CLIMATE IMPACT NEWSLETTER
SUMMER REVIEW 2025

HAUSFELD
FOR THE CHALLENGE

The first half of 2025 has been a watershed period for climate litigation. Building on human rights framework established in *KlimaSeniorinnen* and corporate accountability principles emerging from cases such as *Milieudefensie v Shell,* 2025 has seen two landmark international advisory opinions – from the ICJ and the IACtHR – which fundamentally strengthen the scope for climate claims.

As we predicted in our 2024 Year in Review: Climate Impact, corporate compliance with climate obligations has remained a key focus, with courts across Europe, the United States and Australia continuing to scrutinise companies' contributions to greenhouse gas emissions and taking an increasingly critical eye to climate based 'greenwashing'.

ICJ Advisory Opinion: a new era for climate change accountability

On Wednesday 23rd July, the International Court of Justice ("**ICJ**") handed down its long-awaited Advisory Opinion on the Obligations of States in respect of Climate Change. The ICJ's Opinion provides authoritative clarification of states' climate obligations and establishes clear legal consequences for breaches – strengthening the foundation for climate-related claims.

While lacking direct enforceability, Advisory Opinions by the ICJ are among the most persuasive sources of international legal interpretation and help crystallise emerging international customs. They carry legal weight when regional and domestic courts around the world answer these same questions, which, in turn, impact domestic legal regimes. As such, we expect the ICJ's Opinion to inform and bolster both ongoing and future strategic climate litigation. Our full analysis on the ICJ's Opinion and its impact.

Shortly before the ICJ's Opinion was published, the Inter-American Court of Human Rights published its own landmark advisory opinion on climate emergency and human rights. The IACtHR Opinion sets out a framework for the 35 members of the Organisation of American States ("**OAS**") states to protect human rights in addressing the climate emergency. It recognised the climate emergency as an imminent and urgent reality and affirmed that states are under a *jus* cogens obligation to not cause irreversible damage to the climate and the environment. The IACtHR Opinion affirmed the human right to a healthy environment and stable climate and recognised the common but differentiated responsibilities between states. The IACtHR Opinion also observed the disproportionate impact of climate change on vulnerable populations and explicitly called for the protection and support of human rights and environmental defenders.

As with the ICJ Opinion, this is a non-binding opinion but carries strong legal authority, influencing judicial decision-making across the 35 OAS member states.

Corporate Climate Responsibility – Duty of Care

Recent judgments by European courts have clarified the duty of care owed under tort law by companies to individuals who are affected by their emissions. These developments progress and expand the theory advanced by environmental NGOs and individuals affected by climate change, that companies may be liable to compensate those who have suffered harm caused by climate change linked to their operations.

Saúl Luciano Lliuya v RWE

In a landmark decision in May 2025, the High Regional Court of Hamm in Germany concluded Saúl Luciano Lliuya's decades-long claim against German energy company, RWE. Mr Lliuya had sought damages for flooding in his hometown of Huaraz, Peru, caused by melting glaciers.

Mr Lliuya sought compensation from RWE for the costs of flood defences, arguing that RWE should pay a share proportionate to its historic contribution to global greenhouse gas emissions. The Court found that Mr Lliuya failed to establish that there was a sufficiently high flood risk from the melting glaciers to cause damage to his property, thereby dismissing the claim. However, in a major win for environmental campaigners, the judgment confirmed that major carbon emitters could, in principle, be held liable under Section 1004 of the German Civil Code for climate-related harms (the "neighbourhood" provision for basis nuisance under, which typically governs issues around property impairment). Importantly, the judgment emphasised that the significant geographical distance between RWE's power plants and the location of the alleged harm was not sufficient (in of itself) to defeat the claim. It will be interesting to see whether the ruling influences similar claims, including the Swiss case *Asmania v Holcim*, in which four residents of the Indonesian island Pari are seeking to hold the Swiss concrete company Holcim liable for its contribution to global CO_2 emissions.

Milieudefensie v Shell

The high stakes battle between Milieudefensie and Shell continues in the Dutch courts, following the Hague Court of Appeal's mixed ruling in November 2024. It found that Shell has an obligation to mitigate climate risk under Dutch law but overturned the lower court's order requiring Shell to reduce its CO_2 emissions by 45% compared to 2019 before 2030.

In February 2025, Milieudefensie announced its appeal to the Dutch Supreme Court, arguing that "the Court of Appeal has used too narrow of a standard" and that a concrete emissions reduction target should be imposed on the company.

In May 2025, Milieudefensie announced a new claim against Shell, inspired by a number of legal considerations raised by the Appeal Court in its first claim. In a formal letter to Shell that was published on its website, Milieudefensie notified Shell of its intention to demand the following: (i) an immediate halt to Shell's investment in new oil and gas fields; and (ii) a court order compelling Shell to set an emissions reduction target for the period from 2035 through to 2050 in line with the 1.5 C target.

In focusing on the banning of investments in new oil and gas fields and on an emissions reduction target for the period after 2030, Milieudefensie hope to avoid the obstacles arising from the Appeal Court's ruling in the first case.

On 28 March 2025 a writ of summons was served on Dutch Bank ING regarding a claim by Milieudefensie, seeking reductions in the bank's financed emissions and a cessation of financing companies which are developing fossil fuel projects.

Ogale & Bille Communities v Shell

In another major development in corporate accountability, the UK High Court ruled on 20 June 2025 that Shell and its former Nigerian subsidiary can be sued in England and Wales for historic oil spills in the Niger Delta. The case, filed in 2015 by the Ogale and Bille communities in the Niger Delta, argues that oil spills from Shell's infrastructure dating back to 1989 caused serious contamination to the communities' land and waterways. Testing by the United Nations Environment Programme (UNEP) found that the community's groundwater contained contamination levels exceeding Nigerian legal limits by over 1,000 times.

Following a four-week preliminary issues trial in early 2025, the High Court ruled that Shell cannot invoke a five-year limitation defence for a claim for trespass when pollution persists. Based on expert evidence on Nigerian law, she found that "a new cause of action will arise each day that oil remains on a claimant's land". This distinguishes the case from the Supreme Court's ruling in *Jalla v Shell International Trading and Shipping Company*, in which the claimants were time-barred from a claim for nuisance (rather than trespass) in which there was no continuing action by Shell, but where the pollution remained. This decision in *Ogale & Bille* illustrates that creative legal arguments may provide new routes to environmental liability. The case is currently scheduled to proceed to trial in early 2027.

'Aligned' and 'non-aligned' litigation

In May 2025 the Colorado Supreme Court delivered a significant ruling that will allow a Boulder County lawsuit against ExxonMobil and Suncor Energy to proceed under state law.

The case dates back to June 2018, when the County Commissioners of Boulder County and the City of Boulder filed a common law tort claim alleging that the defendants "*knowingly* and *substantially* contributed to the climate crisis by producing, promoting and selling a substantial portion of the fossil fuels that are causing and exacerbating climate change". The defendants argued that these claims should be heard in a federal court, as they involved "uniquely federal interests" and that the plaintiff's claims were pre-empted by the Federal Clean Air Act. However, in a 5-2 majority opinion, the Colorado Supreme Court concluded that federal law did not pre-empt the claims brought by Boulder County and confirmed that Colorado was the appropriate place to hear these claims. The case has been remanded to the District Court for further proceedings.

The Colorado Supreme Court's decision was only the second time a state Supreme Court has ruled that a state or local government claim against a major energy company on climate grounds can progress in the USA. In October 2023, the Hawaii Supreme Court allowed a claim by the County of Honolulu against Sunoco, ExxonMobil, Chevron, BP, Shell and others, alleging the oil giants orchestrated disinformation campaigns to cast doubt on the causes and effects of global warming, to proceed at state level. In January 2025, the US Supreme Court refused to hear an appeal on the County of Honolulu's claim, paving the way for the case to move to trial at the state level. The defendants had sought to override the State Court's decision on grounds that federal law precluded state claims that concern international-scope emissions.

Litigation challenging climate action also continues to build momentum in jurisdictions more sceptical of climate policies. In North Dakota – a heavily fossil fuel dependent state - a jury found Greenpeace US liable for defamation and other allegations in respect of the Dakota Access pipeline. Greenpeace was ordered to pay more than $660 million. Greenpeace has confirmed it will appeal the jury decision. Meanwhile, in January 2025, the State of Tennessee reached a settlement with BlackRock, Inc., following its 'anti-ESG' claim that BlackRock had "misled" consumers regarding the role of ESG factors in its investment practices. In June 2025, a US District Court in Texas heard arguments for dismissal of a claim brought by Texas and twelve other states against BlackRock, Vanguard, and State Street, which alleges that the firms violated antitrust law through climate-based decision-making which reduced coal production. The motion to dismiss was largely denied on 1 August 2025, and the litigation will proceed under Texas and federal antitrust laws.

‘Greenwashing’ Claims

Greenwashing has also taken centre stage in the first half of 2025, with regulators and courts looking to hold companies accountable for misleading climate-related statements.

Australian Parents for Climate Action v EnergyAustralia

In August 2023, Australian Parents for Climate Action (“**AP4CA**”) filed a claim in the Federal Court of Australia challenging statements made by EnergyAustralia about its “carbon neutral” products. AP4CA argue that EnergyAustralia’s claims that the emissions created by their “Go Neutral” electricity and gas are “cancelled out” or “negated” are misleading under Australian consumer law, as they give consumers the false impression that using these products does not have an impact on the climate.

In May 2025 the parties reached a settlement in which EnergyAustralia made a statement acknowledging issues with their carbon offsets, apologising to the affected consumers, discontinuing the “Go Neutral” products and removing all its related marketing.

Deutsche Umwelthilfe v Adidas

In March 2025, the Nuremberg-Fürth Regional Court ruled in favour of German NGO *Deutsche Umwelthilfe* (“**DUH**”) in its claim that Adidas misled consumers by failing to outline specific actions for achieving climate neutrality beyond 2030. DUH argued that Adidas’ use of the phrase “Climate neutral by 2030” in its advertising constituted misleading consumer claims under Germany’s Unfair Competition Act.

Adidas had committed to achieving net-zero greenhouse gas emissions by 2050, backed by Science-Based Targets initiative (SBTi) guidelines and by reducing Scope 1 and 2 emissions by 70% and Scope 3 emissions by 43% by 2030. However, the Court found that Adidas failed to sufficiently demonstrate how it intended to reach its climate neutrality goal in concrete terms and did not disclose whether it would rely on carbon offsetting measures. Moreover, the Court found that the term “climate neutral” is ambiguous and that “the consumer has an increased need for information about the meaning and content of this term and strict requirements must be placed on the information required to avoid misleading information”, ordering Adidas to cease using the phrase in its marketing campaigns.

Deutsche Umwelthilfe v Lufthansa

In a similar case brought by DUH against Lufthansa, the Cologne Regional Court ruled that Lufthansa was not allowed to advertise using the statement “Offset CO_2 emissions by contributing to climate protection projects”. Last year, in a prior claim brought by DUH, the same Court ruled that Eurowings, a Lufthansa subsidiary, was prohibited from advertising its flights as “CO_2-neutral”. This follows a trend of airlines being found liable for greenwashing statements, originating in the March 2024 judgment of the Amsterdam District Court which ruled that a number of advertisements by KLM were misleading and therefore unlawful. In these advertisements, KLM made environmental claims based on "vague and general" statements about its environmental benefits, thereby misleading consumers.

Similar claims are ongoing regarding misleading advertising from various airlines, including Delta and Qantas.

Public Law

Held v Montana

A group of young plaintiffs are suing the State of Montana over its energy policies, which they claim violate their right under Article IX of the Constitution of Montana to a clean and healthful environment. In August 2023, the District Court found in favour of the plaintiffs. In December 2024, on appeal, the Montana Supreme Court affirmed

the District Court's ruling and recognised that Montana's fossil fuel-friendly policies were unconstitutional and that its lack of action to address climate change violated the constitutional right to a clean environment.

The *Held* decision is a significant development in youth-led climate-based claims in the USA and may pave the way for additional judicial recognition of a stable climate as a protected right.

Torres Strait Islands

A climate action filed by two members of an indigenous minority community from the Torres Straits Islands against the Australian government was dismissed by the Federal Court. Community elders Pabai Pabai and Paul Kabai alleged that the Australian government had breached its duty of care to protect the islands from the increasing impact of climate change, including storm surges and rising sea levels.

Ruling that negligence was not a suitable legal vehicle to make the claim, the Court held that the case fundamentally concerned a matter of government policy and that the claim for compensation for loss of culture, customs and traditions would not be permissible under Australian law. However, the judge recognised that urgent legislative action to address climate change was needed to protect the Torres Strait Islands and their inhabitants.

Looking forward

The ICJ and IACtHR Opinions can be expected to inform and bolster ongoing and future strategic climate litigation by expanding the scope of arguments claimants can bring. Crucially, the ICJ recognised that establishing causal links in climate cases is complex but "not impossible" to establish, providing judicial validation for the scientific methodologies underpinning climate litigation causation arguments. At the state level, the ICJ confirmed that breaches of climate obligations constitute internationally wrongful acts that invoke state responsibility, strengthening the foundation for transnational climate accountability claims. As we move into the second half of 2025, it will be particularly important to observe whether national courts begin incorporating these principles into domestic climate litigation cases.

In the private law sphere, the trajectory of recent developments across the world makes clear that legal risks are growing for companies that fail to act on their climate obligations or misrepresent their environmental commitments or impact. Courts are increasingly prepared to enforce accountability for environmental impact.

We will further assess these trends and their broader implications in our end of year review

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