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French Court Dismisses “Duty of Vigilance” Case Seeking to Halt Multibillion-Dollar Oil Pipeline Project

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On February 28, a French court dismissed an action filed by six French and Ugandan NGOs aiming to force the suspension of TotalEnergies’ multibillion-dollar oil pipeline project in Uganda and Tanzania. The NGOs based their case to suspend the pipeline project on Article L. 225-102-4.-I of the French Commercial Code, the Corporate “Duty of Vigilance Act,” which requires companies to establish a “Vigilance Plan” to “identify and prevent risks of severe violations of human rights and fundamental freedoms, health and safety of people and to the environment in their entire sphere of influence.” The planned pipeline would run from Uganda to the Tanzanian coast passing through many acres of farmland and the Murchison Falls National Park, a habitat that is dense with animal life. The peak production is estimated at 230,000 barrels per day, which, if realized, would make Uganda the seventh-largest oil producer on the continent.

The case was ruled inadmissible after it was filed under the emergency fast-track procedure, but the NGOs have reserved the right to refile the action as a standard trial suit.

The TotalEnergies pipeline project also has been subject to scrutiny and criticism by the European Parliament. In September 2022, the European Parliament passed a non-binding resolution **urging** EU members and the international community to “exert maximum pressure on the Ugandan and Tanzanian authorities, as well as the project promoters and stakeholders, to protect the environment and to put an end to the extractive activities in protected and sensitive ecosystems.” The Ugandan state **responded**, asserting its independence and stating that the European Parliament criticism is an insult to the parliament of a sovereign country.

Taking the Temperature: We have previously commented on other sustainability-related litigation asserting violations of the Duty of Vigilance law, including ClientEarth's plastics-focused litigation against [Danone](#) as well as a suit related to emissions financing against a [financial institution](#). There are reportedly [at least fifteen cases](#) currently underway that rely on the French Vigilance Law.

More generally, there has been a notable uptick in climate-related litigation and shareholder activism around the world, a [trend](#) we expect to continue at least in the near and medium term. To cite just one recent example, in the UK, a derivative action was commenced in the High Court against Shell plc's board of directors accusing the directors of violating their duties to promote the success of the company under Section 172 and their duty to exercise reasonable care, skill and diligence under Section 174 of the Companies Act by not "properly managing climate risk." Likewise, in the same piece, we observed that, last month, a group of 30 investors, representing over \$1.5 trillion of assets under management, wrote to the CEOs and board chairs of five major European banks "urging them to stop directly financing new oil and gas fields by the end of this year." For companies and their directors and officers, the best "defense" against, or prevention of, such actions relies on governance and disclosure. Boards and management should focus on climate-related governance (monitoring and assessing material risks and opportunities), data collection/assessment (including alignment with SBTi or other data standard setters) and disclosure (including necessary caveats or qualifications on articulated climate goals).