

ESG litigation

Insurance Group
2026 Webinar Programme

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Agenda

01 How is ESG regulation evolving?

02 Is climate activism still leading to litigation against public bodies and corporations?

03 What other elements of the ESG agenda are leading to regulatory actions or litigation?

04 What are the key risks for corporations, directors, and their insurers?



Speakers

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Section 01

How is ESG regulation evolving?

01

EU Regulations on Environmental Protection

Key EU Directives (i.e. **CSRD** and **CSDDD**)

D. Lgs. no. 2024/125 implementing **CSRD** in Italy:

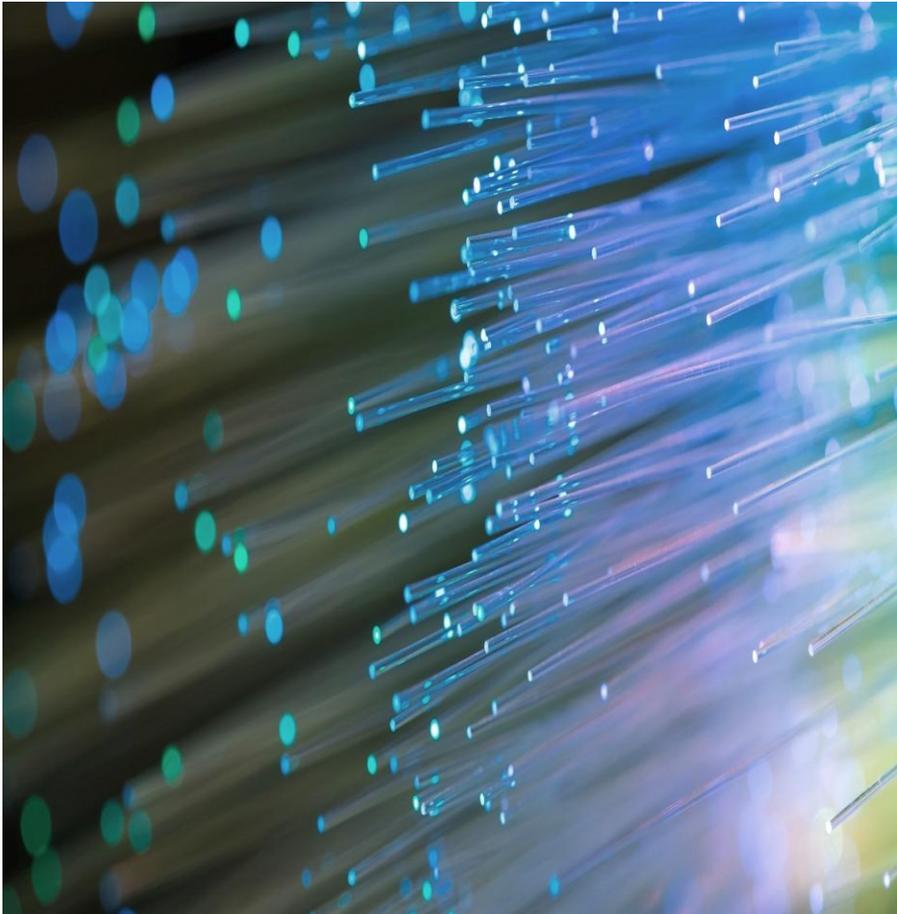
- Extension of the subject involved;
- Increase in the information to be provided;
- Mandatory inclusion of sustainability information in the management report;
- Dual materiality principle;
- ESG integration along the value chain;
- European reporting standards;
- Liability and fines.

CSDDD: introducing the “*duty of care*”

ESG in Italy – Overview

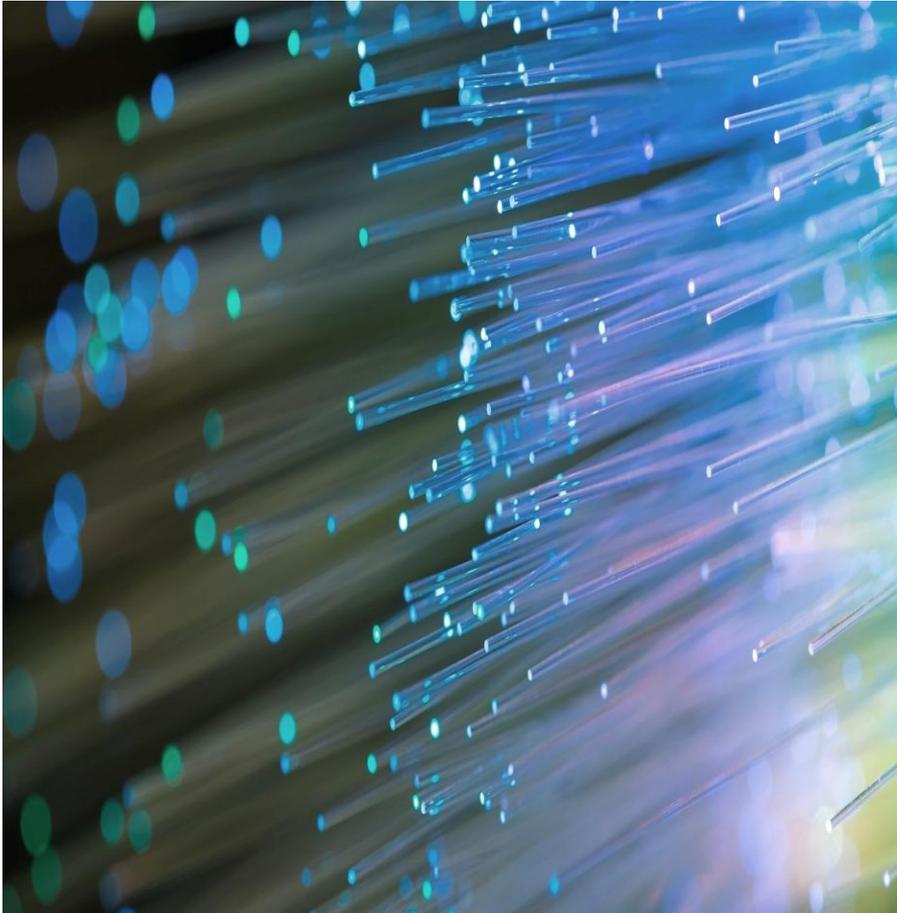


The most recent changes introduced by the ‘*Omnibus Package*’ (Directive (EU) 2026/470)



- **Reduction in the scope of application of the CSRD:** (only EU companies with more than 1,000 employees and €450 million in annual net turnover)
- **“Stop the clock”:** postpones the obligations for ‘Wave 2’ and ‘Wave 3’ companies, which were supposed to start reporting in 2025–2026, by two years
- Introduction of so-called **‘protected companies’** - significant reduction in the quantity and quality of information, which will be subject to voluntary reporting standards for companies (so-called ‘voluntary standards’)
- **Double Materiality Analysis:** not only will the impact of the company on the environment and society (*inside-out*) must be considered, but also the impact of ESG factors on the company itself (*outside-in*)
- **Reduction in the scope of application the CSDDD** - (only EU companies with more than 5,000 employees and €1.5 billion in annual turnover)

'Empowering Consumers' Directive in Italy



The Italian Legislative Decree No. 30/2026, transposing Directive (EU) 2024/825, and largely mirroring the EU text, introduced significant amendments to the Italian Consumer Code:

- Clear **definitions** of green claims and recognition of greenwashing as an unfair practice.
- **Blacklist** of misleading commercial practices “*in all circumstances*” and misleading commercial practices based on the “*circumstances of the case*”
- **New misleading practices**: unverifiable future environmental claims, uncertified labels, generic claims and neutrality claims based on offsetting.
- **Anti-planned obsolescence rules** on software updates, durability and use of consumables.
- **Strengthened pre-contractual information** requirements (legal guarantee, durability, software updates, repairability).

ESG Regulation in UK

- UK is taking steps to introduce regulation of ESG providers
- Further UK developments in sustainability reporting
 - UK government has published UK Sustainability Reporting Standards (UK USRS) which represent UK endorsed version of IFRS1 and IFRS 2
 - Currently voluntary but FCA consulting on requirement for certain listed companies to report in accordance with UK SRS for periods after 1 January 2027



Section 02

Is climate activism still leading to claims against public bodies and corporations?

02

2019 – Urgenda vs Dutch State

2021 – Milieudéfensie vs Shell (District Court)

2024 – Milieudéfensie vs Shell (Court of Appeal)

2024 – Greenpeace vs Dutch State (Nitrogen case)

2024 – Greenpeace vs Rabobank ('Wanted' posters)

2026 – Greenpeace vs Dutch State (Bonaire)

Pending:

- Milieudéfensie vs Shell (Supreme Court appeal)
- Greenpeace vs ING

ESG Litigation NL (Overview)



Greenpeace v. Dutch State – Bonaire case (ECLI:NL:RBDHA:2026:1344)



The Hague District Court sides with Greenpeace

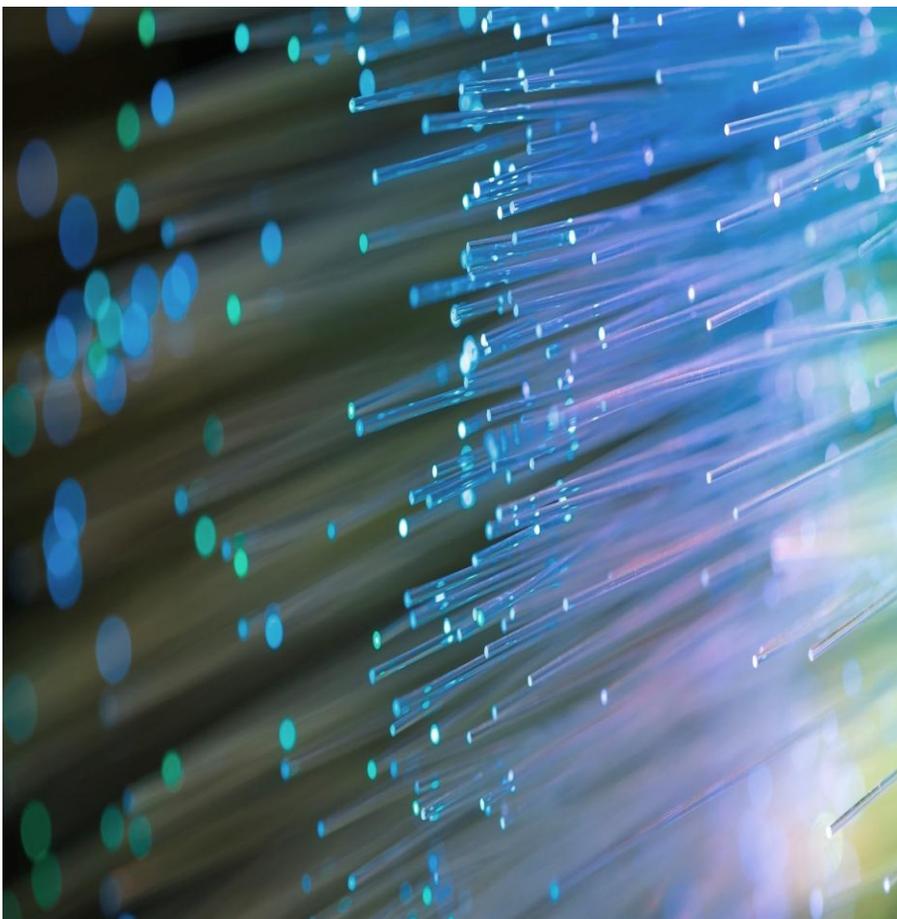
The Dutch State violated the ECHR and thus acted unlawfully towards the residents of Bonaire.

The court ordered the State to take binding and appropriate measures to reduce CO2 emissions and to implement substantial protective measures against climate-related risks.

Complementary to Urgenda and Nitrogen cases

Climate risks meets emissions but also biodiversity

Milieudefensie v. Shell (Supreme Court appeal)



The Hague District Court sided with Milieudefensie (2021)

Shell was ordered: “(...) to limit or cause to be limited the aggregate annual volume of all CO2 emissions into the atmosphere (Scope 1, 2 and 3) due to the business operations and sold energy-carrying products of the Shell group to such an extent that this volume will have reduced by at least net 45% at end 2030, relative to 2019 levels”

The Hague Court of Appeal rejects claims of Milieudefensie

Scope 1 & 2: Shell is on track with reducing its emissions – no impending violation of a legal obligation

Scope 3: No legal obligation for Shell to reduce Scope 3 emissions by general standard of 45%

Obiter dictum: Milieudefensie has no legal interest in its Scope 3 emissions reduction claim – were Shell to stop selling, other parties would step into the void

Supreme Court judgment – expected in 2026

Greenpeace vs ING



Greenpeace summoned ING (Feb 2025)

Claim – ING does not take any responsibility as to which companies and project are financed.

- High level of Scope 1, 2 and 3 of ING / clients
- No (realistic) reduction goals
- Urgent need to reduce emissions

Reasoning comparable to Shell cases

District court judgment expected 2026 / 2027

UK

- Judicial review continues to be primary legal mechanism to challenge government decisions
- July 2025, ECHR case filed by Friends of the Earth arguing UK climate adaption plan fails to protect vulnerable people and violates human rights.
- On 9 December 2025, a group of over 100 survivors of Typhoon Odette in the Philippines have filed a lawsuit against oil co, seeking compensation for severe losses including property damage, personal injury and psychological trauma.



How climate activism is still leading to litigation – Italy



The “GIUDIZIO UNIVERSALE”

- **Legal action (4 June 2021):** Over 200 plaintiffs – associations, citizens and parents on behalf of minors – have brought legal proceedings against the Italian State (Prime Minister) before the Civil Court of Rome.
- **Claims of the plaintiffs:** Invoking the non-contractual liability of the State pursuant to Articles 2043 and 2051 of the Civil Code, alleging the lack of compliance of the national climate policies, the Paris Agreement and any other relevant regulation. Alleged violation of constitutional rights: Articles 2, 3, 9, 32 and 117 of the Constitution, as well as the ECHR, the Paris Agreement and the UN Convention on Climate Change.
- **Decision of the Court of Rome :** 1st instance (judgment no. 3552/2024, 26 February 2024) Appeal rejected due to *absolute lack of jurisdiction*. The decision was described by many as a “backward” choice.

Current stage:

The Court of Appeal has set the hearing for a decision on **21 October 2026**.

How climate activism is still leading to litigation – Italy



#LaGiustaCausa

“LA GIUSTA CAUSA”

Greenpeace and others v. ENI S.p.A. and others

- **Legal action (2023):** Case brought by Greenpeace, ReCommon and 12 citizens against ENI S.p.A. and the Ministry of Economy and Finance.
- **Plaintiff's claims:** Request for a finding of ENI's non-contractual liability pursuant to Article 2043 of the Italian Civil Code and, alternatively, pursuant to Articles 2050 and 2051 of the Italian Civil Code. Request for an injunction to amend the business plan to make it compliant with the Paris Agreement' goals.
- **Exception of jurisdiction of the defendants:** ENI and MEF objected to the lack of jurisdiction, similar to the Giudizio Universale case.

Decision of the Court of Cassation:

United Sections (order no. 20381/2025): The Court rejected the exception, declaring the jurisdiction of the ordinary court. → The case can therefore proceed on its merits.



Section 03

**What other elements
of the ESG agenda
are leading to
regulatory actions
or litigation?**

03

UK

- The ASA continues to tighten oversight of environmental claims, scrutinising the use of terms like “eco” and “sustainable” when not backed by satisfactory product-lifecycle evidence.
- The High Court’s decision in *Municipio de Mariana v BHP*, delivered late last year, was a significant further development of potential parent company liability for overseas environmental and human harm.
- Liability risk extends beyond environmental harm, e.g. litigation against Dyson brought by migrant workers being heard by English courts.



Some recent greenwashing decisions



Armani case – AGCM Sanction €3,5M (2025)

- The AGCM sanctioned Giorgio Armani S.p.A. and G.A. Operations S.p.A. for ethical and social responsibility statements that were untrue or insufficiently clear and specific
- “*Communications on workers’ protection and healthcare were not consistent with actual operating conditions.*”
- Qualified as a misleading commercial practice under the Consumer Code (period: April 2022 – February 2025).

ESG TAKEWAY:

 G (Governance);  S (Social)



GLS Case – Sanction AGCM €8M (2025)

- The AGCM contested the GLS group's use of environmental claims related to the “*Climate Protect*” project, which were deemed inaccurate, and unverifiable.
- The communications did not clarify the difference between emissions reduction and offsetting, suggesting environmental benefits (“*green appeal*”) that were not real.
- Some messages were based on offsetting certifications that had not yet been obtained and on incomplete or incorrect data.

ESG TAKEWAY:

 E (Environment);  G (Governance);  S (Social);

Some recent greenwashing decisions



XEV YOYO / Microlino Case – AGCM (2024)

The AGCM requested the removal of generic green claims without any indication of the product life cycle stage to which they referred (“100% sustainable,” “Zero emissions,” “100% green”), which were considered misleading.

The communications did not specify which stage of the product life cycle they referred to (battery production, energy use, disposal, etc.).

ESG TAKEWAY:

 E (Environment);  G (Governance);  S (Social)



Shein Case – Sanzione AGCM €1M (2026)

- The AGCM sanctioned Infinite Styles Services (Shein) for misleading and incomplete green claims in the #SHEINTHEKNOW, #evoluSHEIN, and #SocialResponsibility sections of the website.
- The communications lead consumers to believe that the garments were completely eco-friendly or recyclable, which was not true given the materials used and existing recycling systems.
- Climate commitments (–25% emissions by 2030, net-zero by 2050) were presented in a generic manner and contradicted by the increase in emissions in 2023–2024.
- The Authority emphasizes a greater duty of care for Shein, operating in the fast/super-fast fashion sector, which has a high environmental impact.

ESG TAKEWAY:

 E (Environment);  G (Governance);  S (Social)

04

Section 04

What are the key risks and exposures for corporations, directors, and their insurers?

Key risks

1

Complex playing field for companies and directors

2

Adjustment climate goals by (European and national) legislators

3

Much activity and activism in court

4

Insurers – possible exposure under D&O, PI, property and product liability policies



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