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Developments in ESG governance, disclosure, financial regulation and litigation

ESG Matters



In this February edition of ESG Matters, our Highlight discusses the judgment by the District Court of The Hague in the Bonaire climate case. Our Spotlight section provides updates on recent developments in ESG governance, disclosure, financial regulation, and litigation.

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Highlight: District Court orders Dutch State to take climate measures in Bonaire case

In a recent judgment, the District Court of The Hague ordered the Dutch State to set economy-wide absolute emission reduction targets within eighteen months, including intermediate reductions targets and pathways up to 2050. The Dutch State must also take climate adaptation measures for Bonaire. In this Highlight, we summarise the judgment and share the main takeaways.

Background of the case

NGO Greenpeace Netherlands brought a collective case (*WAMCA* proceedings) against the Dutch State on behalf of the residents of Bonaire, a Caribbean island and special municipality of the Netherlands. Greenpeace argued that the Dutch State is acting unlawfully because it does not take sufficient climate mitigation and adaptation measures to protect the residents of Bonaire.

Greenpeace asked the Court to order the Dutch State, among other things, to implement specific and binding emissions reduction targets and to significantly strengthen its climate adaptation measures for Bonaire. It based the claims on key principles of Dutch law (including the unwritten standard of care), human rights case law (e.g., *KlimaSeniorinnen*), and international public law (e.g., the ICJ Advisory Opinion).

Climate mitigation

The first key question for the Court is whether the Dutch State's climate policy complies with its human rights and international law obligations, including under the Paris Agreement. The Court assesses whether the State's climate policy constitutes an equitable contribution to limiting global warming to 1.5°C under its UN climate obligations, focusing on the Dutch and European reduction targets and implementation measures. In its assessment, the Court relies on the *Klimaseniorinnen* framework (see our [previous article](#)).

The Court finds that the Dutch and European climate targets appear similar to the UN standards at first sight, but in fact use different parameters. For example, the Dutch Climate Act merely strives to achieve a certain reduction by 2030, while not setting a binding reduction target, such as contained in the EU Climate Act. The Dutch Climate Act does not contain the interim economy-wide reduction targets as required by the Paris Agreement. Furthermore, the Dutch and European reduction targets use 1990 as the reference year, while the UN standards refer to 2019. The Dutch State could not demonstrate during the proceedings that the Dutch and European reduction standards meet the minimum standards agreed at UN level.

Regarding implementation measures, the Dutch State and Greenpeace agree that it is 'highly unlikely' that the Dutch State's current implementation measures will be capable of achieving its climate target for 2030. As the ambition level of this target was already found to breach UN standards, achieving net zero in 2050 will also become increasingly difficult. Additionally, the Dutch State failed to set the required interim climate targets between 2030 and 2050, and failed to quantify its carbon budget for limiting global warming to 1.5°C.

The Court therefore concludes that current and past Dutch legislation on climate mitigation fails to meet the minimum standards as agreed within the UN context on important points.

Climate adaptation

The second key question for the Court is whether the Dutch State has taken sufficiently timely and appropriate measures to protect the residents of Bonaire from the effects of climate change.

The Court concludes that the State's climate adaptation efforts on Bonaire were initiated much later and in a far less coordinated manner than in the European part of the Netherlands. This occurred even though it has long been scientifically established that Bonaire faces heightened climate-related risks and that local institutions have limited resources to manage these challenges. In short, the Court finds that the Dutch State has in the past failed to sufficiently and timely fulfil its duty of care to take appropriate climate adaptation for Bonaire and its residents to climate change. For the future, the Court rules that it is still possible that the relevant adaptation targets of the UN and Paris Agreement will be met.

The Court additionally finds that the Dutch State has treated the residents of Bonaire differently compared to the European part of the Netherlands, without adequate justification. More specifically, the State does not have a climate adaptation plan in place for Bonaire, while an adaptation plan for the European part of the Netherlands has been in place since 2016. This leads to a violation of Article 14 of the European Charter of Human Rights (ECHR).

In relation to informing the public and public participation, the Court rules that the State failed to fulfil its obligations towards the residents of Bonaire up to 2023. After 2023, the State seems well on its way to fulfil its obligations in this regard.

Role of the court: judicial oversight on climate action

The Court states that it can and must rule on whether the Dutch State is taking sufficient climate measures to comply with the human rights obligations of the ECHR, while exercising some restraint and not interfering with the tasks of the legislator and government. If there is a serious (imminent) violation of human rights and it is sufficiently clear what needs to be done to avert that violation, the Court may issue a judicial order. Based on *Klimaseniorinnen*, States have a reduced margin of appreciation regarding the need to take measures to reduce emissions. They have broad discretion as to what exact measures to implement. Such measures must however be suitable for achieving the targets and must actually be implemented.

Court orders Dutch State to strengthen climate policies

In view of the above, the Court ruled that the Dutch State has failed to fulfil its human rights obligations towards the residents of Bonaire, thereby also committing an unlawful act under Dutch civil law. The Court ordered the Dutch State, within eighteen months, to incorporate absolute emission reduction targets for the entire economy into national legislation, including intermediate reduction targets and pathways for the period up to 2050. The Dutch State must also provide insight into the remaining emission allowance for the Netherlands. The Court does not prescribe specific reduction percentages or timelines, because this would cut across the Dutch State's discretionary power. This

contrasts with *Urgenda*, where the Dutch Supreme Court ordered the Dutch State to take measures to reduce its GHG emissions by at least 25% by 2020 (compared to 1990). The District State also orders the State to achieve UN climate adaptation targets for Bonaire by 2030.

What it means for you:

- The judgment of the District Court of The Hague is addressed to the Dutch State and therefore primarily impacts the Dutch State's obligations in relation to climate change. The Dutch State must set binding emissions reduction targets and pathways until 2050, provide insight in the carbon budget of the Netherlands, and take climate adaptation measures for Bonaire.
- Effects for corporates and financial institutions will mainly consist of new legislation that (indirectly) affects them. New rules and more concrete policies can impact current business models and may possibly lead to more certainty and new opportunities.

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Governance & transition

Dutch coalition presents coalition agreement

On 30 January, the Dutch coalition of political parties D66, CDA and VVD [presented](#) its coalition agreement for 2026-2030. Amongst other things, it sets out a climate and environmental agenda centred on maintaining existing national climate-law targets while adjusting several policy instruments. Key elements are:

- The coalition reaffirms the ambition of reducing net greenhouse-gas emissions by 90% by 2040 but will abolish the national CO₂ levy and intends to open Lelystad Airport for civil traffic. Civil aviation emissions for both Schiphol and Lelystad Airport in 2030 must fall below 2024 Schiphol levels.
- To address grid congestion, the coalition plans a Netcongestion Crisis Act to accelerate permitting and introduce tariff-based incentives. It will support industrial electrification through lower electricity costs, a new capacity market, an extension of SDE++ funding, and contracts for difference (CFDs) for 40 gigawatts (GW) of offshore wind.
- Continued investment in green hydrogen, CCS, and the development of at least four new nuclear reactors. Gas will still be extracted in the North Sea, but no new permits will be granted for extraction in the Wadden Sea.
- Binding nitrogen reduction targets for 2035 will be set for agriculture, industry and transport, supported by voluntary cessation schemes, a reinstated nitrogen fund and area-based planning around Natura2000 sites.
- A EUR 20 billion investment package for nitrogen, nature and agriculture. This includes investments for nature restoration, water quality and sustainable, innovative and more extensive farming systems.

OECD publishes self-assessment tools for responsible business conduct

On 28 January, the Organisation for Economic Co-operation and Development (OECD) published [Due Diligence Checkers](#), a set of free self-assessment tools designed to help companies evaluate the maturity of their responsible-business-conduct systems. The tools translate the due-diligence expectations of the OECD Guidelines for Multinational Enterprises into practical questionnaires that benchmark a firm's policies and processes against internationally recognised standards. The launch covers four versions, a cross-sectoral checker and sector-specific tools for minerals, garment and footwear, and agriculture, enabling companies across diverse industries to identify strengths, gaps and priority areas for improvement.

EP publishes briefing on Circular Economy Act

On 27 January, the European Parliament (EP) published a [briefing](#) on the forthcoming Circular Economy Act (CEA). The CEA will form a central pillar of the EU's Clean Industrial Deal and competitiveness agenda. The CEA aims to move the European Union (EU) further away from the linear 'take-make-use-dispose' model by strengthening material security, reducing environmental pressures, and bolstering economic resilience through greater use of secondary raw materials. It will harmonise environmental taxation and amend the Waste Framework, Landfill and Waste Electrical and Electronic Equipment Directives. The Commission is considering provisions to mandate recovery of valuable materials from waste streams, and to scale recycled-content demand through green public procurement. The CEA is scheduled for proposal in the third quarter of 2026.

EP adopts corrigendum to CSRD and CSDDD

On 26 January, the EP adopted a [corrigendum](#) to the Sustainability Omnibus I Directive amending the CSRD and the CSDDD. It contains textual corrections to the CSRD and CSDDD.

North Sea countries agree on cooperation for offshore wind development

On 26 January, nine North Sea countries [agreed](#) to deepen their cooperation on offshore wind by committing to develop 100 GW of jointly planned and financed wind projects by 2050. The joint 100 GW target forms part of the broader ambition to reach 300 GW of offshore wind capacity in the region by mid-century. To enable cross-border projects, energy ministers will explore new financing structures, including international contracts for difference and collective funding mechanisms with potential involvement of the European Investment Bank (EIB). The countries also intend to develop shared offshore infrastructure, and to improve predictability for the industry by coordinating tender schedules and promoting greater standardisation of technical components.

EC launches consultation on two ESG Ratings draft regulations

On 16 January, the European Commission (EC) launched a public consultation on two draft delegated regulations under the ESG Ratings Regulation. The [first draft regulation](#) provides the framework for supervisory fees charged by the European Securities and Markets Authority (ESMA) to ESG rating providers. The [second draft regulation](#) establishes procedural rules for ESMA to impose fines and periodic penalty payments on ESG rating providers. The consultations run until 13 February. The EC is expected to publish the final delegated acts in Q1 2026.

EP publishes briefing on EU ETS revision

On 16 January, the European Parliamentary (EP) Research Service released a [briefing](#) on the upcoming revision of the EU Emissions Trading System (EU ETS). The EC is expected to table its legislative proposals by July 2026. The revision will address key areas such as the role of carbon dioxide removals, potential expansion of the ETS to additional sectors and greenhouse gases not yet covered, new accounting rules for non-permanent carbon capture and utilisation, and carbon leakage risk management in sectors outside the scope of the Carbon Border Adjustment Mechanism (CBAM). The EC intends to update benchmark values for free allocation for the 2026–2030 trading period by Q1 2026. The current carbon leakage list, valid until 2030, will subsequently be revised. The ETS may be extended to include municipal waste incineration from 2028 and smaller installations below 20 MW from 2031. The review will also address the functioning of the Market Stability Reserve and the use of revenues generated from EU ETS allowance auctions.



PFAS limits under drinking water directive become fully applicable

On 12 January, the transitional period for PFAS monitoring under the [EU Drinking Water Directive](#) has ended. This means the harmonised EU limit fully applies. It establishes binding concentration thresholds of 0.10 µg/l for a sum of PFAS, covering the most hazardous substances listed in Annex III, and 0.50 µg/l for total PFAS, encompassing all PFAS. Water suppliers are required to systematically monitor PFAS concentrations and to take immediate remedial action if these limits are exceeded. They must also ensure that the public is promptly informed of any exceedances or corrective measures.

EC publishes guidance on Net-Zero Industry Act

On 7 January, the EC published [guidance](#) on the implementation of Article 28 of the Net-Zero Industry Act (Regulation (EU) 2024/1735). This guidance is intended to support public authorities in correctly applying the new rules when designing or updating support schemes that incentivise the purchase of net-zero technology final products by households, consumers and businesses. Article 28 introduces specific obligations for public authorities to ensure that such schemes contribute to strengthening Europe's net-zero technology manufacturing ecosystem. The EC clarifies, amongst others, the scope of these obligations, including which types of schemes fall within Article 28, how eligibility should be assessed, and what criteria should be used to evaluate the sustainability and resilience contribution of net-zero technology products.



Disclosure



Delegated Regulation simplifying Taxonomy Delegated Acts published in the Official Journal of the EU

On 8 January, Delegated Regulation (EU) 2026/73 amending the Taxonomy Disclosures, Climate, and Environmental Delegated Acts was [published](#) in the Official Journal of the EU. The publication followed the expiry of the extended scrutiny period of the EP and the Council. On 28 January, it entered into force. The amendments simplify the Taxonomy reporting templates as well as certain technical screening criteria (TSC) used to determine whether economic activities do no significant harm (DNSH) to the environmental objectives of the EU Taxonomy. The amendments apply retrospectively from 1 January 2026 so that they cover reporting as of FY 2026. For reporting on FY 2025, a transitional provision provides undertakings with flexibility in choosing between the previous and new regime. See also the EC's [draft FAQs](#).



Financial institutions & regulation

EBA launches public consultation on Guidelines for climate-related systemic risk buffers

On 29 January, the EBA launched a [public consultation](#) on amendments to its Guidelines on the systemic risk buffer (SyRB) in relation to climate risks. The amendments are based on Article 133 of the Capital Requirements Directive (CRD VI), which states that the systemic risk buffer may be used to address risks arising from climate change. The revised Guidelines introduce more granular sectoral and geographical classifications to better identify exposures subject to physical and transition climate risks. The public consultation runs until 30 April 2026.

DNB publishes investor handbook on making impact with investment decisions

On 27 January, De Nederlandsche Bank (DNB) [released](#) a handbook developed within the Dutch Platform for Sustainable Finance to support investors in systematically integrating impact considerations into their investment choices. It aims to enable investors to contribute to positive impact by outlining clear steps for identifying impact objectives, selecting appropriate indicators and integrating impact information into investment processes. It also highlights common pitfalls, such as inconsistent definitions and limited data availability, and offers examples of how investors can navigate these issues in practice. The handbook is intended to promote consistency and transparency in the way impact is considered across the Dutch financial sector.

AFM publishes ESG update on sustainability claims

On 27 January, the Dutch Authority for the Financial Markets (AFM) [published](#) its third ESG update on fair sustainability claims (also in [English](#)). While market participants use the [AFM Guidelines for Sustainability Claims](#), sustainability claims still need improvement. AFM signals four key areas for improvement:

- Ensure that sustainability claims are factually accurate and representative.
- Specify what a sustainability claim means for the market participant or the product.
- Ensure that substantiation is easy to find.
- Provide necessary explanations for claims on climate neutrality, ESG ratings and impact.

AFM sees marketing language clashing with clear and specific explanations, with substantiation often being difficult to find. Claims are phrased too broadly or presented without adequate explanation, increasing the risk of misleading impressions and greenwashing. Ambiguity remains common in claims concerning climate neutrality, ESG ratings and impact. The investigated market participants will use AFM's areas for improvement and re-examine their claims. Sustainability in the financial sector remains a strategic priority of the AFM and in 2026, the AFM will conduct another study into sustainability claims.

JBRC publishes recommendations on Pillar 3 ESG reporting

On 19 January, the Joint Bank Reporting Committee (JBRC, a joint initiative of the ECB, EBA, EC and the Single Resolution Board) [published recommendations](#) on the harmonisation of concepts and definitions in ESG Pillar 3 disclosures. They aim to promote greater semantic integration in ESG reporting across supervisory, resolution and statistical reporting frameworks, thereby reducing fragmentation and inconsistencies. They are intended to contribute to the finalisation of the Implementing Technical Standards (ITS) on ESG reporting, support the preparation of future ESG reporting requirements and facilitate the development of new ESG-related definitions.

ECB reports completion of 2024-2025 climate and nature plan

On 16 January, the ECB [announced](#) the successful completion of its [climate and nature plan 2024-2025](#). It confirms that climate- and nature-related risks have been effectively embedded into its day-to-day activities. Looking ahead, the ECB has identified three priority areas: supporting the transition to a green economy, strengthening the assessment of physical climate risks, and deepening the analysis of nature-related risks and ecosystem degradation.

DNB reports on progress on climate adaptation efforts in 2025

On 16 January, De Nederlandsche Bank (DNB) [published](#) an update from the Platform for Sustainable Finance's Climate Adaptation Working Group. It highlights the progress made in 2025 to strengthen the financial sector's resilience to physical climate risks. Continued progress on climate adaptation remains essential as physical risks intensify. The working group will maintain its focus in 2026 to refine methodologies, strengthen collaboration across the sector, and support institutions in embedding climate-resilience considerations more systematically into their strategies and risk frameworks.

ESMA publishes second thematic note on sustainability claims

On 14 January, ESMA published its [second thematic note](#) on sustainability-related claims, addressing how ESG integration and ESG exclusion strategies are communicated to investors. ESMA expects firms to specify, when they refer to ESG integration, whether ESG factors are binding, whether they trigger investment decisions, how they are incorporated into financial analysis and asset allocation, and whether they lead to meaningful differences from non-ESG portfolios. For ESG exclusions, firms are expected to disclose the actual exclusion criteria, the thresholds applied, whether these are based on materiality, and how much of the investment universe is removed in practice. Generic labels such as 'ESG-integrated', 'low-carbon' or 'advanced exclusions' are misleading if they are not supported by ambitious criteria, consistent application and a demonstrable impact on holdings. The note provides several do's and don'ts and practical examples.

ESAs publish Joint Guidelines on ESG stress testing

On 8 January, the European Supervisory Authorities (EBA, EIOPA and ESMA, jointly: ESAs) published their [Joint Guidelines](#) on the integration of ESG risks into their national supervisory stress testing. The Guidelines provide national banking and insurance supervisors with practical guidance on how to integrate ESG risks into supervisory stress tests, both within existing stress-testing frameworks and through complementary assessments of ESG risk impacts. They also set out expectations regarding the necessary organisational and governance arrangements. The Guidelines will be subject to a 'comply or explain' process by national competent authorities and are expected to be translated into all official EU languages in Q1 2026.



Litigation

German federal court orders Germany to revise federal climate action programme

On 29 January, the Federal Administrative Court in Leipzig [ruled](#) that the German federal government's Climate Action Programme 2023 must be supplemented because it does not ensure compliance with the legally binding target of at least 65% GHG emissions reduction by 2030 compared with 1990 levels. The Court confirmed that the programme is subject to judicial review and can be challenged by recognised environmental organisations. The judges upheld the findings of the Berlin-Brandenburg Higher Administrative Court that the government's projections of the emissions-reducing effect of its measures were flawed and that a gap of around 200 million tonnes of CO₂-equivalents remained for meeting the 2030 target. Although the government has wide discretion in choosing individual policy instruments, the Climate Action Programme must, as the central steering tool of German climate policy, contain all measures necessary to achieve the statutory target. Since the measures adopted so far are insufficient, the government must update and strengthen the programme considering current emissions trends.

Dutch district court orders Dutch State to take climate adaptation and mitigation measures

On 28 January, the District Court of The Hague [ruled](#) that the Dutch State has violated Articles 8 and 14 of the ECHR and Article 1 of the 12th Protocol of the ECHR by failing to adequately protect residents of Bonaire against climate change (see also the [English translation](#)). The Court found that despite long-standing evidence of Bonaire's acute vulnerability to rising temperatures, sea-level rise, and extreme weather, the State did not adopt timely climate adaptation measures for Bonaire. On climate mitigation, the Court found that the Dutch emissions reduction targets are inconsistent with international obligations and fail to comply with the ECHR. The court ordered the State to meet its climate adaptation obligations for Bonaire by 2030, and to introduce economy-wide binding climate targets until 2050 within 18 months. The court did not impose specific time-bound emissions reduction targets on the State.



Climate damages lawsuit filed against German companies

On 20 January, it was [announced](#) that on 22 December 2025, 39 Pakistani farmers filed a climate-damage lawsuit against German companies RWE and Heidelberg Materials at the Heidelberg Regional Court. They are seeking partial compensation for losses suffered during the severe floods that damaged their fields in August 2022. Plaintiffs build their case on German civil law and more specifically the legal approach established in *Lliuya v. RWE*. They argue that the company's management-level decisions resulted in CO₂ emissions that materially contributed to global warming and thereby to the extreme precipitation that allegedly caused damage to fields, soil quality, and agricultural infrastructure. The plaintiffs seek compensation for lost profits over two growing seasons and a judicial declaration establishing liability.

Questions?

If you have any questions or comments on a specific ESG topic, please contact our [Sustainable Business & Climate Change team](#). To receive ESG Matters, please [sign up](#).

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