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TotalEnergies Sues Greenpeace Over Greenwashing Allegations

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On April 28, 2023, French multi-national energy company TotalEnergies filed a civil action in France against environmental activist group Greenpeace France and climate consulting group Factor-X alleging that a report issued by the organizations, which claimed that the company underreported its 2019 greenhouse gas (GHG) emissions, is knowingly false and misleading. Total is seeking an order from the French court to compel Greenpeace to withdraw the report and remove all references to Total from its website and in communications. Total also has asked the court to impose a penalty of €2,000 on Greenpeace for each day the allegations remain published and award symbolic damages of €1.

Greenpeace's report was [published in November 2022](#) and claimed that the oil company underestimated its GHG emissions, placing them at 455 million tons in 2019 when it supposedly emitted nearly 1.64 billion tons. According to the report, Total's reported Scope 1 GHG emissions also were inaccurate by a factor of almost 300%, estimating the energy company's direct GHG emissions as 160 million tons, rather than the 55 million tons reported.

In response, Total disputed the climate activists' conclusions and described their methodology as "dubious," asserting that the report double-counted emissions. The company also highlighted, among other arguments, that Greenpeace attributed to Total more than 8% of globally estimated 19 billion tons of GHG emissions in 2019 from the oil and gas sector, which is disproportionate to the energy company's 1.5% and 2% market share.

Total argues that its emissions reporting in 2019 was aligned with industry-specific methodologies in compliance with the global [Greenhouse Gas Protocol](#). "To prevent double counting, this methodology is based on the highest volume of production or sales in the oil or

gas value chain. In addition to this, all TotalEnergies' emissions reports are reviewed by Ernst & Young." In its release, Total also provided an explanation of its Scope 1, 2 and 3 GHG emissions calculation and reporting methodology, and observed that it "was among the first to apply the recommendations of the Task Force on Climate-related Financial Disclosure."

In a response statement, Greenpeace declared the lawsuit a tactic to discourage criticism in advance of Total's May 26 annual meeting.

Taking the Temperature: Climate-related litigation is becoming part of the litigation and enforcement landscape in Europe and elsewhere, and Total itself has been involved in several actions. In December 2021, a number of French environmental activists commenced an action in France alleging greenwashing in connection with an advertising campaign "featuring wind turbines and renewable energy projects," which supposedly created a "misleading impression" regarding the company's [climate commitments](#) in light of its GHG emissions. The case was brought under the French national law implementing the European Union Unfair Commercial Practices Directive. In April, NGO Climate Action Germany [prevailed](#) in a consumer protection suit against Total, in which the Düsseldorf Regional Court ruled that the company must stop advertising its Thermoplus heating oil as "CO₂-compensated" and be specific about the carbon offset schemes the company is using to underpin its "carbon-neutral" claims. On the other side of the litigation ledger, Total [secured the dismissal](#) in February of a "Duty of Vigilance" case under the French Commercial Code brought by six French and Ugandan NGOs attempting to force the suspension of the company's pipeline project in Uganda and Tanzania.

We have frequently discussed the challenges confronting energy companies as they attempt to navigate a green transition characterized by the development of greater renewable energy supply while also operating at a time when energy from fossil fuels remains essential to supply global energy needs. Criticism has come from various quarters, including via [shareholder resolutions](#), [legal challenges filed by NGOs](#) or [suits against directors alleging a breach of fiduciary duties](#). We have also [previously observed](#) a global trend of accelerating filings of strategic climate litigation, particularly in Europe.