

Navigating the Future of ESG Litigation in Europe and Türkiye: Challenges, Risks, and Emerging Trends

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THE landscape of Environmental, Social, and Governance (“ESG”) litigation has entered a transformative phase, with an expanding array of legal challenges that seek to redefine the obligations of both governments and corporations in addressing the environmental and social concerns. In this sense, ESG litigation is not simply a reactive legal field but a dynamic space that both shapes and

is driven by significant shifts in global governance. Rapidly changing regulatory environments and heightened stakeholder awareness, compounded by the pace of the climate crisis, have introduced many new concepts into the lexicon of strategic litigation, like greenwashing, ESG backlash litigation, just-transition litigation, ecocide, and rights-driven litigation. Key legal developments have triggered the emergence of these concepts, and these developments may lay the groundwork for future claims in ESG litigation, particularly in areas like greenwashing; the integration of human rights arguments into climate litigation, as in the landmark rulings of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*,¹ *Milieu-defensie v. Shell*,² *Lliuya v. RWE*³ and

Greenpeace v. Norwegian State,⁴ and the rise of special focus on pressing issues such as plastic pollution and biodiversity loss.

While international legal bodies such as the International Court of Justice and the Inter-American Court of Human Rights may not have binding authority, their advisory opinions on climate issues are poised to influence climate litigation. These opinions could push for greater state accountability, potentially affecting the trajectory of future legal cases.

Amidst this complex environment, understanding how Europe leverages its leadership in ESG matters to shape the legal landscape is critical to anticipating the opportunities, uncertainties and challenges that will arise in strategic ESG litigation. The European Union so far has led the scene with the introduction of legal liability regimes for victims of corporate abuse with key instruments such as the Corporate Sustainability Due Diligence Directive (“CSDDD”),⁵ the

¹ *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* (Grand Chamber), App. No. 53600/20, [2024] ECHR 304 (Eur. Ct. H.R. Apr. 9, 2024).

² *Milieudefensie et al. v. Royal Dutch Shell plc*, Decision C/09/571932-HA ZA 19-379 (Dist. Ct. The Hague May 26, 2021) (Neth).

³ *Lliuya v. RWE AG*, Case No. 5 U 15/17 (Higher Reg'l Ct. Hamm May 28, 2025) (Ger.).

⁴ *Greenpeace Nordic and Others v. Norway*, App. No. 34068/21 (Eur. Ct. H.R. Dec. 16, 2021).

⁵ Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation

EU Deforestation Regulation (“EUDR”),⁶ and the EU Forced Labor Regulation⁷ curtailing litigation uncertainties. Moreover, efforts are ongoing with the introduction of new instruments, including the Greenwashing Directive and the Green Claims Directive, which promise stricter frameworks for environmental claims.

Despite these advancements, challenges remain, particularly with the lack of harmonization in regulatory approaches and the tendency of governments to compromise on ambitious regulations due to economic pressure. It remains to be seen whether or to what extent the recent simplification efforts regarding key ESG instruments introduced by the Omnibus Package (the “Package”),⁸ will jeopardize the impact of claims

against governments and corporations and what effect they will have on the diversification of claims subject to litigation. These questions are central to the future of ESG litigation, not just in the EU, but also in non-EU countries like Türkiye, which has strong commercial and bureaucratic ties to the EU.

I. Evolving EU Regulations and Amplifying Litigation Risks

The EU has redefined the landscape of corporate responsibility through the introduction of transformative regulations such as the Corporate Sustainability Reporting Directive (“CSRD”),⁹ the CSDDD, and the EUDR. These frameworks are not merely regulatory milestones; they

(EU) 2023/2859, O.J. L 1760, July 5, 2024 (EU).

⁶ Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) 995/2010, O.J. L 150, (Annex) June 9, 2023 (EU).

⁷ Regulation (EU) 2024/3015 of the European Parliament and of the Council of 27 November 2024 on prohibiting products made with forced labor on the Union market and amending Directive (EU) 2019/1937, O.J. L 3015, Dec. 12, 2024 (EU).

⁸ Proposal for a Directive and a Proposal for a Regulation of the European Parliament and of the Council amending Directives 2006/43/EC, 2013/34/EU, 2022/2464 (CSRD), 2024/1760 (CSDDD), COM (2025) 801 and COM (2025) 812 final, Feb. 26, 2025 (EU).

⁹ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting, O.J. L 322, Dec. 16, 2022, at 15 (EU).

signal a fundamental shift in how the EU expects businesses to engage with ESG issues, particularly in regards to their supply chains and operational transparency. As these regulations establish more stringent compliance standards, they expose businesses to an increased risk of litigation, as stakeholders, including investors, NGOs, and affected communities, now possess greater tools to challenge corporate actions, or inactions, that impact human rights and the environment.

A. The CSRD: From Transparency to Liabilities

The CSRD represents a paradigm shift in the EU's approach to sustainability disclosure, mandating that large companies and listed small and medium enterprises disclose detailed ESG data aligned with the European Sustainability Reporting Standards. The EU designed this comprehensive framework to ensure that corporate sustainability reports are as rigorous and verifiable as financial statements, which significantly enhances their credibility. However, this increased transparency also brings heightened risks. By requiring independent audits of ESG reports, the CSRD exposes

discrepancies between a company's public commitments and the data presented in its disclosures.

From a litigator's perspective, this standard could precipitate an uptick in ESG-related litigation, particularly claims of greenwashing. Companies could face legal challenges if their reported sustainability efforts fail to align with their public messaging or transition strategies. The potential for class actions or shareholder derivative suits is now more pronounced, as investors and other stakeholders have access to detailed ESG data that they could cross-reference against public statements. The CSRD introduces a nuanced legal standard—companies must not only meet the requirements of transparency but also manage the risks of misrepresentation or omission that may arise from discrepancies between corporate strategy and performance. By eliminating the opportunity for "greenhushing", the CSRD forces businesses to confront the full scope of their ESG performance. The litigation risk inherent in this obligation is significant, as companies will be compelled to disclose unfavorable information that could become the subject of

claims regarding inaccurate or incomplete reporting.

B. The CSDDD: Broadening Corporate Accountability and Litigation Exposure

The CSDDD expands the legal obligations of companies by introducing a rigorous framework for human rights and environmental due diligence across their operations and supply chains. Unlike the CSRD, which focuses on transparency, the CSDDD requires companies to actively identify, prevent, and mitigate adverse impacts on human rights and the environment. The CSDDD's scope extends beyond direct corporate operations to encompass supply chains, requiring companies to demonstrate that they have adequately assessed and managed risks in their value chains.

This extension significantly broadens the potential for litigation, as companies could be held liable for failing to address environmental or human rights violations that occur within their supply networks. For businesses operating in jurisdictions that have not previously required such due diligence, the CSDDD marks a substantial shift in their legal

landscape. These companies will now face exposure from a new wave of legal risks, particularly in cases where adverse impacts are linked to supplier practices or subcontractors in low-regulation regions.

However, the directive's civil liability regime, while initially robust, is poised for dilution under the upcoming 2025 Omnibus Package. Nevertheless, the original framework creates a clear legal pathway for claimants to seek redress for corporate negligence, with a harmonized approach to liability, access to evidence, and limitation periods across EU member states. This development will generate a growing body of case law that will refine the boundaries of corporate responsibility and accountability in relation to environmental and social governance. Companies must not only ensure compliance with the directive's due diligence requirements but also anticipate the potential for legal challenges arising from the gaps in their supply chain risk management practices.

C. The EUDR: Shifting Environmental Accountability Through Supply Chain Regulation

While the EUDR does not provide for a direct civil liability framework akin to the CSDDD, the regulation introduces stringent requirements for companies to perform due diligence regarding deforestation risks within their supply chains. This regulation, which applies to commodities linked to deforestation, mandates that businesses take concrete steps to prevent deforestation-related environmental harm. The regulation's legal impact stems primarily from its binding due diligence requirements, which, if violated, could expose companies to fraud liability under national law.

Despite the absence of a private right of action, the EUDR significantly alters the legal landscape by creating new enforcement mechanisms, such as market bans, trade restrictions, and administrative fines. These measures could indirectly lead to civil litigation, particularly from environmental organizations or competitors who seek to hold companies accountable for regulatory non-compliance through

general tort laws. The EUDR's provisions also introduce a critical principle: the regulation's "overriding mandatory rules" mean that EU courts must apply it, even when the laws of non-EU jurisdictions would otherwise take precedence. This provision further broadens the potential for litigation, as multinational corporations must navigate complex legal interactions between EU regulations and third-country laws.

While the EUDR may not directly enable private litigation, its rigorous due diligence framework and the risk of administrative enforcement actions create a dynamic environment where legal challenges, particularly from non-state actors, are likely to emerge.

II. Impact of The Omnibus Package: Potential Trigger for ESG Backlash Litigation?

The 2025 Omnibus Package, with its radical revisions to the CSDDD and the CSRD, marks a significant shift in EU sustainability governance, with far-reaching consequences for both businesses and investors. While the regulation aims to streamline compliance and reduce administrative burdens, it has introduced a period of

uncertainty and inconsistency that threatens to undermine the progress made in ESG reporting. These changes, while ostensibly balancing economic and sustainability interests, may reduce corporate transparency and accountability and, ultimately, foster conditions that could trigger ESG backlash litigation.

The most consequential shift proposed by the Package is the narrowing of the CSRD's scope by exempting companies with fewer than 1,000 employees or those with turnover below €50 million. The EU proposed this exemption, which affects nearly 80% of businesses previously covered, to ease the compliance burden on small and mid-sized businesses. However, the Package inadvertently creates an inconsistent regulatory environment in which a large number of companies will either fall outside the reporting requirements or adopt voluntary practices that may not align with EU-wide standards. This fragmentation of sustainability reporting will result in a significant reduction in transparency, making it difficult for investors, consumers, and other stakeholders to assess the true sustainability impact of exempt businesses. The reduced uniformity in reporting standards may provoke

litigation from investors who feel misled by incomplete or inconsistent ESG disclosures, as they must now rely on self-reported data from companies that voluntarily disclose sustainability information.

Compounding this issue, the Package delays reporting timelines, with key reporting obligations now pushed back to 2028. This adds another layer of risk for litigation. While the delay is framed as an opportunity for businesses to adjust, this delay stalls the availability of critical ESG data, which, in turn, disrupts decision-making processes for investors who rely on up-to-date sustainability metrics. While easing immediate compliance pressures, the postponement may undermine investor confidence in the robustness of the EU's ESG framework. The lack of timely reporting could trigger backlash from stakeholders who expect more consistent and transparent reporting practices. Investors may even initiate legal action based on claims that the delay in reporting breaches fiduciary duties or limits their ability to make informed investment decisions in line with sustainable goals.

The reduced scope of the regulations and the shift towards voluntary reporting for a large segment of companies will create an uneven playing field, where those exempt from the regulatory scope adopt varied ESG practices that may not align with the EU's sustainability objectives. For large corporations, the prospect of reduced reporting obligations could fuel concerns about how to align their existing sustainability strategies with the evolving EU framework, potentially leading to inconsistent practices across the market. This may not only create a disjointed ESG landscape but also pose risks to stakeholders, who may increasingly face legal challenges in the wake of unclear or insufficient ESG disclosures.

III. Türkiye's ESG Journey and Future Prospects: Has the rising tide of ESG hit the country?

Once slow to weave environmental and social responsibility into its corporate fabric, Türkiye is now moving decisively towards a future where business and ethics converge. The adoption of the Global Reporting Initiative standards by the Borsa Istanbul and the creation of the BIST

Sustainability Index signalled more than just regulatory progress; they reflected a shift in consciousness, a growing recognition that accountability is no longer optional but essential. The subsequent announcement by the Capital Markets Board of Türkiye of the Sustainability Principles Compliance Outline contains fundamental principles that the Capital Markets Board expects to be declared by publicly held corporations during performance of their ESG activities. Further, the introduction of Türkiye's own Sustainability Reporting Standards cemented this transformation, aligning the nation's regulatory pulse with the evolving expectations of the EU, where sustainability is no longer a mere guideline but a demand shaping the very contours of global commerce.

The nation's first-ever Climate Law Proposal is most recent step in this journey. Submitted on February 20, 2025, this draft legislation marks a pivotal moment in Türkiye's reckoning with climate change, transitioning from an abstract global challenge to a reality that will define its economic and environmental destiny. With an ambitious goal of net-zero emissions by 2053, the law extends

beyond policy, covering everything from carbon markets to just transition frameworks. The proposal seeks not just to regulate but to reshape, ensuring that sustainability is not an afterthought but an organizing principle of the nation's growth.

Yet, this transformation will not unfold in isolation. Türkiye's deep economic ties to the EU make ESG compliance a strategic imperative, not just an ethical pursuit. As EU regulations grow more exacting, Turkish businesses find themselves at a crossroads—adapt and thrive in an increasingly green global economy, or risk obsolescence in markets that now demand more than just profit. The CSDDD, in particular, will have significant implications for Turkish companies, especially those with close business ties with the EU. As Türkiye is a major trading partner of the EU, many Turkish companies will need to comply with the CSDDD's requirements to maintain and enhance their market access. To meet the CSDDD requirements, Turkish companies may have to invest in new technologies, training, and systems to monitor and report on human rights and environmental impacts. These reforms could initially be costly but will likely

result in more sustainable and efficient operations.

The cost of compliance will be steep, requiring investments in sustainable technologies, transparent reporting, and rigorous due diligence. Beyond these immediate burdens lies the reinvention of businesses that not only survive regulatory shifts but embrace them as catalysts for long-term prosperity.

IV. Slow but Steady Growth of ESG Claims in Turkish Courts

Türkiye has witnessed a notable surge in ESG litigation, particularly in the environmental sector. This litigation signals a significant transformation in how the legal sphere must approach corporate accountability. This shift, while gradual, reflects an intersection of multiple converging forces, including heightened societal awareness of sustainability issues; increasing regulatory pressure; and an evolving legal framework that aligns more closely with European and international sustainability norms. While still in a nascent phase compared to European jurisdictions, ESG litigation in Türkiye is gaining momentum and offers a glimpse into the future of corporate

accountability within the country's legal system.

Within this scope, the dominant area of focus in Türkiye is the environmental dimension of ESG litigation. Both civil society and the judiciary are increasingly using litigation as a tool to enforce environmental protection standards. Litigants have focused particularly on the actions and omissions of both public authorities and private corporations in relation to environmental degradation, resource mismanagement, and the failure to uphold commitments under multilateral environmental agreements.

S.S. Gölarmara. The S.S. Gölarmara and Surroundings Fishing Cooperative's lawsuit against the Ministry of Agriculture and Forestry¹⁰ exemplifies the growing tension between state development projects and local environmental impact. The cooperative is challenging a payment order that requires them to pay a rental fee for fishing rights in Lake Marmara, where state-sponsored water allocation projects

aimed at meeting the needs of neighboring İzmir Province have led to severe depletion of the available water supply. The cooperative's legal challenge underscores a critical question: to what extent are public authorities liable for the environmental harm caused by their policies, particularly when such policies displace or destroy local industries that depend on natural resources? The court's eventual ruling could set a crucial precedent in determining the extent to which the government can be held accountable for environmental harm and the resultant socio-economic damage to vulnerable communities.

Green Artvin Association. The Green Artvin Association's lawsuit¹¹ against the Republic of Türkiye to cancel the licenses of thirty-seven coal-fired thermal power plants highlights the growing tension between industrial development and environmental sustainability. The association argues that the operation of these plants exacerbates climate change, contributing to public health crises

¹⁰ S.S. Gölarmara ve Çevresi Su Ürünleri Kooperatifi v. Türkiye Tarım ve Orman Bakanlığı, No. 2022/545 (Manisa 1. İdare Mahkemesi Aug. 11, 2022) (Turk.).

¹¹ Yeşil Artvin Derneği and Others v. Presidency of the Republic of Türkiye,

Ministry of Environment, Urbanization and Climate Change and Energy Market Regulatory Authority, No. 2020/xxx (Ankara 11th Adm. Ct. Mar. 28, 2022) (Turk.).

and environmental degradation. Although the administrative court dismissed the case, the mere act of bringing such a lawsuit underscores a broader shift in how legal discourse frames environmental issues. The case also signals the increasing role environmental advocacy groups play in challenging government-sanctioned projects that fail to meet sustainability standards, particularly in the context of Türkiye's commitments under international climate agreements.

While the environmental dimension remains the dominant focus of ESG litigation in Türkiye, the scope of legal challenges in broader social and governance issues will also expand. With ESG disclosure regimes on the rise, a growing body of litigation will center on corporate transparency and the legal obligations of companies in relation to ESG disclosures. The growth of consumer rights litigation, particularly in areas related to corporate greenwashing or misleading environmental claims, will trigger cases that may invoke unfair trade practices, product liability laws, and consumer protection regulations, underscoring a growing demand for legal

recognition of the environmental and social obligations of corporations beyond traditional financial metrics.

While administrative lawsuits against public authorities in relation to environmental policies are becoming more common, the question of whether private individuals or organizations can claim compensation for environmental damage without direct material loss remains unresolved. The absence of clear legal guidelines for private litigation poses an obstacle to the expansion of ESG-related lawsuits in Türkiye. The country is on the brink of a transformative shift in how corporate accountability will be understood and enforced.

V. Final Remarks

As ESG litigation continues to evolve, the shifting legal landscape presents both significant opportunities and formidable challenges for governments, corporations, and individuals. The expanding complexity of regulatory frameworks, particularly within the EU, highlights an urgent imperative for enhanced transparency and

accountability in corporate operations.

The impact of these EU-based regulatory transformations is particularly salient for countries like Türkiye, which share close economic and political ties with the EU. As ESG litigation begins to take root within Turkish legal system, this development cannot be assessed in isolation from the broader regulatory trends emerging in Europe. Türkiye's legal framework will inevitably converge with EU standards, compelling Turkish businesses to confront new and evolving due diligence requirements and transparency mandates. The interplay between European and Turkish legal reforms will shape the future of ESG claims in Türkiye, fostering a more integrated, cross-border approach to corporate responsibility and accountability.

As litigation risks intensify and regulations continue to evolve, businesses must not only reassess their compliance with legal obligations but also reconsider their broader role in sustainable governance. Governments, too, are faced with the complex balancing act of fostering economic growth while ensuring environmental stewardship. The central question will be whether global legal efforts

driven by EU regulatory leadership will successfully mitigate the climate crisis, or whether we will be caught in a never-ending cycle of regulatory delays, with the judiciary increasingly playing the role of the catalyst for long-term change.