed the decision. Subject to the outcome of that appeal, the Paris Civil Court's decision is expected to have significant implications for companies subject to the Vigilance Law and more broadly for the interpretation of the EU Corporate Sustainability Due Diligence Directive ("CS3D").

The French Duty of Vigilance Law

The Vigilance Law applies to companies headquartered in France with at least 5,000 employees in France or 10,000 globally. In-scope companies must establish, publish and effectively implement a vigilance plan comprising reasonable measures to identify risks and prevent serious harm to human rights, fundamental freedoms, health and safety, and the environment. The plan must cover risks from the company's own activities and those of its subsidiaries, as well as from subcontractors and suppliers with whom an established commercial relationship is maintained.

A vigilance plan must contain five elements: (i) a risk mapping; (ii) procedures to assess subsidiaries, subcontractors and suppliers; (iii) appropriate risk mitigation and prevention measures; (iv) an alert and reporting mechanism; and (v) a monitoring system. Non-compliance exposes companies to injunctive relief before the Paris Civil Court and civil liability claims.

The June 2026 TotalEnergies Decision

The TotalEnergies case started in 2020 when NGOs and several municipalities (including the city of Paris) applied to the French courts for an order that the company must consider the consequences of its activities on climate change in its vigilance plan. In particular, the claimants argued that the company's vigilance plan did not comply with its obligation to identify risks and mitigating measures related to its Scope 3 GHG emissions.

In July 2023, a Paris Civil Court declared the claim inadmissible on procedural grounds.[1] The Paris Court of Appeal overturned this decision in June 2024, declaring the claim admissible and referring the case back to the Paris Civil Court to rule on the merits of the claim.[2]

In its decision of 25 June 2026, the Paris Civil Court addressed: (i) whether *climate*-related risks fall within the Vigilance Law; and (ii) whether Scope 3 emissions fall within the perimeter of risks to be addressed in a vigilance plan.

Climate Change and Scope 3 Emissions Fall Within the Scope of the Vigilance Law

The central issue was whether the term "environment" under France's Vigilance Law encompasses *climate* risk and, if so, whether Scope 3 GHG emissions must be addressed. Rejecting TotalEnergies' argument that climate change, as a global and multi-causal phenomenon, fell outside the Vigilance Law and was instead governed exclusively by the separate sustainability reporting regime, the Court held that "environment" must be construed in its broadest sense to include climate change:

> *"the term 'environment', as intended by the legislature, must be interpreted in its broadest sense, which includes climate change caused by the release of GHG emissions into the atmosphere, an essential component of the environment, which forms part of the adverse environmental impacts recognized in the international and European commitments to which France is a party."*

The Court emphasized that the Vigilance Law is not intended to "hold covered companies responsible for climate change risks resulting from all of humanity's activities on the planet since the industrial revolution". Rather, it requires each covered

1 Paris Civil Court, 6 July 2023, No 22/03403.

2 Paris Court of Appeal, 18 June 2024, No 23/14348.

company to take preventive action against serious risks and harms to which its own activities contribute. Applying that principle, the Court found that the

> *"GHG emissions resulting from the activities of TotalEnergies SE and its subsidiaries—which are undisputedly a contributing factor to global warming—form part of the climate-related risks falling within the scope of the Vigilance Law."*

Importantly, the Court then decided that "Scope 3 emissions" (principally those resulting from the foreseeable combustion of its fossil-fuel products) are sufficiently connected to the group's activities and subject to its influence to fall within the Vigilance Law:

> *"Scope 3 GHG emissions—for which a causal link with energy production has been established and over which TotalEnergies SE is able to exert influence—form part of the adverse impacts resulting from the Group's own activities. The Scope 3 GHG emissions of TotalEnergies SE's subsidiaries therefore form part of the risks arising from their activities that the parent company must identify in its vigilance plan."*

The Court Orders TotalEnergies to Update Its Vigilance Plan

The Court considered that TotalEnergies' 2024 plan addressed Scope 1 and 2 emissions in its risk mapping but not Scope 3, with no corresponding prevention and mitigation measures. The Court therefore concluded that the plan did not comply with the Vigilance Law.

The Court ordered TotalEnergies to update its current vigilance plan within six months. TotalEnergies has appealed the decision to the Paris Court of Appeal.

The NGOs and the city of Paris also asked the Court to order TotalEnergies to adopt and implement measures to achieve carbon neutrality by 2050. The Court declined to grant these requests. It found that the French Vigilance Law does not empower courts to prescribe such specific measures, which remain subject to the company's "self-regulation" developed in consultation with stakeholders. Accordingly, the Court concluded that

> *"it is not for the Court to set TotalEnergies a target to prevent or mitigate the negative climate impacts resulting from its activities".*

The TotalEnergies ruling is part of a broader global trend of climate litigation targeting corporate conduct. The Court itself engaged extensively with international legal developments, as interpretive support for its conclusions[3].

CS3D and The Omnibus Simplification Proposal

The TotalEnergies decision is also significant for the interpretation of the CS3D. The Court held that the deletion of the former Article 22 on transition plans under the Omnibus directive concerned only the transition planning obligation, and has no effect on the core due diligence obligations set out in Articles 7 to 16 of the Directive, including the obligation to identify and address climate-related risks. The Court further noted that the Omnibus directive also allows Member States to maintain or introduce more stringent national obligations. French courts therefore may continue to apply the Vigilance Law's own more stringent standard, to the extent that the relevant French-law requirements remain in force and are permitted under the CS3D's harmonisation rules.

Implications for Companies

Depending on the outcome of TotalEnergies' appeal, the judgment may mark a step-change in climate-related corporate accountability under French law. Its implications extend well beyond the energy sector.

For companies subject to the Vigilance Law, the decision ultimately may warrant a prompt review of vigilance plans, with a focus on:

- risk mapping: companies with material Scope 3 emissions (particularly in energy, chemicals, cement, steel, aviation, shipping and agriculture) should assess whether their plans adequately identify, analyze and rank those emissions as climate risks;

- prevention and mitigation measures: the measures section must be internally coherent with the risk mapping; a plan that identifies Scope 3 as a material risk must include corresponding measures to address it;

- consistency: vigilance plans, CSRD sustainability reports and public climate commitments should be consistent; the Court used TotalEnergies' own disclosures to establish that Scope 3 management was feasible;

[3] Cf. *KlimaSeniorinnen v. Switzerland* (ECtHR, Grand Chamber, 9 April 2024); *R (Finch) v. Surrey County Council* (UK Supreme Court, 20 June 2024); *Shell (MilieuDefensie)* (Hague Court of Appeal, 12 November 2024); ICJ Advisory Opinion on States' climate obligations (23 July 2025) and *Greenpeace Nordic v. Norway* (ECtHR, 28 October 2025).

- governance documentation: board oversight of climate risk management and methodological choices around Scope 3 accounting should be clearly documented; and

- litigation exposure: companies that have received formal notices should reassess their exposure to injunction claims and potential civil liability under the Vigilance Law.

The Vigilance Law imposes an obligation of *means*, not of *result*. Courts will assess whether a company has implemented "reasonable, concrete, coherent and adapted measures" relative to its situation, not whether it has solved the climate problem. The distinction matters: the obligation is to diligently manage identifiable risks, not to guarantee emissions outcomes.

Next Steps

TotalEnergies has six months to publish a revised vigilance plan. On 27 July 2026, TotalEnergies announced that it has decided to appeal the decision, and the outcome of such appeal will be closely watched. However, since the decision is provisionally enforceable, the appeal does not suspend its effects. The appellate ruling from the Paris Court of Appeal is expected to provide further authoritative guidance on the standard applicable to climate risks under the Vigilance Law. In the meantime, companies subject to the Vigilance Law should anticipate an increase in formal notices and litigation activity.

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Please do not hesitate to contact us with any questions.

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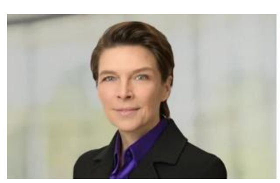

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