

# CLIMATE LITIGATION

## IN BRAZIL

2024 REPORT

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# CLIMATE LITIGATION IN BRAZIL: 2024 REPORT

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## List of acronyms and abbreviations

<b>ACP</b>	Civil Public Action
<b>ADC</b>	Declaratory Action of Constitutionality
<b>ADI</b>	Direct Action of Unconstitutionality
<b>ADO</b>	Direct Action of Unconstitutionality by Omission
<b>ADPF</b>	Claim for Noncompliance with a Fundamental Precept
<b>ANP</b>	National Agency of Petroleum, Natural Gas and Biofuels
<b>APIB</b>	Articulation of Indigenous Peoples of Brazil
<b>APop</b>	Citizen Suit
<b>BNDES</b>	The Brazilian Development Bank
<b>BNDESPAR</b>	BNDES Participations PLC.
<b>Bulletin</b>	Brazilian Climate Litigation Bulletin
<b>CBios</b>	Decarbonisation Credits
<b>CF</b>	1988 Federal Constitution
<b>CNJ</b>	National Council of Justice
<b>CNPE</b>	National Energy Policy Council
<b>CONAMA</b>	National Environment Council
<b>DF</b>	Federal District
<b>EIA</b>	Environmental Impact Assessment
<b>GHG</b>	Greenhouse Gases
<b>IBAMA</b>	Brazilian Institute of Environment and Renewable Natural Resources
<b>ICMBio</b>	Chico Mendes Institute for Biodiversity Conservation



<b>JUMA</b>	Research Group on Law, Environment and Justice in the Anthropocene
<b>MCE</b>	Energy Compensation Mechanism
<b>MPE</b>	State Public Prosecutor's Office
<b>MPF</b>	Federal Public Prosecutor's Office
<b>MS</b>	Writ of Mandamus
<b>NDC</b>	Nationally Determined Contribution
<b>NIMA-Jur</b>	Coordination of Environmental Law of the Interdisciplinary Environmental Centre
<b>ILO</b>	International Labour Organisation
<b>P.</b>	Page
<b>PAP</b>	Autonomous Action for Early Production of Evidence
<b>PAE</b>	Agro-extractive Settlement Project
<b>Platform</b>	Brazilian Climate Litigation Platform
<b>PNMA</b>	National Environmental Policy
<b>PNMC</b>	National Climate Change Policy
<b>ProcedCom</b>	Common Procedure Action
<b>PUC-Rio</b>	Pontifical Catholic University of Rio de Janeiro
<b>RenovaBio</b>	National Biofuels Policy
<b>RESEX</b>	Extractivist Reserve
<b>SEEG</b>	Greenhouse Gas Emissions and Removals Estimation System
<b>STF</b>	Federal Supreme Court
<b>STJ</b>	Superior Court of Justice
<b>UNFCCC</b>	United Nations Framework Convention on Climate Change

## List of graphs

<b>Graph 1</b> - Number of climate cases filed per year.....	18
<b>Graph 2</b> - Cumulative history of climate cases in Brazil.....	18
<b>Graph 3</b> - Climate cases by type of action.....	21
<b>Graph 4</b> - Total occurrences by type of plaintiff in climate cases.....	23
<b>Graph 5</b> - Total occurrences by type of defendant in climate cases.....	25
<b>Graph 6</b> - Total occurrences by defendant in climate cases from 2019 to 2022.....	27
<b>Graph 7</b> - Classification of climate cases as systemic or routine.....	29
<b>Graph 8</b> - Total occurrences by type of measure addressed in climate cases.....	31
<b>Graph 9</b> - Total occurrences by GHG emission sector in climate cases.....	33
<b>Graph 10</b> - Total number of occurrences by biome in climate cases.....	34
<b>Graph 11</b> - Amazon biome: years of occurrences of climate cases mentioning the biome.....	35
<b>Graph 12</b> - Amazon biome: total occurrences by GHG emission sector.....	36
<b>Graph 13</b> - Total of climate cases by environmental and/or climate justice approach.....	38
<b>Graph 14</b> - Systemic cases: type of action.....	45
<b>Graph 15</b> - Routine cases: type of action.....	45
<b>Graph 16</b> - Systemic cases: total occurrences by type of plaintiff.....	48
<b>Graph 17</b> - Routine cases: total occurrences by type of plaintiff.....	48



<b>Graph 18</b> - Systemic cases: total occurrences by type of defendant.....	50
<b>Graph 19</b> - Routine cases: total occurrences by type of defendant.....	50
<b>Graph 20</b> - Systemic cases: total occurrences by type of measure addressed.....	52
<b>Graph 21</b> - Routine cases: total occurrences by type of measure addressed.....	52
<b>Graph 22</b> - Systemic cases: total occurrences by GHG emission sector.....	53
<b>Graph 23</b> - Routine cases: total occurrences by GHG emission sector.....	54
<b>Graph 24</b> - Environmental licencing cases: type of action.....	60
<b>Graph 25</b> - Environmental licencing cases: total occurrences by GHG emission sector.....	63
<b>Graph 26</b> - Environmental licencing cases: total occurrences by type of plaintiff.....	64
<b>Graph 27</b> - Environmental licencing cases: total occurrences by type of defendant.....	65
<b>Graph 28</b> - Environmental licencing cases: total occurrences by measure addressed.....	66
<b>Graph 29</b> - Environmental licencing cases: climate approach.....	67
<b>Graph 30</b> - Environmental licencing cases: environmental and/or climate justice approach.....	68
<b>Graph 31</b> - Civil liability cases: total occurrences by type of plaintiff.....	71
<b>Graph 32</b> - Civil liability cases: total occurrences by type of defendant.....	72
<b>Graph 33</b> - Civil liability cases: total occurrences by GHG emission sector.....	74

<b>Graph 34</b> - Civil liability cases: total occurrences by biome.....	75
<b>Graph 35</b> - Civil liability cases: climate approach.....	76
<b>Graph 36</b> - Civil liability cases: environmental and/or climate justice approach.....	77

### **List of maps**

<b>Map 1</b> - Climate cases by state of origin.....	22
<b>Map 2</b> - Systemic cases by state of origin.....	47
<b>Map 3</b> - Routine cases by state of origin.....	47
<b>Map 4</b> - Environmental licencing cases by state of origin.....	61
<b>Map 5</b> - Civil liability cases by state of origin.....	75

## Table of contents

<b>Executive summary</b> .....	2
<b>Introduction</b> .....	12
<b>1. Overview of Climate Litigation in Brazil</b> .....	16
1.1 Types of climate actions and their geographical distribution.....	20
1.2. Key actors involved.....	23
1.3. Case objectives.....	28
1.4. Climate litigation on the Amazon biome.....	34
1.5. Approaches to climate and environmental and/or climate justice.....	37
<b>2. Litigation strategies in Brazil: systemic and routine cases</b> .....	40
2.1. Comparison of the profile of systemic and routine cases.....	45
<b>3. Climate litigation in focus</b> .....	58
3.1. Cases of environmental licencing.....	59
3.2. Cases of civil liability for climate-environmental damage.....	70
<b>Conclusion</b> .....	83
<b>References</b> .....	87
<b>Appendix - List of the 80 cases registered on the Brazilian Climate Litigation Platform until March 2024</b> .....	91

## Executive summary

The results of the quantitative and qualitative analysis of 80 cases registered on the [Brazilian Climate Litigation Platform](#) (Platform) up until March 2024 are presented in the first edition of the report on climate litigation in Brazil. The report comprises an overview of climate litigation in the country and analyses the distribution and intersection of different categories according to a pre-established [methodology](#),<sup>1</sup> in order to classify climate actions into four groups: systemic cases,<sup>2</sup> routine cases,<sup>3</sup> cases on environmental licencing directly linked to the climate issue and cases on civil liability for climate-environmental damage.

Some conclusions from the study are outlined below, focusing on the main data analysed throughout the report.

### General conclusions:

- With 80 actions as of March 2024, Brazil is the jurisdiction in the Global South with the most reported cases and is the country in the world with the fourth highest number of climate cases (behind only the USA, Australia, and the United Kingdom);
- Of the 80 actions, the vast majority (64 cases) are ongoing and only 13 have been concluded and shelved. The remaining three cases are under seal;
- The main norm mobilised in Brazilian climate litigation is Article 225 of the Federal Constitution (mentioned in 74 cases), followed by the National Environmental Policy Act (PNMA)<sup>4</sup> (mentioned in 48 cases). These norms are followed by the National Climate Change Policy Act (PNMC) and general references to the Federal Constitution (each mentioned in 44 cases). The emphasis on norms that do not express-

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1 Available only in Portuguese.

2 Systemic cases are seen as those aimed at prompting changes to public and private policy, filed by organisations or institutions and involving complex, broad discussions.

3 Routine cases are those that address a specific act or venture.

4 Portuguese terms translated into English by the authors – acronyms maintained in the original Portuguese.



ly mention climate change demonstrates that climate litigation in the country is directly associated with advances in Brazilian environmental law;

- There are two main types of actions mobilised in climate litigation: the Civil Public Action (ACP)<sup>5</sup> (used in 50 cases) and a set of constitutional judicial review actions (ADPFs, ADIs, and ADOs,<sup>6</sup> which total 17 cases);
- The Federal District (DF) is still the main jurisdiction where lawsuits are filed (with 21 cases). The states of Pará (with ten cases) and Amazonas (with nine cases) now occupy second and third places, respectively;
- Since the last edition of the [Brazilian Climate Litigation Bulletin in 2023](#), cases were registered for the first time in Maranhão, Paraíba and Tocantins. This represents a geographical expansion and means that now there is at least one case in each state of the Legal Amazon region;
- The Public Prosecutor's Office is the main plaintiff responsible for filing climate actions (with ten cases filed by State Public Prosecutor's Offices and 12 by the Federal Public Prosecutor's Office, totalling 22 actions), followed by organised civil society groups (with 21 cases) and political parties (with 14 cases);
- The government is still the main defendant, with federative entities, government agencies, state officials and legislative branch among the actors that are sued most, with a total of 82 occurrences<sup>7</sup> on the

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5 A type of Brazilian class-action.

6 Claim for Noncompliance with a Fundamental Precept (ADPF), Direct Action of Unconstitutionality (ADI), and Direct Action for Unconstitutionality by Omission (ADO).

7 Some of the categories allow for the selection of more than one corresponding option, such as the identification of the type of plaintiff and defendant, the measures addressed and the greenhouse gas emission sector, among others. In these cases, the term "occurrences" is used to identify how many times the classification mentioned was applied in climate litigation as a whole, without necessarily corresponding to the number of cases included on the Platform. Conversely, there are categories in which the choice of one option necessarily entails the exclusion of the other, such as: the type of action, systemic or routine cases, the state of origin, among others.



defendant's side. However, the number of actions against companies has been growing in recent years (now totalling 31 cases), which may indicate a change in this profile;

- The number of occurrences for the classification of the type of defendant is much higher than the number of cases (131 occurrences in 80 cases), which indicates that it is common for climate litigation cases in Brazil to be filled against more than one type of defendant;
- In the vast majority of the actions, the plaintiff sought to achieve results that would contribute to the defense of the climate: there are 76 cases favourable to climate protection and only 4 cases against it;
- Mitigation is the main measure addressed (with 44 occurrences), followed by the growing demands for civil liability measures for climate damage (with 24 occurrences) and climate risk assessment (with 19 occurrences), the latter focusing on the instrument of environmental licencing;
- Adaptation is the least addressed measure, with occurrences in 12 cases. In 11 of these cases, at least one other measure is also mentioned;
- The total number of occurrences of measures addressed significantly exceeds the total number of cases (114 occurrences in 80 cases), indicating a tendency for litigation to demand more than one measure in the same case;
- Demands related to land use change and forestry come up in more than half of the actions (47 out of 80 cases), followed by the energy sector (mentioned in 25 cases);
- The Amazon has the highest number of occurrences in climate cases focused on a specific biome (34 cases), significantly more than any other biome;
- All climate cases that mention the Amazon address land use change and forestry, and are seldom associated with other greenhouse gas emission sectors;
- The main targets of climate cases concerning the Amazon are federative entities (15 occurrences), followed by companies (14 occur-



rences) and individuals (seven occurrences). There is a tendency for plaintiffs to hold private actors directly or indirectly accountable for deforestation, while public authorities are held responsible for omissions in their duty to monitor and safeguard the biome;

- Of the 80 actions, 45 address climate as the main issue or one of the main issues, while 35 address the topic contextually. Although substantial mentions of the climate issue still prevail, it is noteworthy that the last ten actions registered on the Platform address climate contextually (eight of which were proposed in 2023), indicating a possible profile shift;
- The majority of cases (44 out of 80 actions) do not address the issue of environmental and/or climate justice. There are 17 cases that mention the issue explicitly and 19 that mention it implicitly.

### **Conclusions regarding systemic and routine cases:**

- For the first time, the number of routine cases (43 cases) has surpassed the number of systemic cases (37 cases). The last ten cases included on the Platform were routine ones (eight of them filed in 2023), indicating a possible shift in the litigation profile;
- Among the 37 systemic cases, the vast majority (at least 30) challenge setbacks, such as the dismantling of the environmental and climate regulatory framework or failure, insufficiency, or ineptitude in the implementation of public policies;
- Between 2019 and 2022, during the Bolsonaro administration, 32 systemic cases were filed, representing more than one-third of all cases on the Platform, and the majority of those classified as systemic (37 cases in total);
- Routine cases address a variety of issues; of note are those related to environmental licencing and civil liability for climate-environmental damage, but there are also some cases that address the carbon market and other topics;
- In systemic cases, a variety of procedural instruments are employed. Individually, the Public Civil Action (ACP) is the most used type



for systemic cases (14 cases), but the combined total of constitutional actions (ADPF, ADI, and ADO) is higher (16 cases). In routine cases, there is a high number of ACPs (36 out of 43 cases);

- Systemic cases are mostly filed in the Federal District (20 out of 37 cases), while routine cases are spread across various jurisdictions, with the majority in Amazonian states. Pará (ten cases) and Amazonas (five cases) are the two main states with routine actions. The total number of routine cases in the states of the Legal Amazon region represents more than half of such cases (24 out of 43 cases);
- Political parties are the principal actors filing systemic cases (14 out of 37 cases). This is the only category with this profile, reflecting the list of entities authorised to file direct constitutional actions (concentrated constitutional review).<sup>8</sup> Furthermore, government agencies (such as IBAMA)<sup>9</sup> are the principal plaintiffs in routine cases (15 out of 43 cases). In both types of cases, organised civil society groups and the State and Federal Public Prosecutors' Offices are also significant plaintiffs;
- In systemic cases, public parties are particularly targeted and represent the four main types of defendant, with federative entities acting as defendants in over half of the actions (24 out of 37 cases), followed by state officials (12 cases), government agencies (11 cases), and the legislative branch (six cases);
- In routine cases, private parties stand out, with companies appearing as defendants in over half of these actions (27 out of 43 cases),

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8 “Constitutional judicial review in Brazil is hybrid, bringing together the American and the European models. In the Brazilian legal system, constitutional issues may be raised within a concrete lawsuit before a court (American diffuse-concrete system) or ‘in abstract’ before the Supreme Court (European concentrated abstract system). [...] Concentrated control (abstract) review, concerning conflicts between federal or state laws (or other normative acts) and the Federal Constitution, only happens before the STF [Federal Supreme Court] and is marked by abstraction, generality, and impersonality”. (MOREIRA, Danielle de Andrade et. al. Rights-based Climate Litigation in Brazil: An Assessment of Constitutional Cases before the Brazilian Supreme Court. *Journal of Human Rights Practice*, 2023, huad023, <https://doi.org/10.1093/jhuman/huad023>).

9 Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis (The Brazilian Institute of Environment and Renewable Natural Resources).





followed by individuals (16 cases). The numbers concerning public parties are also significant, particularly among federative entities (16 cases) and government agencies (12 cases);

- Mitigation is the measure adopted in the vast majority of systemic cases (24 out of 37 cases). In routine cases, mitigation also ranks first, but is tied with civil liability for climate damage (both mentioned in 20 out of 43 cases), followed by climate risk assessment cases (a measure mentioned in ten cases);

- Systemic and routine cases tend to address the same greenhouse gas emission sectors, albeit in different ways. In both types of cases, the primary sector mentioned is land use change and forestry which appears in more than half of the actions (in 20 out of 37 systemic cases and in 27 out of 43 routine cases), followed by the energy sector (mentioned in 13 out of 37 systemic cases and in 12 out of 43 routine cases);

- In systemic cases, the main regulation invoked is Article 225 of the Federal Constitution (cited in 36 out of 37 cases), followed by general references to the Federal Constitution (cited in 31 cases). This reflects the significant presence of constitutional arguments in these cases, many of which are direct constitutional actions (concentrated constitutional review);

- In routine cases, the main regulation invoked is also Article 225 of the Federal Constitution (cited in 38 out of 43 cases), followed by the National Environmental Policy Act (PNMA), cited in 29 cases. This indicates that these cases tend to follow strategies already established in Brazilian environmental litigation.

### **Conclusions regarding cases on environmental licencing:**

- There are 13 actions that address environmental licencing in direct connection with the consideration of the climate issue in the claims and/or cause of action;

- The vast majority of cases concerning environmental licencing are Public Civil Actions (ACPs) (11 out of 13 cases), with only one Citizen Suit (APop) and one Common Procedure Action (ProcedCom);



- There is a higher number of cases on environmental licencing in Rio Grande do Sul (six out of 13) due to the centrality on discussions concerning coal in the state;
- The vast majority of the cases (ten out of 13) involve the energy sector, followed by industrial processes (five cases). This is the only category with this profile concerning greenhouse gas emissions sectors, as these are cases related to the licencing of projects for the extraction and burning of fossil fuels for energy generation. It is also the only category where the land use change and forestry sector are not seen;
- Organised civil society groups are the main type of plaintiff in these cases (eight out of 13 cases), followed by the Public Prosecutor's Office, with the State Public Prosecutor's Office and the Federal Public Prosecutor's Office each responsible for two cases. This is the only category where civil society is the protagonist, with significantly more cases compared to other actors;
- The three types of defendants identified in these cases – government agencies, companies, and federative entities – feature in a similar number of actions, ten, nine, and eight respectively. It is noteworthy that in these cases, it is very common for more than one type of actor to be named as defendant in the same action, reflecting the nature of environmental licencing, which involves both public and private actors;
- All 13 cases support the need for the adoption of climate risk assessment measures, followed by mitigation measures (mentioned in seven of the cases). There are still no cases that include adaptation measures. This is a pertinent point that can – and should – also be evaluated within the scope of environmental licencing lawsuits;<sup>10</sup>
- In the vast majority of environmental licencing cases (ten out of 13), climate is one of the main issues. Climate was a contextual argument in only three cases. The climate issues usually come up in association

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<sup>10</sup> In light of the socioenvironmental tragedy that struck the state of Rio Grande do Sul in May 2024 (after this study had been completed), with unprecedented rain and floods, it is expected that lawsuits pertaining to measures for adaptation to extreme climate events will see a significant increase.



with other environmental impacts, such as air pollution, water related impacts, the participation of affected populations and consultation of indigenous peoples and traditional communities;

- The majority of cases (eight out of 13) make no mention of the concepts of environmental and/or climate justice. Three cases mention these themes implicitly and two explicitly, indicating that the approach to these concepts in climate-related environmental licencing cases is still in the early stages;
- All the cases mention Article 225 of the Federal Constitution and almost all (12 of the 13 cases) mention the National Environmental Policy Act (PNMA). Environmental licencing regulations are frequently cited (such as the CONAMA<sup>11</sup> Resolution 1/1986 which is cited in nine cases and the CONAMA 237/1997 which is cited in eight cases). Climate regulations are also cited: such as the National Climate Change Policy Act (PNMC) which is mentioned in 11 cases and the Paris Agreement which is cited in six cases.

### **Conclusions regarding cases on civil liability for climate-environmental damage:**

- There are 24 cases that invoke civil liability for climate-environmental damage, considering its reparatory and/or preventive dimensions;
- Although some of these actions (11 cases) explicitly claim climate damages, there are cases where the climatic element of the environmental damage is not explored in detail, even though demonstration of the damage is based on issues related to greenhouse gas emissions and climate change;
- Government agencies are the main type of plaintiff (14 out of 24 actions), followed by the Federal Public Prosecutor's Office and the State Public Prosecutor's Office (responsible respectively for four and three actions);
- Most of the defendants are companies and individuals (15 and 8 cases, respectively). In a minority of cases, federative entities and government agencies act as defendants (five actions each);

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<sup>11</sup> Conselho Nacional do Meio Ambiente (National Environmental Council).



- The main sector under scrutiny is land use change and forestry, addressed in the vast majority of cases (19 out of 24). This is followed by some mention of the energy sector (five occurrences), agriculture (four occurrences), and industrial processes (two occurrences).
- The biome that is mentioned most is the Amazon (14 occurrences in 24 cases);
- The two states with the most cases are Pará (with five actions) and Amazonas (with four actions). The total number of cases filed in the states of the Legal Amazon region accounts for more than half of the cases (16 out of 24 cases);
- In most cases, the climate issue appears as the main or one of the main issues addressed (in 19 out of 24 cases), confirming the centrality of the climate dimension in the treatment of environmental damage;
- Almost half of these cases explicitly mention environmental and/or climate justice (11 out of 24 cases), followed by eight cases with no mention and five which mention it implicitly;
- The main regulations invoked are Article 225 of the Federal Constitution (cited in all 24 cases) and the National Environmental Policy Act (PNMA) (cited in 23 cases). Following these, climate regulations such as the National Climate Change Policy Act (PNMC) (cited in 11 cases) and the Paris Agreement (cited in seven cases) are also frequently mentioned;
- The 11 cases that specifically address climate damage and its assessment focus on combating illegal deforestation—particularly in the Amazon—and have been filed against both the deforesters themselves (direct polluters) and those responsible for other activities in the deforestation chain (indirect polluters).
- These actions encompass all the impacts that a single polluting activity has on the environment, including on the climate (direct climate damage). They take into account the multifaceted nature of environmental damage and the need for full reparation;



- The profile of Brazilian climate actions regarding civil liability for climate-environmental damage indicates that the starting point for development of this issue lies in the legislative and jurisprudential advances of environmental law in the country, integrating them with the specificities of climate change.



# Introduction



This first edition of the report on climate litigation in Brazil presents the results of the quantitative and qualitative analysis of 80 cases registered on the [Brazilian Climate Litigation Platform](#) until March 2024.<sup>1</sup> The Brazilian Climate Litigation Platform (Platform) was developed and is maintained by the research group on Law, Environment and Justice in the Anthropocene (JUMA), affiliated to the Coordination of Environmental Law of the Interdisciplinary Centre for the Environment (NIMA-Jur) at the Rio de Janeiro Pontifical Catholic University (PUC-Rio).<sup>2</sup> The Platform, launched in August 2022, is a database that gathers Brazilian cases classified as climate litigation based on a [methodology](#)<sup>3</sup> developed to this specific end.

To be included in the Platform, the case must have been filed with the Brazilian judiciary and be expressly related to climate. Two different approaches to climate change are considered: (i) cases in which it is the main or one of the main issues discussed, which may or may not be associated to other arguments; (ii) cases in which it is mentioned explicitly, but only as context for the matter being discussed.<sup>4</sup> The Platform is periodically updated to include new cases and new information about the progress of those already registered. New lawsuits added to the Platform are compiled through research<sup>5</sup> and collaboratively through networks and partnerships.

Based on the data gathered from the cases registered on the Platform and their classification, two editions of the Brazilian Climate Litigation

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1 The cut-off date of March 2024 reflects the time needed to put together graphs, carry out analyses and to write the text of this report, as well as its translation to English. As such, there may be a difference in the number of cases analysed here and the number of cases registered on the Platform at the time of publication. The list of 80 cases included in this analysis can be consulted in the Appendix of this document.

2 Information about JUMA/PUC-Rio is available on <https://www.juma.nima.puc-rio.br/en>. Accessed on: 19 Sept. 2024.

3 See MOREIRA, Danielle et al. **Plataforma de litigância climática no Brasil: metodologia para seleção e categorização de casos climáticos brasileiros**. São Paulo: Lucas Melara & Companhia, 2022. Available at: <https://www.juma.nima.puc-rio.br/metodologia> for the criteria for inclusion of a lawsuit in the Platform as well as the categories discussed throughout the report. Accessed on: 12 Sept. 2024.

4 The aim is not to have an exhaustive compilation of Brazilian lawsuits that superficially discuss the issue of climate change or merely mention it. Instead, priority is given to cases that are deemed relevant and that have the potential to contribute to advancing climate litigation in Brazil.

5 The JUMA team consults reports on the theme, academic and journalistic articles, the websites of courts and civil society organisations, social media and other sources.



Bulletin (Bulletin) were published in 2022 and 2023.<sup>6</sup> The main quantitative results were organised in these two editions and an initial qualitative analysis was provided on the data from the cases registered until the respective cut-off dates: August 2022 and September 2023. The Bulletin contains a brief explanation of each of the classifications outlined in the methodology along with a presentation of the corresponding results, including graphs, tables and images, thus allowing for an initial diagnosis of the development of climate litigation in the country and its specificities.

The objective of this report is to conduct a more in-depth and articulated analysis. To this end, based on an overview of climate litigation in the country, the distribution and intersection of different categories are analysed to classify climate actions into four groups: systemic cases, routine cases, cases on environmental licencing directly associated to the climate issue and cases on civil liability for climate-environmental damage.<sup>7</sup> The report also presents original analyses of the main norms mobilized in Brazilian climate litigation and includes boxes with brief presentations of cases that illustrate the themes under discussion.

The diverse profile of Brazilian climate cases makes it challenging to present a single overview of climate litigation in the country. For this reason, sections were established for the study of case groups with particular characteristics, allowing for the identification of their specific features.

To this end, the report is divided into three sections. The first presents a general overview of climate litigation in Brazil. The second is an analysis of litigation strategies in Brazil based on the profiles of systemic and

6 MOREIRA, Danielle de Andrade *et al.* **Boletim da Litigância Climática no Brasil 2022**. Rio de Janeiro: Grupo de Pesquisa em Direito Ambiente e Justiça no Antropoceno (JUMA/PUC-Rio), 2022. Available at: [https://www.juma.nima.puc-rio.br/\\_files/ugd/a8ae8a\\_91656c738e2447b3a97f-2030d717a7de.pdf](https://www.juma.nima.puc-rio.br/_files/ugd/a8ae8a_91656c738e2447b3a97f-2030d717a7de.pdf). Accessed on: 26 March. 2024 and MOREIRA, Danielle de Andrade *et al.* **Brazilian Climate Litigation Bulletin 2023**. Rio de Janeiro: research group on Law, Environment and Justice in the Anthropocene (JUMA/PUC-Rio); Tomaz Fotografia e Edição, 2024. Available at: [https://www.juma.nima.puc-rio.br/\\_files/ugd/a8ae8a\\_c23cbefde3ba42bdbe37d8650e727bd6.pdf](https://www.juma.nima.puc-rio.br/_files/ugd/a8ae8a_c23cbefde3ba42bdbe37d8650e727bd6.pdf). Accessed on: 16 Sept. 2024.

7 The expression climate-environmental damage is used to refer to the “climate dimension of environmental damage, in attention to article 14 of Resolution 433/2021 of the National Council of Justice (CNJ), which imposes the consideration of the impacts of environmental damage on global climate change”. MOREIRA, Danielle de Andrade; GONÇALVES, Victória Lourenço de Carvalho e; e SEGOVIA, Maria Eduarda. Aspectos conceituais e práticos da responsabilização civil por dano ambiental-climático no Brasil. **Revista de Direito Ambiental**. vol. 113. year 29. p. 341-377. São Paulo; Ed. RT, jan./mar. 2024, p. 344.





routine cases. The third section addresses specific themes of climate litigation, with one part dedicated to cases on environmental licencing directly associated to climate and another part to cases on civil liability for climate-environmental damage.



**1**

# **Overview of Climate Litigation in Brazil**



Based on the 80 cases registered on the Platform until March 2024, this section presents the profile of climate litigation in Brazil, with a special focus on analysing (i) the historical evolution of climate cases; (ii) the most used types of action and their geographical distribution; (iii) the main actors involved; (iv) the objectives pursued by these cases; (v) the profile of climate litigation on the Amazon biome; and (vi) approaches to climate and environmental and/or climate justice in these cases.

Climate litigation can be considered a worldwide phenomenon, although it is primarily concentrated in countries in the Global North, especially in the United States and Australia. Reports indicate a continuous increase in cases filed in the Global South<sup>8</sup> and this is particularly noticeable in Brazil. With 80 cases registered on the Platform by March 2024, Brazil is the jurisdiction in the Global South with the most reported cases and is also one of the countries in the world with the highest number of actions.<sup>9</sup>

Graphs 1 and 2 below show the number of cases filed in Brazilian courts by year and the accumulated number of cases over the years.

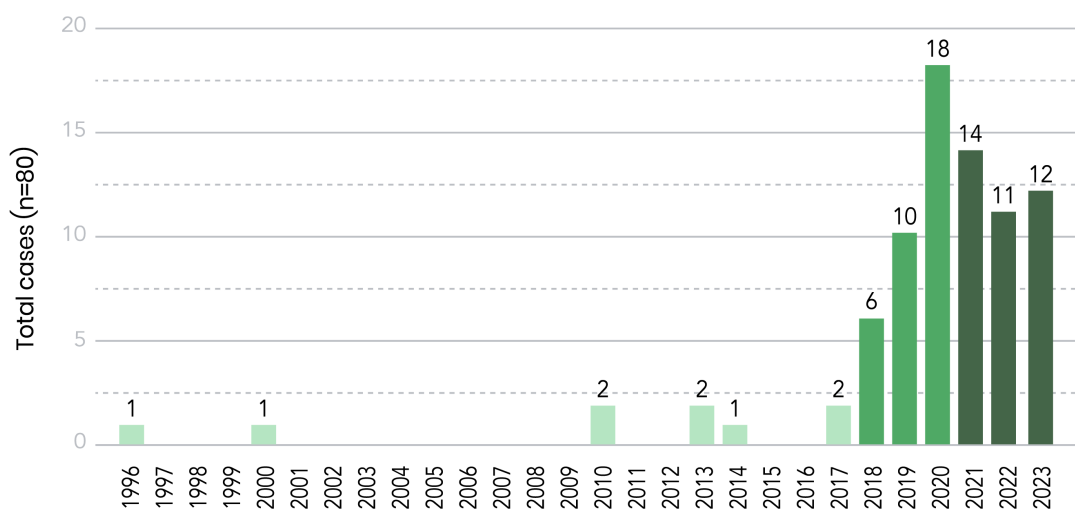
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8 See SETZER, Joana and HIGHAM, Catherine. **Global Trends in Climate Change Litigation: 2023 Snapshot**. London: Grantham Research Institute on Climate Change and the Environment and Centre for Climate Change Economics and Policy, London School of Economics and Political Science, 2023, p. 11-18. Available at: <https://www.lse.ac.uk/granthaminstitute/publication/global-trends-in-climate-change-litigation-2023-snapshot/>. Accessed on: 31 jul. 2023; and BURGER, Michael and TIGRE, Maria Antonia. **Global Climate Litigation Report: 2023 Status Review**. Sabin Center for Climate Change Law, Columbia Law School & United Nations Environment Programme, 2023, p. 6-21. Available at: [https://scholarship.law.columbia.edu/sabin\\_climate\\_change/202](https://scholarship.law.columbia.edu/sabin_climate_change/202). Accessed on: 08 dec. 2023.

9 According to information on the global database maintained by the Sabin Center for Climate Change Law, Brazil ranks behind only the United States, with 1,746 reported cases, Australia, 134 reported cases and the United Kingdom, with 117 reported cases. After Brazil, comes the European Union with 69 reported cases and Germany with 54 reported cases. Available at: <https://climate-casechart.com>. Accessed on: 17 April 2024.

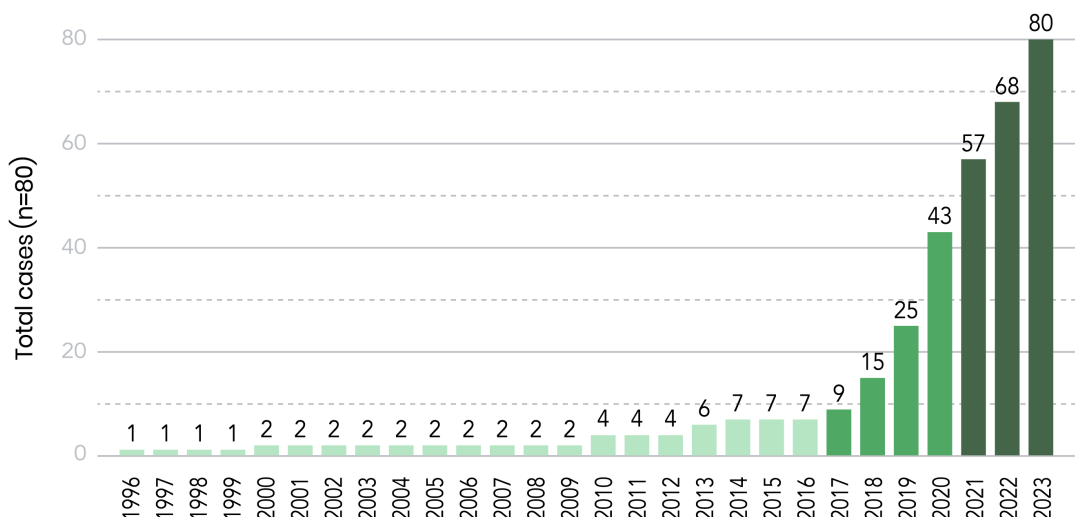


**Graph 1 - Number of climate cases filed per year.**



Source: compiled by the authors, 2024

**Graph 2 - Cumulative history of climate cases in Brazil.**



Source: compiled by the authors, 2024.

The timeline of the 80 cases registered on the Platform reveals a significant increase in climate litigation starting in 2019 and particularly in 2020. During the period from 2019 to 2022, 53 actions were filed, contributing to a sharp rise in the total number of climate cases. This increase can



be partly explained by the strengthening of the Brazilian climate litigation field, but also by the reaction of plaintiffs to the weakening of socio-environmental protection and governance, particularly at the federal level, during the period from 2019 to 2022.<sup>10</sup>

The current profile of growth in the field of climate litigation and climate-environmental<sup>11</sup> law in Brazil can be analysed from different perspectives. Furthermore, since most of the cases have not reached the stage of a final ruling, it is not yet possible to analyse the effectiveness of climate litigation as a tool for environmental and climate protection. Of the 80 actions registered on the Platform, the vast majority (64 cases) are ongoing, and only 13 have been concluded and archived. Three actions are under seal and it is not possible to map out their procedural stage. Therefore, the categories analysed in this and other sections focus on the themes, strategies, and actors involved in the still-developing field of climate litigation in Brazil.

Initially, it is worth noting the results of the mapping of the main norms mobilized by climate litigation cases in Brazil.<sup>12</sup> The main norm invoked by plaintiffs is Article 225 of the 1988 Federal Constitution (CF), which provides for the right to an ecologically balanced environment.<sup>13</sup> Until March 2024,

10 This is the period of President Jair Bolsonaro's administration of the federal government.

11 The expression climate-environmental law refers to the scientific specialization recognized for climate law, as a sub-discipline of environmental law. Thus, it is based on the premise that "climate matters are already included in Brazilian environmental legislation and, therefore, that the right to a stable climate is embedded in the fundamental human right to an ecologically balanced environment, expressly provided for in article 225 of the Brazilian Federal Constitution (CRFB/88). Thus, it is understood that the legal framework on environmental protection, which, among other rules, includes the National Environmental Policy - PNMA (Federal Law 6.938/1981), encompasses climate change, also considering the specific legislation on the issue of climate, in particular the National Climate Change Policy - PNMC (Federal Law 12.187/2009)". MOREIRA, Danielle de Andrade *et al.* **Sumário de fundamentos para a litigância climática no Brasil**: argumentos jurídicos para a inserção da variável climática no licenciamento ambiental. Rio de Janeiro: PUC-Rio, 2022. p. 11. Available at: <http://www.editora.puc-rio.br/cgi/cgilua.exe/sys/start.htm?infoid=1090&sid=3>. Accessed on: 26 mar. 2024.

12 The classification of the main norms mobilized is based on a pre-established list according to the relevance of the norms indicated for environmental and climate litigation in Brazil. The list is available in Portuguese at: Danielle *et al.* Plataforma de litigância climática no Brasil: metodologia para seleção e categorização de casos climáticos brasileiros.

13 Under the terms of the caput of article 225: "Everyone has the right to an ecologically balanced environment, which is an asset of common use and essential to a healthy quality of life, and both government and community shall have the duty to defend and preserve it for present and future generations."



Article 225 was mentioned in 74 cases, meaning that only six climate actions registered on the Platform did not rely on this constitutional protection in their arguments.

The second most frequently cited regulation is the National Environmental Policy (PNMA, Federal Law 6.938/1981), mentioned in 48 cases, followed by 44 references to the National Climate Change Policy (PNMC, Federal Law 12.187/2009), tied with 44 general references to the Federal Constitution.<sup>14</sup> The Paris Agreement (internalized by the Federal Decree 9.073/2017) is referenced in 36 cases and Article 170 of the Federal Constitution, which addresses the Brazilian economic order, appears in 32 cases.

The emphasis on Article 225 of the CF and the PNMA, which do not explicitly mention climate change, demonstrates that the development of Brazilian climate cases is directly associated with advancements in Brazilian environmental law.<sup>15</sup> The right to a stable climate is embedded in the right to a healthy environment, so climate litigation can and should leverage – and indeed is leveraging – the particularities of the country’s legal-environmental system. Next is an analysis of the general characteristics of climate litigation in Brazil based on the pre-established categories on the Platform.

## 1.1 Types of climate actions and their geographical distribution

With regard to the actions mobilized in climate litigation, two are the most frequent: the Civil Public Action (ACP),<sup>16</sup> which is part of the group of civil class actions in Brazil, and the set of actions of concentrated control

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14 A general mention of the Constitution is considered to have occurred when any of the articles not specified in the Platform’s prior selection of relevant norms are identified. The prior selection indicates Articles 5, 170, 225 and 231.

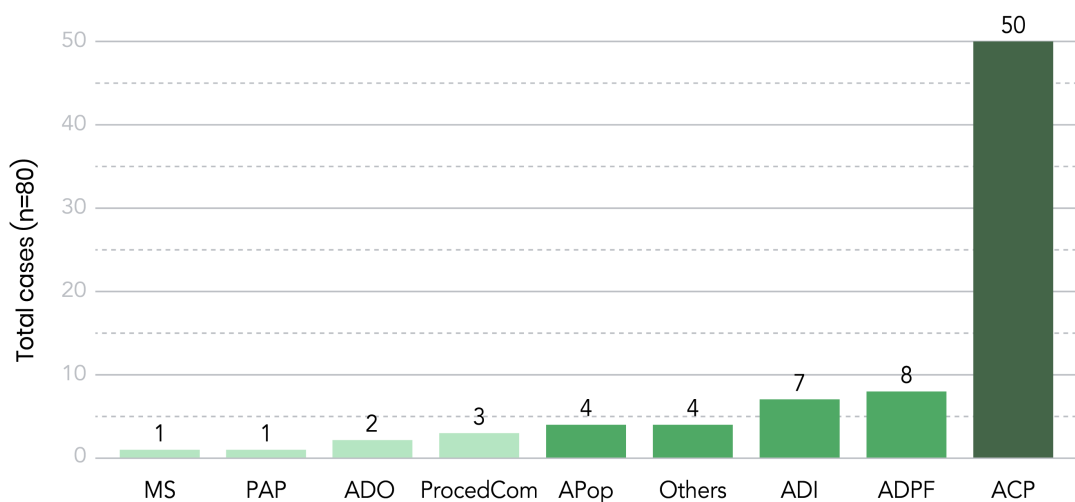
15 See MOREIRA, Danielle de Andrade *et al.* **Litigância climática no Brasil**: argumentos jurídicos para a inserção da variável climática no licenciamento ambiental. Rio de Janeiro: Editora PUC-Rio, 2021. E-book (Coleção Interseções. Série Estudos), p. 34-35. Available at: <http://www.editora.puc-rio.br/cgi/cgilua.exe/sys/start.htm?infoid=956&sid=3>. Accessed on: 23 mar. 2024.

16 The Civil Public Action is regulated by Federal Law 7.347/1985.



of constitutionality (constitutional judicial review),<sup>17</sup> comprising the Direct Action of Unconstitutionality (ADI), the Direct Action of Unconstitutionality by Omission (ADO), the Declaratory Action of Constitutionality (ADC), and the Claim for Noncompliance with a Fundamental Precept (ADPF).

**Graph 3 - Climate cases by type of action.**



Source: compiled by the authors, 2024

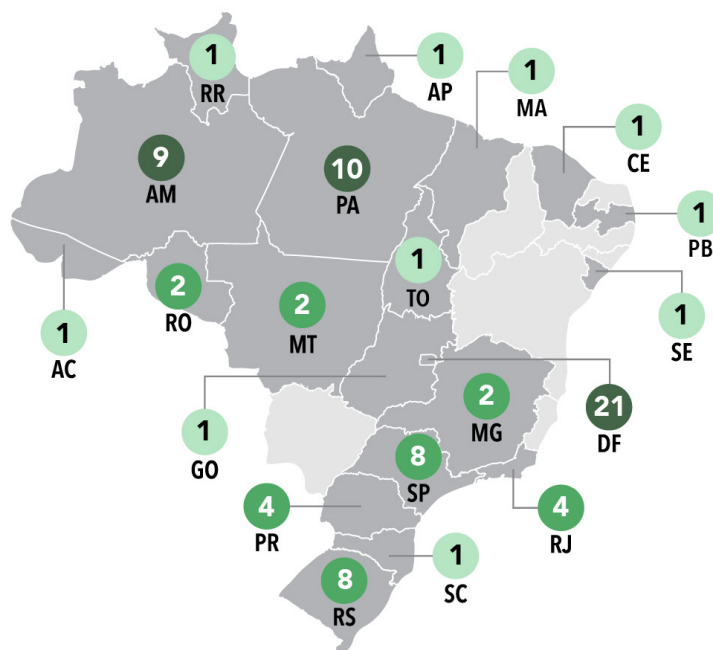
As shown in Graph 3 above, ACPs are used in 50 of the 80 climate cases registered on the Platform. This significant number of ACPs, representing 62.5% of the lawsuits, confirms their suitability for the protection of diffuse and collective rights and reflects the historical profile of Brazilian environmental litigation. Also noteworthy is the number of actions of concentrated control of constitutionality (ADPFs, ADIs, and ADOs), which together total 17 cases. The only action of concentrated control of constitutionality in the Brazilian system that has not yet been used for climate litigation is the ADC.

<sup>17</sup> Actions for the concentrated control of constitutionality are provided for in article 102 of the Federal Constitution.



It is also possible to analyse the geographical distribution of Brazilian climate litigation based on classification by the state of origin of the actions<sup>18</sup> (Map 1, below).

### Map 1 - Climate cases by state of origin.



Source: compiled by the authors, 2024

Given a litigation scenario also driven by actions for constitutional judicial review, the Federal District (DF) remains the main forum for filing climate cases, with 21 identified actions (15 of which are actions of concentrated control of constitutionality). The second and third positions are unprecedented in our analyses: ten cases in Pará and nine in Amazonas, highlighting climate litigation in the Northern region of the country. The states of São Paulo and Rio Grande do Sul, identified in earlier analysis<sup>19</sup> as the main jurisdictions after the DF, still have eight cases each.

Since the last edition of the Bulletin in 2023, cases have been registered in some states that previously had no identified actions: Maranhão,

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<sup>18</sup> The classification by state of origin considers the Brazilian state in which the case was filed. If the lawsuit was originally filed in a Federal Regional Court of Appeal, it is designated to the state where that court is based.

<sup>19</sup> MOREIRA, Danielle de Andrade *et al.* **Brazilian Climate Litigation Bulletin 2023**, p. 14 and 15; and MOREIRA, Danielle de Andrade *et al.* **Boletim da Litigância Climática no Brasil 2022**, p. 10–12.



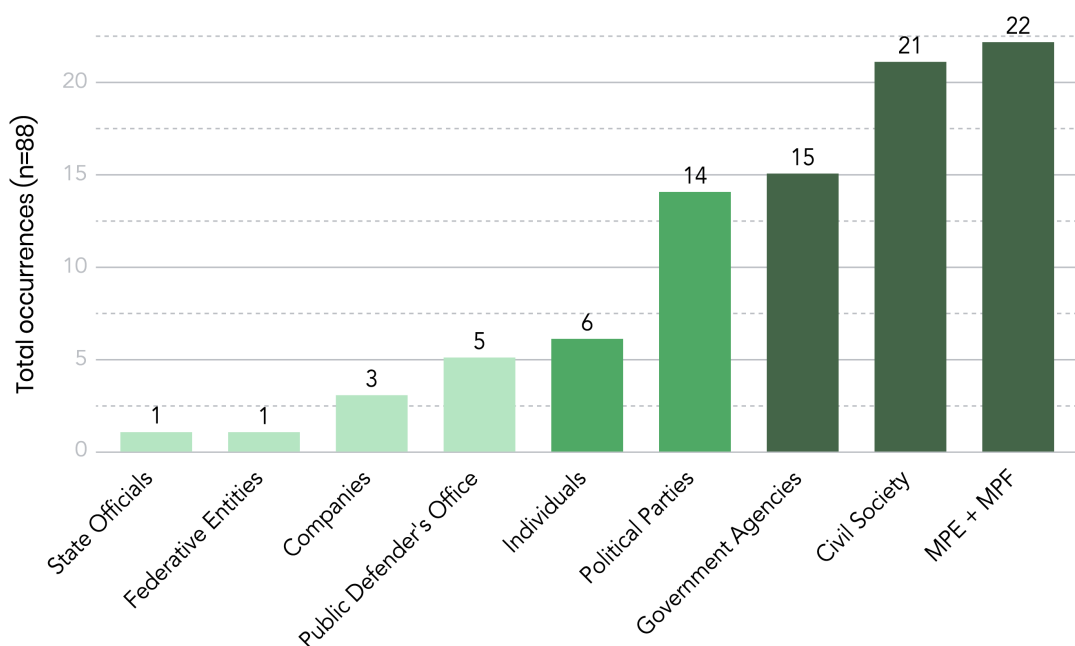


Paraíba, and Tocantins. This represents a geographical expansion of climate litigation and means that all states in the Legal Amazon region now have at least one case registered on the Platform. Some jurisdictions still have no registered climate actions until the cut-off date of this report, namely: Alagoas, Bahia, Espírito Santo, Mato Grosso do Sul, Pernambuco, Piauí, and Rio Grande do Norte.<sup>20</sup>

## 1.2. Key actors involved

Another possible approach to analysing the profile of climate litigation in Brazil is through the assessment of the main types of plaintiffs and defendants. An analysis of the distribution of the types of plaintiffs<sup>21</sup> in climate cases can be seen below (Graph 4).

**Graph 4 - Total occurrences by type of plaintiff in climate cases.**



Source: compiled by the authors, 2024

<sup>20</sup> As the inclusion of litigation in the Platform is not intended to be exhaustive, it is possible that there are cases from these states that have not been mapped for inclusion in the Platform.

<sup>21</sup> The classification by type of plaintiff accepts the selection of more than one type of actor per case, considering that the same lawsuit can have multiple plaintiffs. As a result, the cases can be counted in different categories, with 88 occurrences having been identified by March 2024.

The Public Prosecutor's Office, both Federal and State, were responsible for the filing the majority of cases that were included on the Platform until March 2024. Among the 80 cases, ten were proposed by State Public Prosecutor's Offices and 12 by the Federal Public Prosecutor's Office, so that this institution was responsible for a total of 22 occurrences. With a very narrow margin of difference, organised civil society is the second most frequent plaintiff, with 21 cases filed. In third place, with 14 occurrences, are political parties, due to their role in proposing actions of concentrated control of constitutionality. The Public Defender's Office appears as the plaintiff in five cases, representing a significant increase in its activity since the publication of the last Bulletin.<sup>22</sup> This is due to their filing of four actions challenging carbon credit projects.

### **Box 1: Carbon Market and "Green Grabbing" in Pará**

In July 2023, the Public Defender's Office of the State of Pará filed four cases related to the voluntary carbon market: (i) "Defensoria Pública do Estado do Pará vs. Brazil AGFOR LLC e outros (Projeto 2252 de créditos de carbono e "grilagem de carbono florestal)"; (ii) "Defensoria Pública do Estado do Pará vs. Associação dos Ribeirinhos e Moradores e outros (Projeto 2620 de créditos de carbono e "grilagem de carbono florestal)"; (iii) "Defensoria Pública do Estado do Pará vs. Floyd Promoção e Representação Ltda. e outros (Projeto 981 de créditos de carbono e "grilagem de carbono florestal)"; and (iv) "Defensoria Pública do Estado do Pará vs. RMDLT Property Group e outros (Projeto 997 de créditos de carbono e "grilagem de carbono florestal)".

This is a set of similar cases based on the argument that "green grabbing" is occurring through the appropriation by private entities of the results of forest protection carried out by traditional populations. These actions aim to investigate a number of carbon credit sold on the voluntary market as a result of this appropriation. The cases are still awaiting trial.

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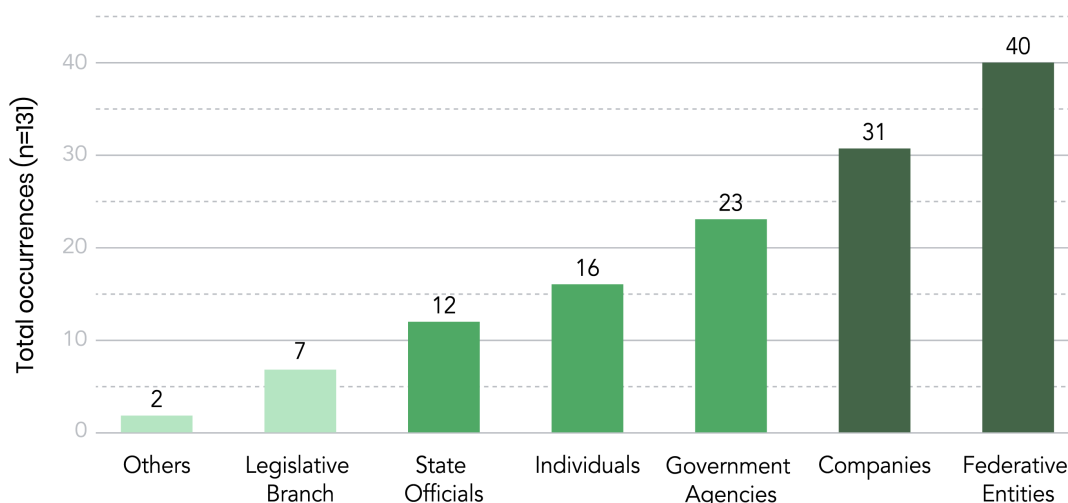
22 MOREIRA, Danielle de Andrade *et al.* **Brazilian Climate Litigation Bulletin 2023**, p. 10.



Although there is an increasing plurality of actors involved in climate litigation in Brazil, the data reveals the centrality of the Public Prosecutor’s Office and organised civil society in filling these cases. Civil society, aside from acting as plaintiffs, also figures in a number of cases as *amicus curiae*.<sup>23</sup> The *amicus curiae* institute allows certain actors to participate in lawsuits in which they have no legal standing, such as actions of concentrated control of constitutionality,<sup>24</sup> thus broadening the debate by allowing the participation of expert institutions with an interest in the topic.

The profile of defendants<sup>25</sup> in Brazilian climate litigation is also analysed to provide the other perspective (Graph 5).

**Graph 5 - Total occurrences by type of defendant in climate cases.**



Source: compiled by the authors, 2024

23 The Platform mapped the granting of *amicus curiae* requests in 14 cases, and there may have been more than one amicus in each case. No qualitative analysis was carried out on the content of each of these amici curiae’s statements.

24 On the importance of *amicus curiae*, especially in cases before the STF, see: MOREIRA, Danielle de Andrade; NINA, Ana Lucia B; GARRIDO, Carolina de Figueiredo; NEVES, Maria Eduarda Segovia. Rights-Based Climate Litigation in Brazil: An Assessment of Constitutional Cases Before the Brazilian Supreme Court. **Journal of Human Rights Practice**, 2023. Available at: <https://academic.oup.com/jhrp/advance-article/doi/10.1093/jhuman/huad023/7237274>. Accessed on: 8 jan. 2024 p. 10-11.

25 The classification by type of defendant allows for the selection of more than one category when the case is filed against several actors identified as being of different types.



Public authorities are still the main defendants in climate cases in Brazil. Federative entities, public administration bodies, state officials and the legislative branch are among the most frequently targeted actors, totalling 82 occurrences as defendants. However, the number of cases brought against companies has been increasing in recent years, which may indicate a change in the profile of Brazilian climate litigation. The last Bulletin highlighted that, until September 2023, out of the 70 cases registered on the Platform, 25 were filed against companies.<sup>26</sup> This number continues to grow and by March 2024, there were 31 occurrences of this type out of a total of 80. Among the ten new cases registered on the Platform between September 2023 and March 2024, six had companies as defendants.

Another interesting fact is that, for the first time, civil society is listed as a defendant in two of the cases.<sup>27</sup> Unlike the profile of the plaintiffs, the number of occurrences for the classification of the type of defendant is much higher than the number of cases (131 occurrences in 80 cases). This indicates that climate cases in Brazil commonly targets more than one type of defendant.

When looking at the time frame, it can be seen that climate cases were directed against public authorities (federal entities, public administration bodies and state officials) especially between 2020 and 2022, as shown in Graph 6 below.

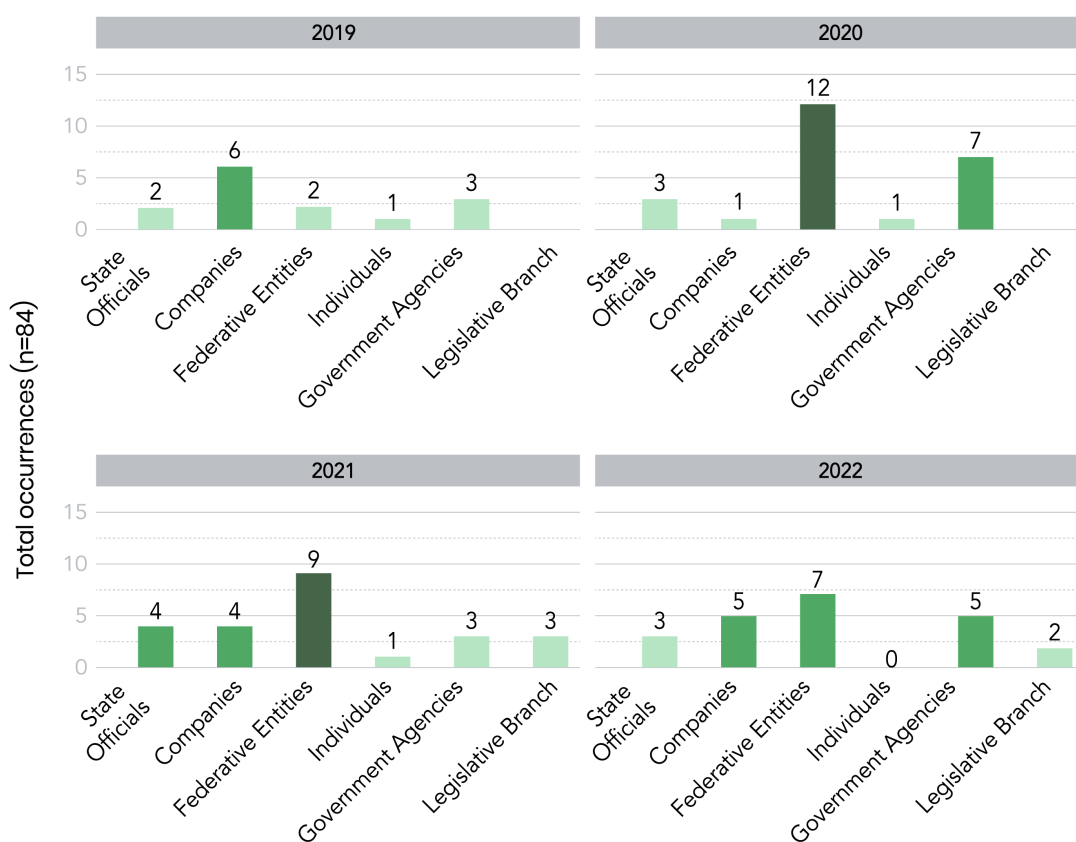
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26 MOREIRA, Danielle de Andrade *et al.* **Brazilian Climate Litigation Bulletin 2023**, p. 11.

27 The cases in which civil society has been named as one of the defendants (classified as “other” due to the Platform’s methodology) are: (i) “Defensoria Pública do Estado do Pará vs. Associação dos Ribeirinhos e Moradores e outros (Projeto 2620 de créditos de carbono e “grilagem de carbono florestal)””; and (ii) “Defensoria Pública do Estado do Pará vs. Brazil AGFOR LLC e outros (Projeto 2252 de créditos de carbono e “grilagem de carbono florestal)”” and are part of the set of cases analyzed in Box 1.



**Graph 6 - Total occurrences by defendant in climate cases from 2019 to 2022.**



Source: compiled by the authors, 2024

The period in which cases against public authorities are concentrated corresponds to the last three years of President Jair Bolsonaro's government (he was in office from 2019 to 2022). Studies show that from 2019 to 2022, the Federal Government adopted a series of measures that contradicted socio-environmental and climate protection and governance.

The government pursued an agenda that was starkly opposed to defending the environment.<sup>28 29 30</sup> This suggests the use of climate litigation as a tool to halt environmental and climate dismantling and rollbacks.

### 1.3. Case objectives

Brazilian climate cases can be analysed from the perspective of the plaintiffs' objectives in filing the action. One classification of the Platform divides the cases into systemic and routine. Systemic actions are those aimed at promoting changes in public or private policies, organisations, or institutions. While routine actions address a specific act or enterprise.<sup>31</sup> Of the 80 actions included on the Platform until March 2024, 37 were classified as systemic cases and 43 as routine cases (see Graph 7 below):

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28 During this period, there were “a series of legislative and public policy changes, considered to be a scenario of environmental regression”. TEIXEIRA, Isabella. A Audiência Pública no STF sobre o Fundo Clima. In.: BORGES, Caio; VASQUES, Pedro (orgs). **STF e as Mudanças Climáticas: contribuições para o debate sobre o Fundo Clima (ADPF 708)**. Rio de Janeiro: Telha, 2021, p. 37. The same period saw a series of violations of the rights of indigenous peoples and quilombolas, in a broader context of the dismantling of socio-environmental policies that triggered a series of lawsuits, especially of climate litigation. LOPES, Juliana Chermont Pessoa. **Justiça Climática nos tribunais: territórios e litigância climática brasileira**. Master's dissertation. Graduate Program in Law, Pontifical Catholic University of Rio de Janeiro. 2023, p. 75-79.

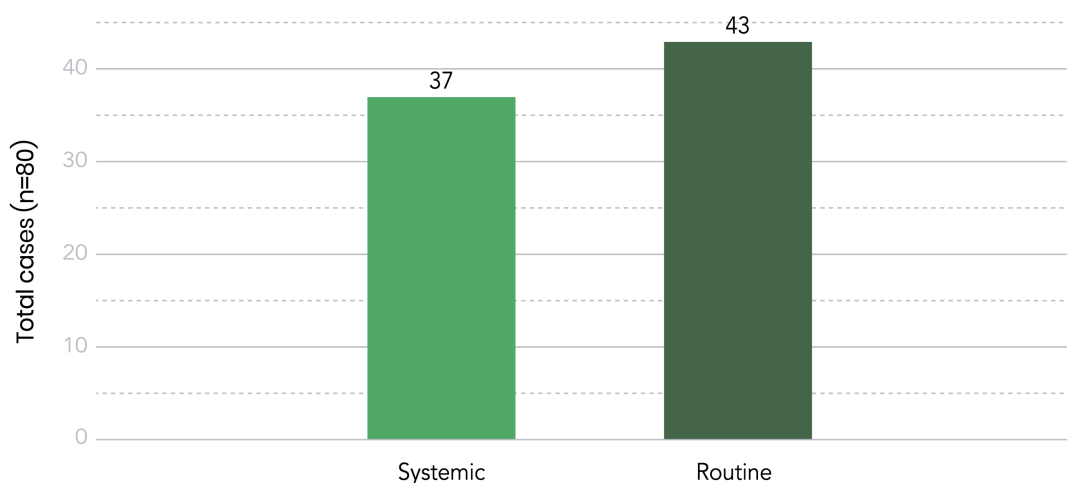
29 Julia Mello Neiva and Gabriel Mantelli also stress the “environmental and climate crisis in Brazil” that the Bolsonaro government created in: NEIVA, Julia Mello, MANTELLI, Gabriel. Existe uma abordagem brasileira para a litigância climática? A crise climática, a instabilidade política e as possibilidades de litígio no Brasil. In.: RODRIGUEZ-GARAVITO, César (org.). **Litigar a emergência climática: a mobilização cidadã perante os tribunais para enfrentar a crise ambiental e assegurar direitos básicos**. Rio de Janeiro: FGV Editora, 2022, p. 475-478.

30 On the socio-environmental setbacks of the period and their questioning, see also: MOREIRA, Danielle de Andrade; NINA, Ana Lucia B; GARRIDO, Carolina de Figueiredo; NEVES, Maria Eduarda Segovia. Rights-Based Climate Litigation in Brazil: An Assessment of Constitutional Cases Before the Brazilian Supreme Court. and TERRA DE DIREITOS. Schram, Franciele Petry. **“Boiada” de retrocessos ambientais do Governo Bolsonaro é denunciada na ONU**. Available at: <https://terradedireitos.org.br/noticias/noticias/boiada-de-retrocessos-ambientais-do-governo-bolsonaro-e-denunciada-na-onu/23415>. Accessed on: 01 April 2024.

31 Systemic cases are understood to promote more complex and far-reaching discussions, through which a judicial ruling has the potential to impact the functioning of a system or microsystem, such as government policies or the production and consumption chains of a large company with greenhouse gas (GHG) emissions, even if this is indirectly. While routine cases are those that discuss a specific act or enterprise and can be considered as standard models of litigation, using replicable strategies and arguments, especially from environmental litigation, to address and include the climate issue. Examples include cases that require the assessment of the climate variable within the scope of the environmental licencing of a specific project and cases



**Graph 7 - Classification of climate cases as systemic or routine.**



Source: compiled by the authors, 2024

For the first time since the 2022 edition of the Bulletin,<sup>32</sup> the number of routine cases has surpassed that of systemic cases. The last ten cases included on the Platform were classified as routine, of which eight were filed in 2023. This indicates a shift in the cases profile, now predominantly comprising actions focused on specific acts or enterprises. The next section of this report provides a more in-depth analysis based on the distinction between systemic and routine cases, identifying differences between their profiles.

The categories of the Platform also allow for an analysis of whether climate cases are in favour of or against climate protection.<sup>33</sup> In most of the actions registered on the Platform, the plaintiff sought to achieve outcomes that contribute to the defence of climate system stability: 76 cases were favourable to climate protection. However, since the first edition of the Bulletin,<sup>34</sup> four cases have been identified as unfavourable to climate protection. In these cases, the plaintiffs' requests are aimed for measures

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that seek reparation for damage associated with climate-related impacts. The classification of cases into these categories is mutually exclusive.

32 MOREIRA, Danielle de Andrade *et al.* Boletim da Litigância Climática no Brasil 2022, p. 22-23.

33 The classification of the alignment of demand with climate protection has two mutually exclusive categories: (i) favorable; or (ii) unfavorable.

34 MOREIRA, Danielle de Andrade *et al.* Boletim da Litigância Climática no Brasil 2022, p. 20-21.

that, if implemented, would contribute to climate deregulation and/or the delay in protective actions, contributing, albeit indirectly, to the worsening of the climate crisis scenario. This demonstrates that, in Brazil, sectors opposed to the regulation of greenhouse gas (GHG) emissions or climate change mitigation have only occasionally sought the courts to support their positions.

### **Box 2: Climate Litigation Unfavourable to Climate Protection**

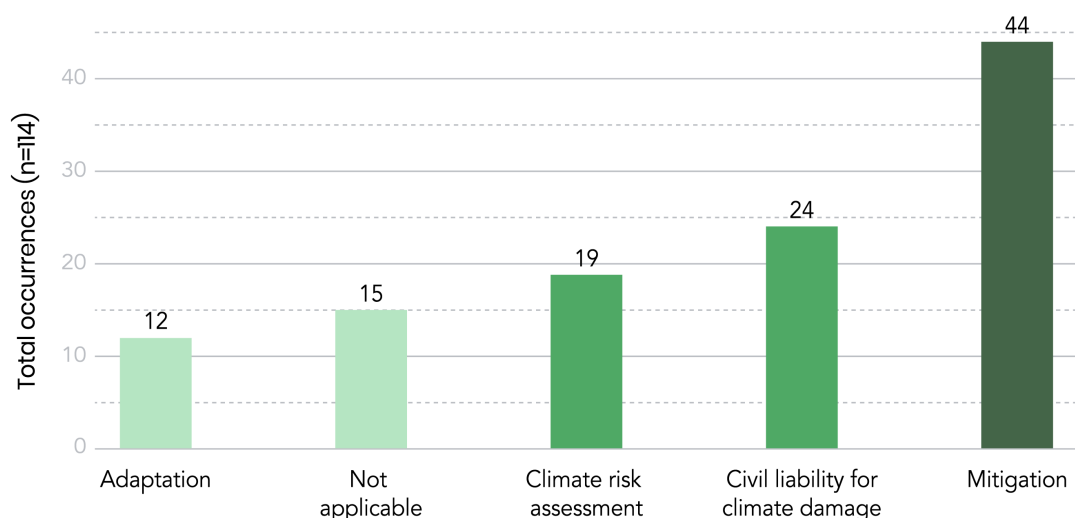
All the cases unfavourable to climate protection registered on the Platform challenge policies, administrative acts, and measures by public authorities related to GHG emission reduction programmes in the energy sector. The case “ABRAGET vs. Estado do Rio de Janeiro (Decreto estadual que institui o Mecanismo de Compensação Energética)” was filed in August 2013 and sought to challenge State Decree 41.318/2008, which established the Energy Compensation Mechanism (ECM) as part of the Greenhouse Gas Emission Reduction Plan. The decree imposes conditions for obtaining environmental licences aimed specifically at fossil fuel-based energy projects in the state of Rio de Janeiro. The plaintiff argued that the decree creates an excessive burden on the associated power plants and requests that it not be applied. This case has been concluded and archived, following rejection of the plaintiff’s request. It was understood that the questioned normative act contributes to the intergenerational maintenance of a healthy environment and should remain in force. The other three cases are “Flexpetro Distribuidora de Derivados de Petróleo Ltda. vs. ANP e União Federal (Aquisição de CBios)”, “Biostratum Distribuidora de Combustíveis S.A. vs. União Federal (Aquisição de CBios)” and “BRASILCOM vs. Ministro de Minas e Energia (Mandado de Segurança e CBios)”. All of them challenge administrative measures established under the National Biofuels Policy – RenovaBio (Federal Law 13.576/2017). The three cases were filed in November 2020 and question obligations related to meeting individual targets for the acquisition of Decarbonisation Credits (CBios) by fuel distribution companies, set by the National Agency of Petroleum, Natural Gas and Biofuels (ANP), or the annual decarbonisation targets for the fuel sector, set by the National Energy Policy Council (CNPE).





The measures addressed are another important indicator of the claims presented and discussed in Brazilian climate litigation,<sup>35</sup> which can include: mitigation, adaptation, civil liability for climate damage and climate risk assessment (Graph 8, below).

**Graph 8 - Total occurrences by type of measure addressed in climate cases.**



Source: compiled by the authors, 2024

Mitigation claims have been the main measure requested: they appear in more than half of the cases (with 44 occurrences in 80 cases). Two other notable points are the increasing claims for measures of civil liability for climate damage (with 24 occurrences) and climate risk assessment (with 19 occurrences),<sup>36</sup> the latter with prominence of cases dealing with environmental licensing. Due to their significance and importance, these groups of cases are analysed in the third and final section of this report. The total number of occurrences related to the measures addressed sig-

35 To be classified, the measures addressed must be relevant to the case. When more than one measure can be identified, all of them are listed. When no measure is addressed in the case as a relevant issue, this classification does not apply.

36 The “risk assessment” measure refers to the presence in cases of arguments or requests for the analysis and management of climate risks, which may require the consideration of these risks by states, in licensing or similar procedures, or by companies and financial institutions, in their reports and balance sheets, for example in potential cases related to misleading information or greenwashing.

nificantly exceeds the total number of cases registered on the Platform (114 occurrences in 80 cases), indicating a trend in Brazilian climate litigation cases to simultaneously request more than one measure.

Adaptation continues to be the least addressed measure (12 occurrences). Although this number is not entirely insignificant, it is important to note that in 11 of these cases, the mention of adaptation is accompanied by at least one other measure<sup>37</sup> (whether mitigation, civil liability for climate damage, or climate risk assessment), indicating that adaptation does not have a central role in these cases. It can be concluded that adaptation is still underexplored in climate litigation in Brazil.

Given the prominence of mitigation claims in climate litigation in Brazil, another relevant analysis is the correlation of litigation to specific sectors of GHG emissions. For this category, the following sectors are considered: agriculture, energy, land use change and forestry, industrial processes, and/or waste,<sup>38</sup> as shown in Graph 9 below.

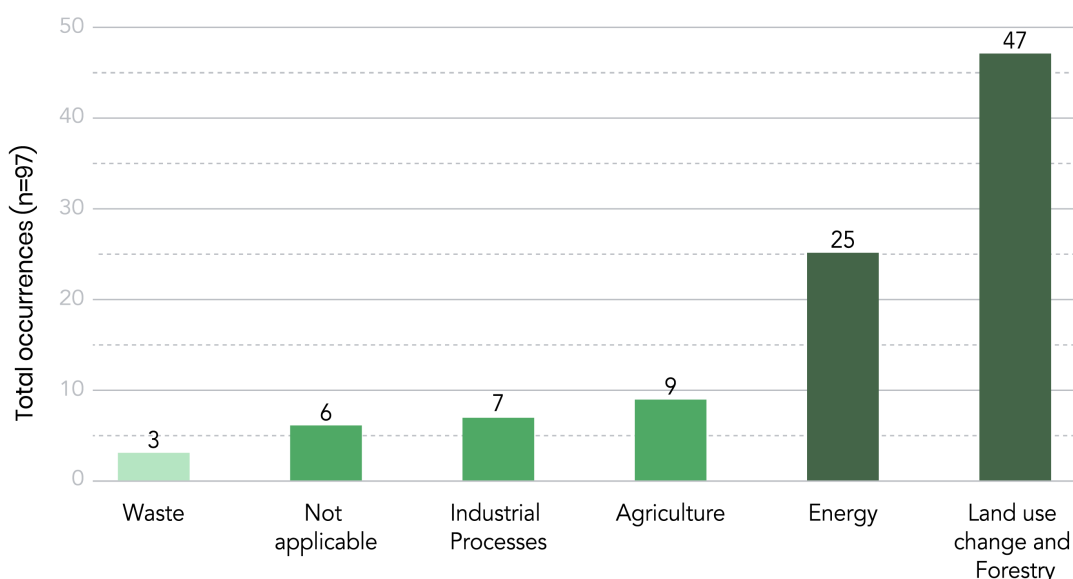
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37 The only case registered on the Platform that deals exclusively with climate adaptation measures is the “ONG Costa Legal e outros vs. Município de Florianópolis e outros (Governança ambiental para a Lagoa da Conceição)”.

38 The classification by GHG emissions contributing sector is based on the categories established by the Greenhouse Gas Emissions and Removals Estimation System (SEEG), available at: <https://seeg.eco.br> (Accessed on: 29 Mar. 2024). To be selected, the GHG emissions sector must be relevant to the case, either because the action expressly deals with its emissions or because the activities related to it are a relevant matter. When more than one sector can be identified, all of them are listed. When no sector is addressed in the case as a relevant issue, this classification does not apply.



**Graph 9 - Total occurrences by GHG emission sector in climate cases.**



Source: compiled by the authors, 2024

Issues related land use change and forestry are the primary targets of climate cases in Brazil, appearing in more than half of the lawsuits (47 of 80), whether combined with other emission sectors or not. Following this, 25 cases are related to the energy sector. It is evident that Brazilian climate cases are linked to the country's GHG emissions profile, which has land use change and forestry as its main source of emissions.<sup>39</sup> In other words, Brazilian climate litigation is being used as a tool to oppose the sector that most significantly contributes to the worsening of the climate crisis, with particular emphasis on the Amazon biome, as analysed next.

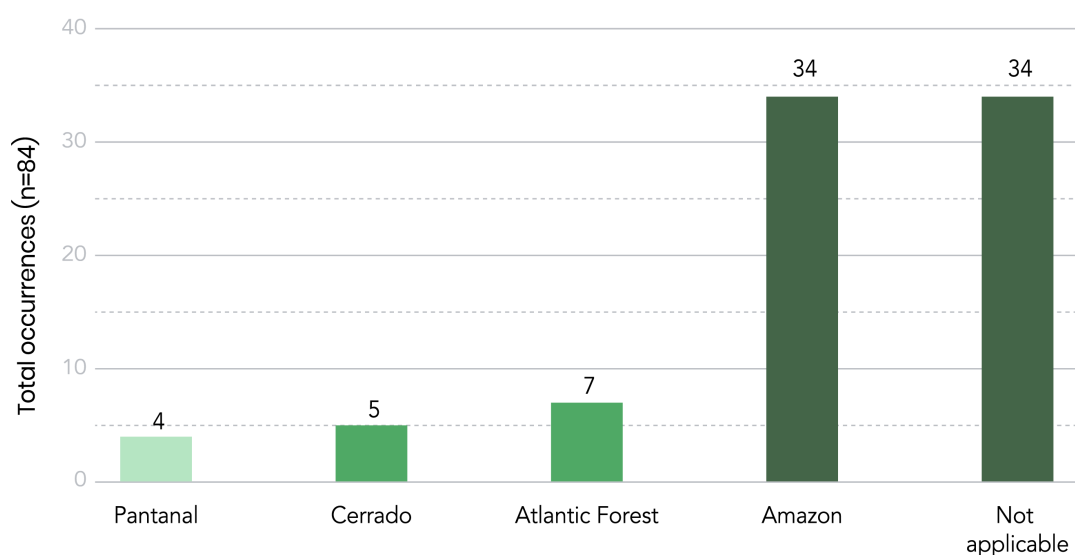
39 According to SEEG monitoring, from 1990 to 2021, the land use change and forestry sector leads the ranking of annual GHG emissions. This can be assessed in: The Greenhouse Gas Emissions and Removals Estimation System (SEEG). Total emissions. Available at: [https://plataforma.seeg.eco.br/total\\_emission](https://plataforma.seeg.eco.br/total_emission). Accessed on: 21 Apr. 2024.



## 1.4. Climate litigation on the Amazon biome

The Amazon has by far the highest number of occurrences in climate cases directed at a specific biome, as shown in Graph 10 below.

**Graph 10 - Total number of occurrences by biome in climate cases.**

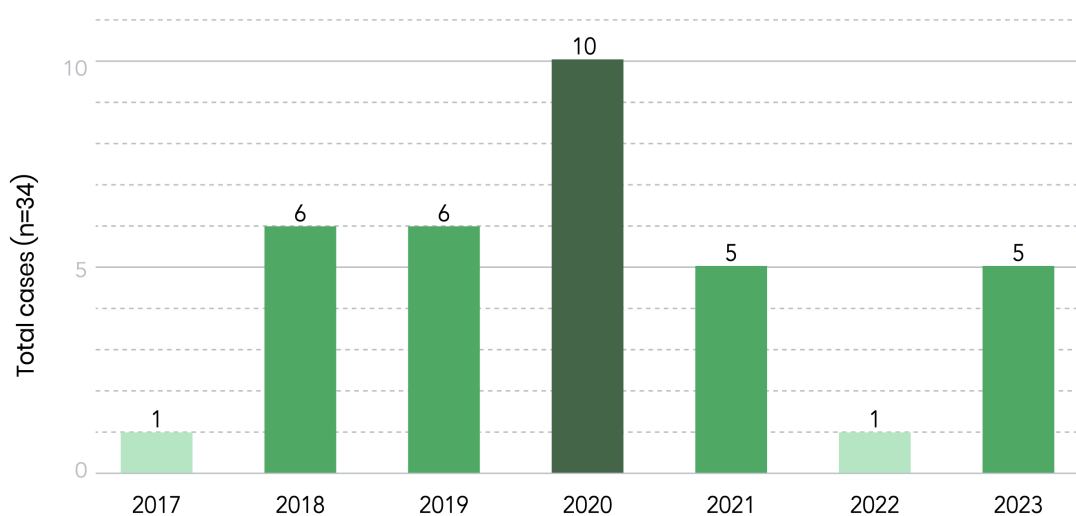


Source: compiled by the authors, 2024

The Amazon is a relevant issue in 34 cases, while an equal number of cases do not mention any biome.<sup>40</sup> Additionally, the annual distribution of actions where the Amazon is a relevant theme can be seen below (Graph 11).

40 In the Platform, cases are classified according to Brazilian biomes, namely: Amazon, Caatinga, Atlantic Forest, Pampa and Pantanal. To that end, the biome must be explicitly mentioned and presented as a relevant issue in the action. When more than one biome can be identified, all of them are listed. When no biome addressed in the case as a relevant issue, this classification does not apply.

**Graph 11 - Amazon biome: years of occurrences of climate cases mentioning the biome.**



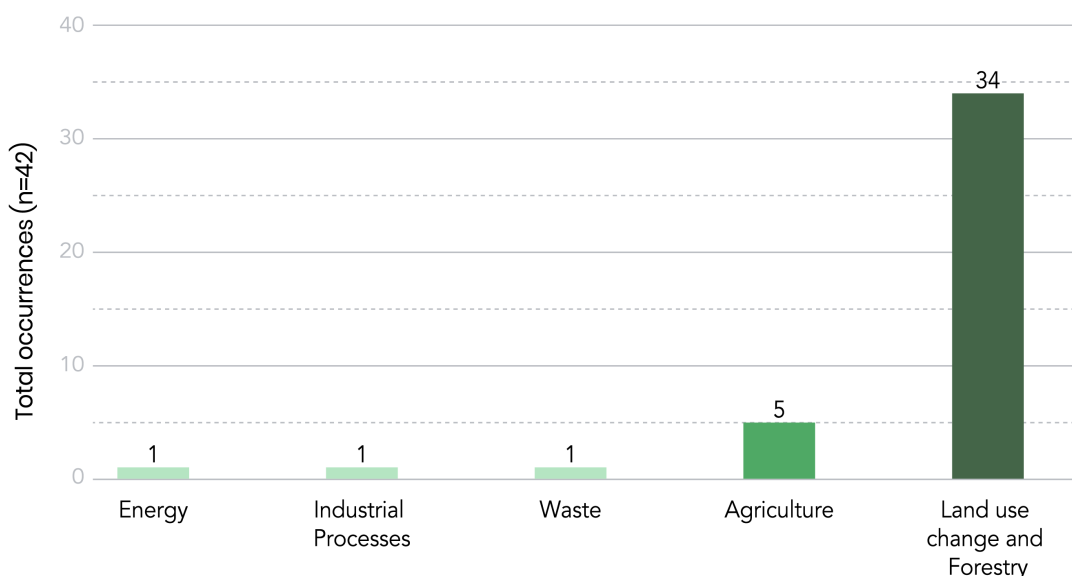
Source: compiled by the authors, 2024

An increase in the focus on the Amazon in Brazilian climate litigation is noted between 2018 and 2021, peaking in 2020, when ten actions mentioning the biome were filed. The time frame illustrated in the graph above (2017-2023) corresponds to the years in which there were occurrences related to this biome, with no cases that expressly mention the Amazon, identified before 2017.

Another interesting analysis of climate litigation related to the Amazon biome combines this classification with that of the GHG emission sector (Graph 12, below).



**Graph 12 - Amazon biome: total occurrences by GHG emission sector.**



Source: compiled by the authors, 2024

All climate cases that mention the Amazon deal with land use change and forestry, occasionally associated with other emission sectors such as agriculture (in five cases). Energy, industrial processes, and/or waste are each identified in only one case. The predominance of the land use change and the forestry sector indicates that climate litigation in the Amazon is focused on combating deforestation.

Another possible cross-analysis is between the types of defendants and plaintiffs involved in cases that mention the Amazon biome. The main defendants in these cases are federative entities (15 occurrences), followed by companies (14 occurrences) and individuals (seven occurrences). This scenario demonstrates a tendency of plaintiffs to hold private actors – directly and indirectly responsible for deforestation – and public authorities accountable, in the latter case particularly for their omission in their duty to monitor and protect the biome. In terms of the types of plaintiffs, public administration bodies filed 11 lawsuits concerning the Amazon. This number reflects the actions of the Brazilian Institute of Environment and Renewable Natural Resources (IBAMA) with the filing class actions seeking reparation for environmental and climate damage, as presented in the final section of this report.



## 1.5. Approaches to climate and environmental and/or climate justice

Finally, it is possible to assess the profile of climate litigation in Brazil based on the approach of cases to the climate issue and to environmental and/or climate justice.

The cases registered on the Platform can either address the climate as the main issue (or one of the main issues) or as a contextual argument.<sup>41</sup> Of the actions classified until March 2024, 45 treated the climate as the main issue or one of the main issues, and 35 addressed the topic as a contextual argument. This profile, in which more substantial mentions of the climate issue prevailed, was previously identified.<sup>42</sup> However, it is noteworthy that the last ten cases registered on the Platform address climate contextually (of which eight were filed in 2023), pointing to a change in this profile.

As well as the way in which the issue of climate itself is addressed, it is also worth analysing how environmental and/or climate justice is mentioned in these cases, as seen in Graph 13, below. This analysis is based on the premise that climate change produces different socio-environmental impacts which reveals deep inequalities in tackling the climate crisis<sup>43</sup> and the importance of analysing climate cases from the perspective of environmental justice.<sup>44</sup>

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41 The classification by type of approach to climate has two mutually exclusive categories: (i) climate as the main issue or one of the main issues; or (ii) climate as a contextual argument. In the first, climate change and possibly GHG emissions expressly are the main issue or one of the main issues addressed in the case; the facts and legal grounds are directly related to climate. In the second, the case expressly addresses climate change and possibly GHG emissions or climate regulations, but only in a secondary or incidental way, or with the aim of contextualizing the discussion, without the climate issue being essential to the case.

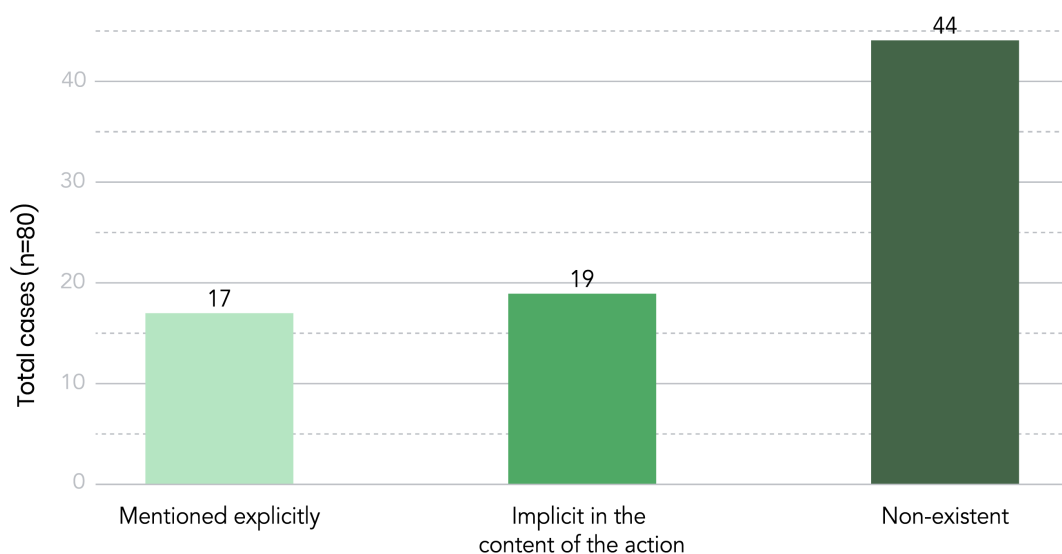
42 MOREIRA, Danielle de Andrade *et al.* Brazilian Climate Litigation Bulletin 2023, p. 18–19 and MOREIRA, Danielle de Andrade *et al.* Boletim da Litigância Climática no Brasil 2022, p. 16–17.

43 BORRÀS, Suzana. Movimientos para la justicia climática global: replanteando el escenario internacional del cambio climático. **Relaciones Internacionales**, Madrid: n. 33, Oct. 2016. Available at: <https://repositorio.uam.es/handle/10486/676959>. Accessed on: 30 Apr. 2024. p. 99; and LIMA, Letícia Maria Rêgo Teixeira. **Mulheres e (in)justiça climática no antropoceno**: uma abordagem interseccional. Rio de Janeiro: Lumen Juris, 2021.

44 On environmental justice, see ACSERALD, Henri; Mello, Cecília Campello do A.; Bezerra, Gustavo das Neves. **O que é Justiça Ambiental?** Rio de Janeiro: Garamond, 2009; and GUIMARÃES, Virginia Totti. *Justiça ambiental no direito brasileiro: fundamentos constitucionais para combater as de-*



**Graph 13 - Total of climate cases by environmental and/or climate justice approach.**



Source: compiled by the authors, 2024

The majority of cases (44 of 80) do not address the issue of environmental and/or climate justice. On the other hand, there are 17 cases with explicit mention of environmental and/or climate justice, and 19 that address these concepts implicitly.<sup>45</sup>

However, that the explicit mention of environmental and climate justice does not imply that this argument is addressed in depth within the case. Meanwhile, the involvement of representatives from socio-environmental movements has been important in drawing attention to the impact of the climate crisis on their territories. This is exemplified by cases involving the participation of The Articulation of Indigenous Peoples of Brazil (APIB), whether as a plaintiff or as *amicus curiae*, the latter in actions

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sigualdades e discriminações ambientais. **Teoria Jurídica Contemporânea**, v. 3, p. 36-63, 2018. Available at <https://revistas.ufrj.br/index.php/rjur/article/view/17547>. Accessed on: 2 April 2024.

45 Classification for the approach to environmental and/or climate justice includes three mutually exclusive categories: (i) explicit mention; (ii) implicit mention within the content of the case; or (iii) no mention. Climate justice is understood here as an extension of the concept of environmental justice, recognising that both concepts allow for the evaluation of the unequal distribution of the burdens and benefits of climate change and/or (in)justice.



of concentrated control of constitutionality.<sup>46</sup> It is also noticeable that the plaintiffs in some lawsuits are indigenous communities and fishermen's colonies, as is the cases relating to the environmental licencing of the Mina Guaíba Project.<sup>47</sup>

Indeed, there is still a significant absence of discussions on climate justice (more than 50% of the registered cases), highlighting the need for the issue to be incorporated more frequently and consistently into Brazilian climate litigation. On the other hand, civil society and movements associated with socio-environmental agendas are increasingly engaging with the topic and have been directly responsible for filing climate cases that discuss the issue and/or its foundations, as in the cases mentioned above.

Having presented the overall panorama of climate litigation in Brazil and considering the diverse profiles of the cases, it is useful to define specific groups for analysis. For this purpose, groups of cases were established aiming to provide a more in-depth analysis of specific features based on three pertinent aspects: (i) the profile of systemic and routine cases; (ii) cases concerning environmental licencing in association with climate; and (iii) cases that implement the measure of civil liability for climate damage.

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46 Examples of the cases with the participation of representatives of socio-environmental movements include “Instituto Arayara, APIB e Terra Indígena Rio dos Pardos Aldeia Kupli vs. ANP, IBAMA, União Federal e outros (4º ciclo de oferta permanente de concessão e terras indígenas afetadas)”, “ADPF 708 (Fundo Clima)” and “ADPF 760 (PPCDAm e emergência climática)”.

47 Cases: “Associação Arayara de Educação e Cultura e outros vs. FUNAI, Copelmi Mineração Ltda. e FEPAM (Projeto Mina Guaíba e comunidades indígenas afetadas)” and “Associação Arayara de Educação e Cultura e Colônia de Pescadores Z-5 vs. Copelmi Mineração Ltda. e FEPAM (Projeto Mina Guaíba e comunidades atingidas)”.



# 2

## **Litigation strategies in Brazil: systemic and routine cases**



As mentioned, an important classification for defining the profile of climate litigation in Brazil is whether the legal actions are systemic (37 cases) or routine (43 cases). This section presents a comparative analysis between these two climate litigation strategies in Brazil that differ in terms of the plaintiffs' objectives in filing the case.

Systemic cases are classified as those that involve more complex and broader discussions, so that an occasional judicial decision has the potential to have an impact on the functioning of a system or microsystem – although this may be indirectly – such as public policies or the production and consumption chains of a large company with GHG emissions.<sup>48</sup> While routine cases challenge specific acts or enterprises in court and usually have direct impacts restricted to the particular case in question. These legal actions are more routine litigation models and provide strategies and arguments that can be replicated in other cases.

The vast majority (at least 30) of the 37 systemic cases challenge matters related to setbacks, such as the dismantling of the environmental and climate framework or the failure to enforce public policies (or inadequate or insufficient enforcement of these policies). An example of a case classified as systemic is the paradigmatic ADPF 708 (Climate Fund). This case provides an example of climate litigation applied with the systemic objective of protection and guaranteeing the enforcement of public policies related to climate. This was also seen in other constitu-

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48 The concept of systemic climate litigation is similar to, but not the same as, the concepts of “strategic litigation” and “structural litigation”. “Strategic litigation” refers to cases aimed at achieving a broader social impact, in addition to providing a legal remedy to a specific conflict situation, seeking to use courts to promote changes in the treatment given to an issue by the law, public policies or in practice. This type of litigation has an emblematic character capable of setting precedents and generating positive results that go beyond the specific case and help to drive changes in the scenario of rights violations questioned, with the analysis usually focusing on the results obtained by the case. See: OSÓRIO, Letícia Marques. Litígio Estratégico em Direitos Humanos: Desafios e Oportunidades para Organizações Litigantes. **Revista Direito e Práxis**. vol.10 n.1 Rio de Janeiro. mar. 2019. p. 571-592. “Structural litigation”, on the other hand, aims to provide solutions to structural problems. It arises from concern over structural problems that mark institutions, societies and systems, which are ‘neither one-off nor fleeting, but relate to the very structure of the system, jeopardising its functioning’. FERRARO, Marcela Pereira. **Do processo bipolar ao processo coletivo-estrutural**. Master’s dissertation. Postgraduate Program in Law (Direito das Relações Sociais) da Universidade Federal do Paraná. 2015, p. 1.

tional review climate cases, which deal with the creation or alteration of norms or public policies in the country that may contribute to worsening the climate imbalance.<sup>49</sup>

### Box 3: The Climate Fund Case

In June 2020, the political parties PSB, PSOL, PT, and Rede challenged the unconstitutional omission of the Federal Union regarding the application of resources from the Climate Fund. The Climate Fund is one of the instruments of the National Climate Change Policy (PNMC), aimed at directly and indirectly financing mitigation and adaptation actions to address climate change. The petitioners argued that the management of the Climate Fund had been compromised and its operations paralysed since 2019, which had contributed to an increase in GHG emissions in Brazil and, consequently, to the failure to meet climate targets.

In a decision published in July 2022, the Federal Supreme Court (STF) ruled in favour of the case and acknowledged the Federal Union's omission in failing to allocate resources from the Climate Fund. The Court ordered the government not to neglect operating the Fund or allocating its resources, further stating that it is not permissible to withhold its resources. The Court established the thesis regarding the constitutional duty of the Executive Branch to ensure the functioning of the Climate Fund, based on the constitutional duty to protect the environment and on international commitments made by Brazil. It also considered international environmental treaties, such as the Paris Agreement, to be equivalent to human rights treaties and to have supralegal status in the Brazilian legal system.<sup>50</sup> The existence of a constitutional, supralegal and legal duty on the part of the Union and elected representatives to combat climate change was emphasised.

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49 For an analysis focused on the trends in STF decisions in climate litigation, see MOREIRA, Danielle de Andrade *et. al.* Rights-based Climate Litigation in Brazil: An Assessment of Constitutional Cases before the Brazilian Supreme Court.

50 Regarding the supralegal status of the Paris Agreement—as well as other international environmental treaties (and, consequently, climate-related treaties) internalised into the Brazilian legal system—and their domestic implementation, see: MOREIRA, Danielle de Andrade *et al.* **Litigando a crise climática no Brasil**: argumentos jurídicos para se exigir do Estado a implemen-



However, this category does not only encompass cases in higher courts. Another example of a systemic case is “Paulo Ricardo de Brito Santos e outros vs. Ricardo Salles, Ernesto Araújo e União Federal (Jovens contra a pedalada climática)”. In this case, young climate activists filed a Citizen Suit against Ricardo de Aquino Salles (then Minister of the Environment), Ernesto Henrique Fraga Araújo (then Minister of Foreign Affairs) and the Federal Government, arguing that Brazil’s submission of its Nationally Determined Contribution (NDC) in 2020 was less ambitious than the one submitted in 2015. The plaintiffs argued that this measure violated the Paris Agreement (internalised by Federal Decree 9.073/2017) and implied the possibility of the country emitting between 200 million and 400 million more tons of carbon dioxide equivalent (CO<sub>2</sub>e) by 2030 than had been projected in the previous target. The requests included declaring the 2020 NDC null and void, submitting a new NDC aligned with commitment to the Paris Agreement, and condemning the defendants to pay damages.

The demand challenged a political decision affecting the country’s climate targets, with repercussions for the entire complex legal system for protecting the climate. The case is awaiting judicial approval of the agreement reached between the Federal Government and the plaintiffs who are young activists. Following the change in the federal government in 2023, an agreement was made that not only recognises Brazil’s renewed commitment to the Paris Agreement but also ensures that the next climate target for the country will be established transparently and with broad civil society participation.<sup>51</sup>

On the other hand, as previously mentioned, in routine litigation, the discussion is focused on a specific act or enterprise. A variety of themes can appear in these cases, including environmental licensing and civil liability for climate–environmental damage which will be analysed in the next section, as well as cases dealing with the carbon market (see Box 1: Carbon market and ‘green land grabbing’ in Pará).

In the 2023 edition of the Bulletin,<sup>52</sup> an increase in the total number of routine cases was identified. This trend was still in progress as this

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tação doméstica do Acordo de Paris. São Paulo: Pimenta Cultural, 2022. Available at <https://www.pimentacultural.com/livro/litigando-crise>. Accessed on: 04 April 2024.

51 This is the first agreement identified in cases included on the Platform.

52 MOREIRA, Danielle de Andrade *et al.* Brazilian Climate Litigation Bulletin 2023, p. 23.



report was being produced. Of the 80 cases registered on the Platform until March 2024, there is a balanced distribution between the two classifications. However, there are now a higher number of routine cases: 37 systemic cases and 43 routine cases. We believe that the trend of an increase in routine cases will continue in the coming years.

The number of systemic cases filed was significant during the period coinciding with the Bolsonaro government, with climate cases being used particularly to contain or prevent environmental and climate setbacks. Between the years 2019 and 2022, when Bolsonaro held the presidential office, 32 cases with this purpose were filed (out of the 37 systemic cases), representing more than one-third of all cases registered on the Platform and the majority of those classified as systemic. In 2023, government efforts to control deforestation were resumed in Brazil along with the restructuring of other environmental and climate policies.<sup>53</sup> This resulted, for example, in a reduction in the number of deforestation alerts in the Amazon compared to the year 2022.<sup>54</sup> We believe that, if this scenario continues, systemic cases will now primarily be mobilized against subnational governments or the legislative branch as public entities, and may also be brought against companies.<sup>55</sup> Furthermore, the increase in routine cases shows a new strategy of climate litigation gaining traction.

While systemic cases are characterised by efforts to contain environmental and climate setbacks, diverse themes appear in routine actions. Therefore, the following analysis focuses on a comparative study of certain aspects of systemic cases and routine cases, highlighting their similarities and differences.

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53 On January 1, 2023, Decree 11.367 was issued, re-establishing the Action Plan for the Prevention and Control of Deforestation in the Legal Amazon (PPCDAm) and providing for Action Plans for the Prevention and Control of Deforestation in other Brazilian biomes.

54 BRASIL. Área sob alertas de desmatamento na Amazônia cai 50% em 2023. Available on: <https://www.gov.br/secom/pt-br/assuntos/noticias/2024/01/area-sob-alertas-de-desmatamento-na-amazonia-cai-50-em-2023>. Accessed on: 4 April 2024.

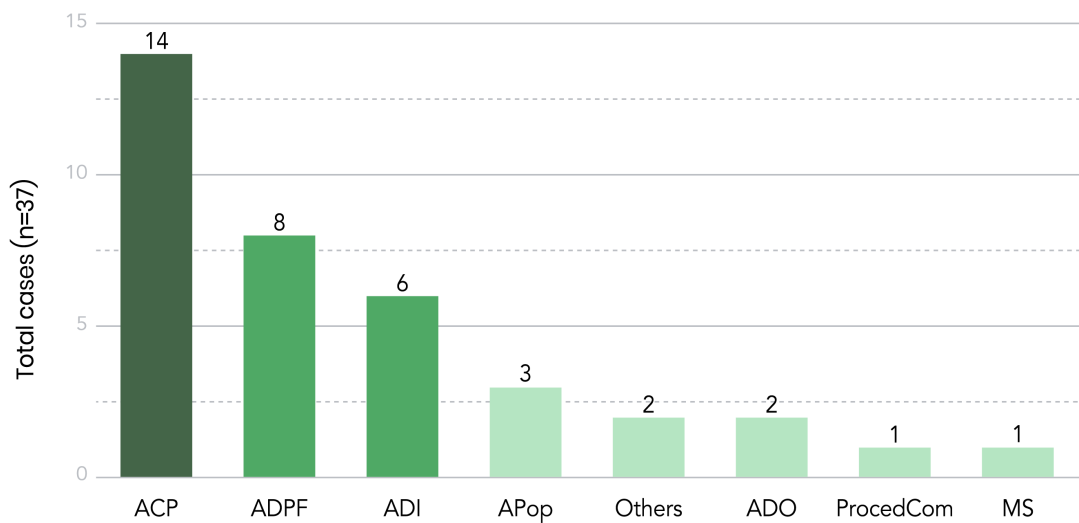
55 A paradigmatic example of a systemic case against companies is the case “Conectas Direitos Humanos vs. BNDES e BNDESPAR (Avaliação de riscos climáticos em investimentos públicos)”. This is a case filed by Conectas Human Rights against BNDES and BNDESPAR, with the aim of compelling the defendants to adopt transparency measures and present a plan to align their actions and investment policies with the goals of the Paris Agreement and the PNMC.



## 2.1. Comparison of the profile of systemic and routine cases

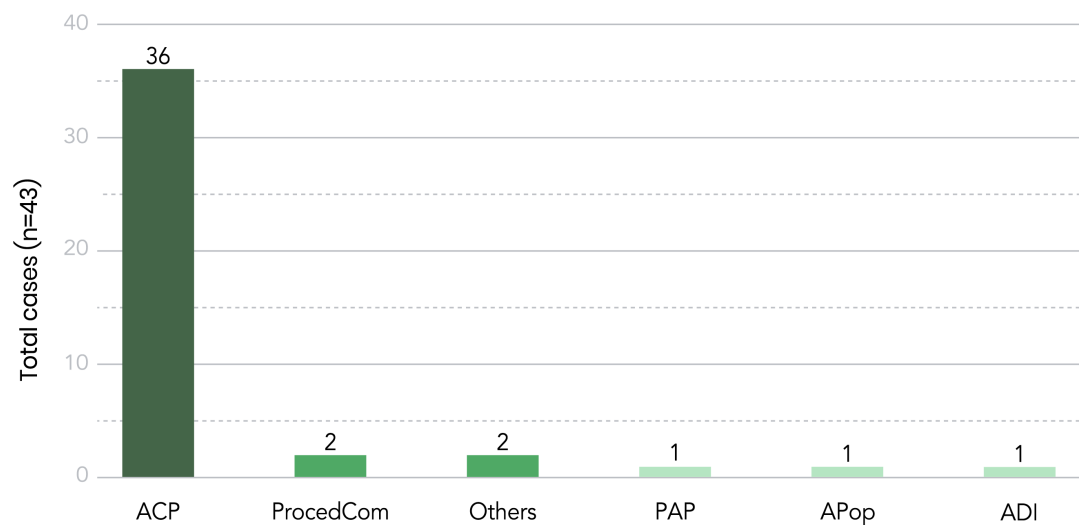
The first set of graphs (Graphs 14 and 15 below) demonstrates which types of action have been used in Brazil for systemic and routine climate litigation, respectively.

**Graph 14 - Systemic cases: type of action.**



Source: compiled by the authors, 2024

**Graph 15 - Routine cases: type of action.**



Source: compiled by the authors, 2024



When comparing the results shown above, a significant difference in profile between systemic and routine cases is noted. In the former, there is a number of different types of actions used. When considered individually, the Civil Public Action (ACP) is the most frequently used in systemic cases (14 of 37 cases), illustrating its suitability for the protection of diverse collective rights. However, when constitutional actions (ADPF, ADI, and ADO) are combined, this group of cases shows higher numbers (16 of 37 cases), highlighting the importance of the mechanism of concentrated constitutional review and its various actions. In routine cases, there is a significant concentration of lawsuits that used ACPs (36 of 43 cases), with other types of actions being used in only one or two cases, at most.

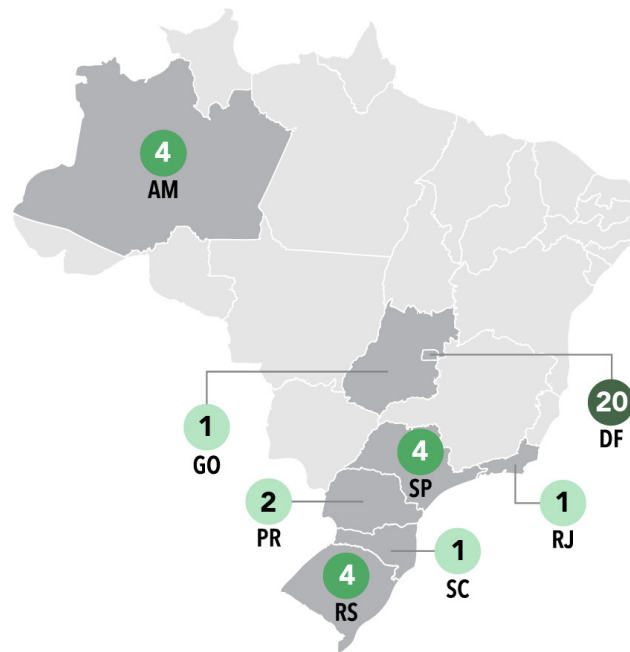
The classification regarding the court of origin expresses the same difference in profile. This classification shows the types of courts that most often hear systemic and routine climate litigation cases. While in the first group of cases (the systemic ones), the STF is the main court in which cases are filed (with 16 out of 37 cases), in the second group (the routine cases), there are no cases filed in high courts. Instead, the cases are divided between federal courts (29 of 43 cases) and state courts (14 of 43 cases). A significant number of systemic cases were filed in federal courts (13 of 37 cases) and some in state courts (seven of 37 cases), followed by only one case filed in the Superior Court of Justice (STJ).

Another possible analysis is classification by state of origin, illustrating the geographic distribution of systemic and routine cases in Brazil. The maps below (maps 2 and 3) confirm the aforementioned difference in profiles. While the systemic cases were predominantly filed in the Federal District (DF), which accounted for 20 of 37 cases, the routine cases were spread across different jurisdictions and not one case was filed in the DF. In this second group, lawsuits were mainly filed in the Amazon states, with Pará and Amazonas standing out as the two states with more cases, with ten and five routine cases, respectively. Additionally, all the states in the Legal Amazon region (Acre, Amapá, Amazonas, Maranhão, Mato Grosso, Pará, Rondônia, Roraima, and Tocantins) have at least one routine case, and the total number of cases in these jurisdictions represents more than half the total routine cases (24 of 43 cases).



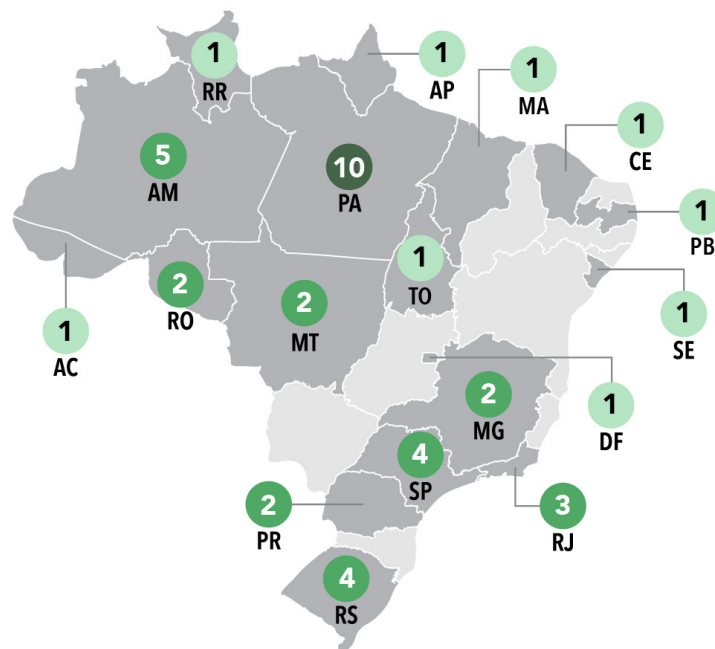


## Map 2 - Systemic cases by state of origin.



Source: compiled by the authors, 2024

## Map 3 - Routine cases by state of origin.

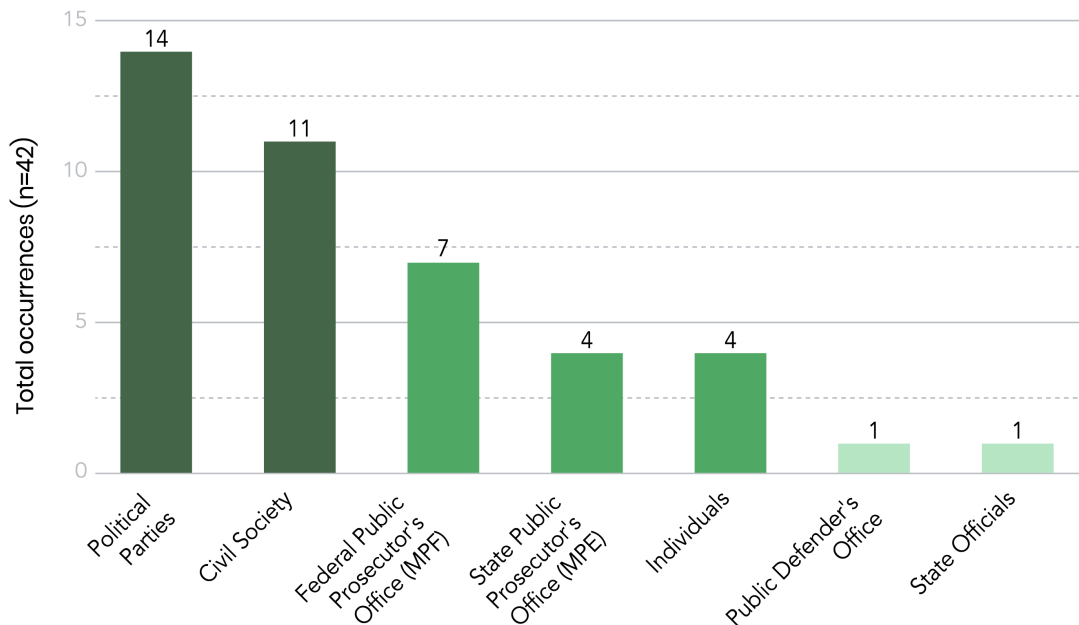


Source: compiled by the authors, 2024



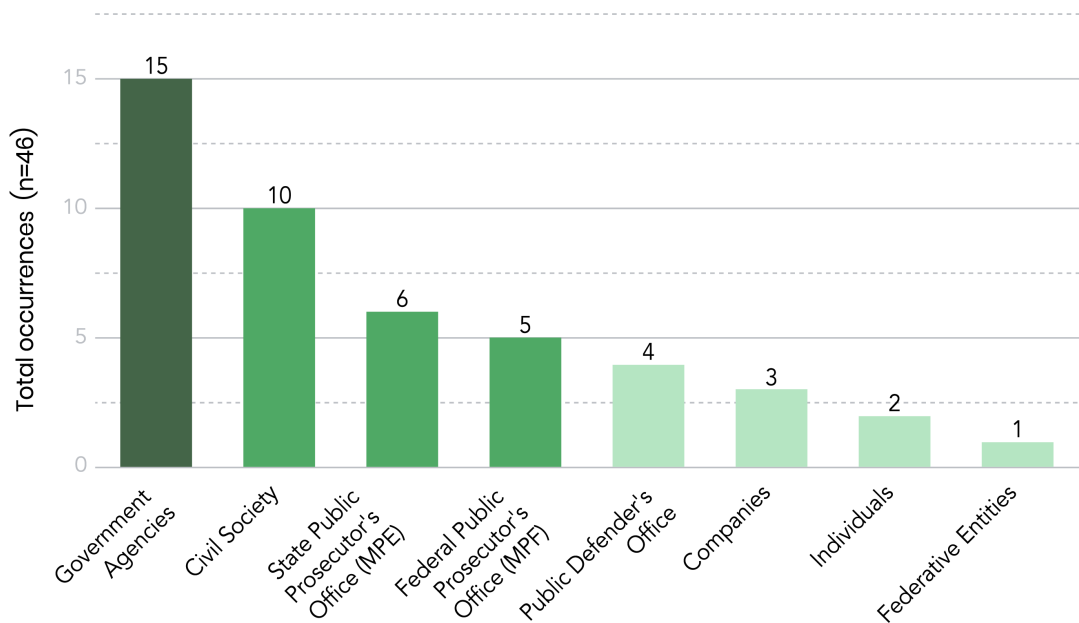
The next set of graphs (Graphs 16 and 17, below) presents the classification by type of plaintiff, showing which actors are leading systemic and routine cases, respectively.

**Graph 16 - Systemic cases: total occurrences by type of plaintiff.**



Source: compiled by the authors, 2024

**Graph 17 - Routine cases: total occurrences by type of plaintiff.**



Source: compiled by the authors, 2024



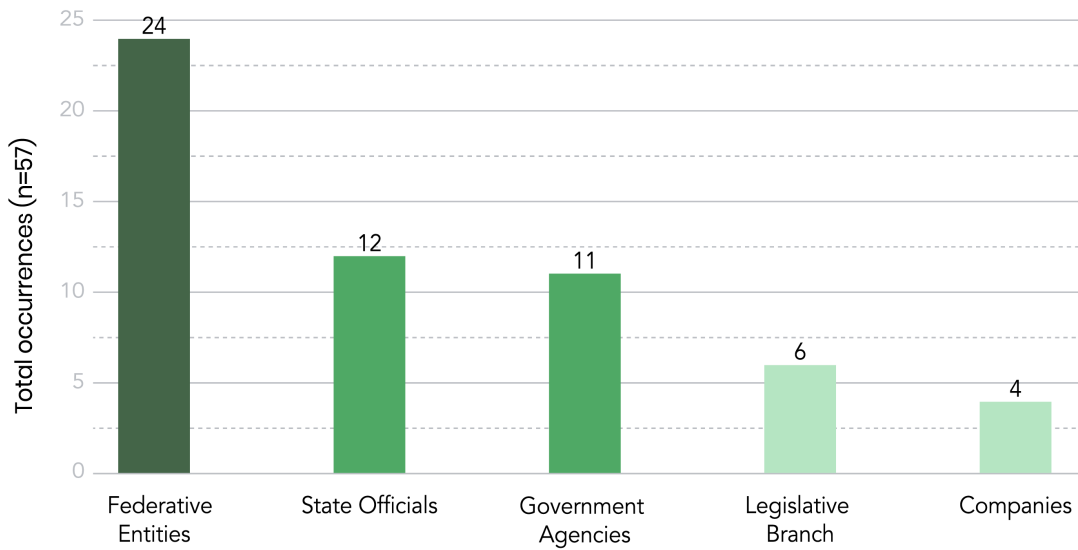
Comparing the results shown in the graphs above, both differences and similarities are noted. As expected, given the large number of constitutional review actions, political parties are the main proponents of systemic cases (appearing as plaintiffs in 14 of 37 cases). This is the only group analysed in the report in which political parties emerge as the main plaintiffs. This is because only specific actors have legal standing for filling constitutional judicial review actions. On the other hand, public administration bodies (such as IBAMA) are the main authors in routine cases (appearing as plaintiffs in 15 of 43 cases). In an examination of minority authors, only systemic cases have been filed by agents of the state, while only routine cases have been filed by federative entities and companies.

In addition to these differences, a common point between the two types of cases is that organised civil society and the State and Federal Public Prosecutors' Offices filed a significant number of lawsuits. In systemic cases, organised civil society is listed as at least one of the plaintiffs in 11 out of 37 cases, tied with the combined total of the Federal Public Prosecutors' Office (plaintiff in seven cases) and the State Public Prosecutors' Office (plaintiff in four cases). In routine cases, the combined numbers of the State Public Prosecutor's Office (plaintiff in six cases) and the Federal Public Prosecutor's Office (plaintiff in five cases) exceed only by one the total number of cases filed by civil society (ten of 43 cases). In both types of cases there are actions filed jointly by more than one type of actor, since the total number of occurrences of types of plaintiffs exceeds the number of cases, albeit by a small difference (in systemic cases, there are 42 occurrences in 37 cases, and in routine cases, there are 46 occurrences in 43 cases).

The following set of graphs (Graphs 18 and 19, below) show the classification by type of defendant, illustrating the main parties sued in Brazil in systemic and routine cases, respectively.

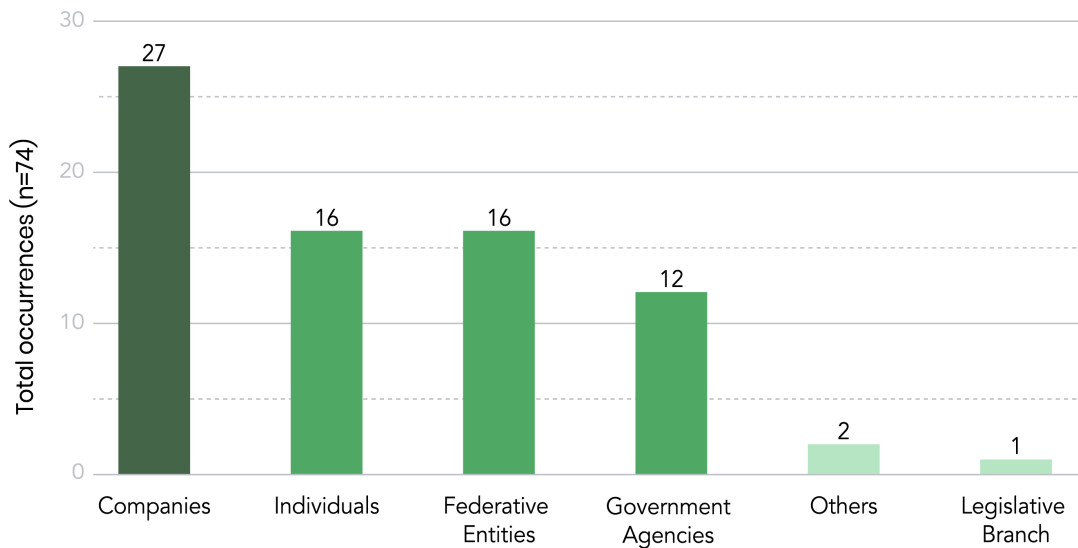


**Graph 18 - Systemic cases: total occurrences by type of defendant.**



Source: compiled by the authors, 2024

**Graph 19 - Routine cases: total occurrences by type of defendant.**



Source: compiled by the authors, 2024

There are significant differences in the profile of defendants. In systemic cases, the government stands out in the four main types of defendants, with federal entities appearing as a defendant in more than half of the lawsuits (24 of the 37 cases), followed by state officials (12 of the 37 cases),



public administration bodies (11 of the 37 cases) and the legislature (six of the 37 cases). Companies come last, appearing as defendants in only four systemic cases.

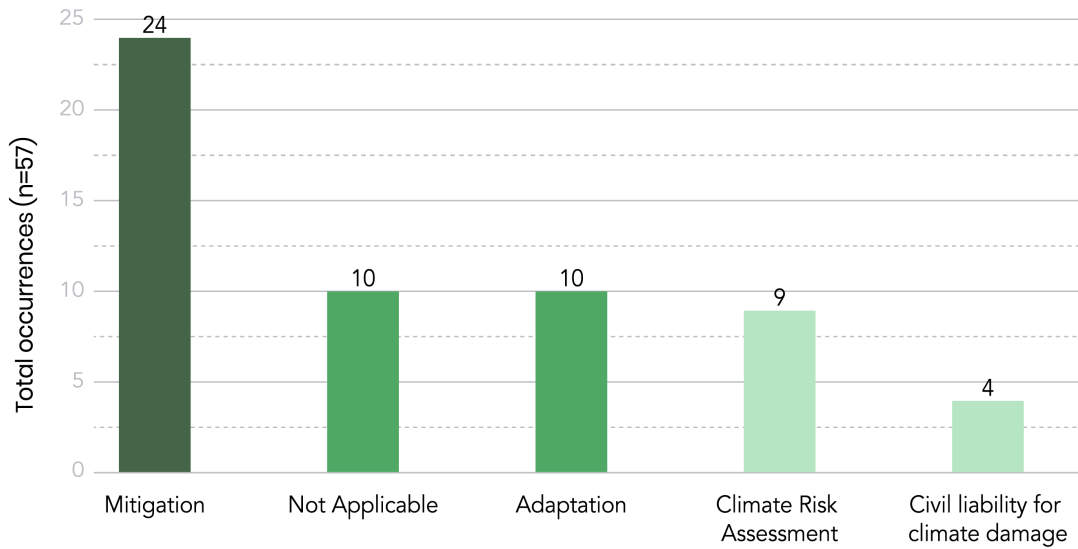
On the other hand, in routine cases, private actors stand out, with companies being sued in more than half of the actions (27 of 43 cases), followed by individuals (16 of 43 cases). However, public authorities also present significant numbers on the defendant side of routine cases, especially federative entities (defendants in 16 of 43 cases) and public administration bodies (defendants in 12 of 43 cases), considering the state's duty and authority in environmental protection and its role in carrying out inspections and controlling environmental quality, such as in environmental licencing procedures.

In both types of cases, lawsuits are often brought simultaneously against more than one type of actor, making the difference between the total number of occurrences of types of defendants and the number of cases even more pronounced. Although this characteristic does feature in systemic cases (57 occurrences in 37 cases), it is especially common for routine cases to involve more than one type of defendant (with a total of 74 defendants in 43 cases).

Another set of graphs (Graphs 20 and 21 below) presents the classification of the measures addressed.

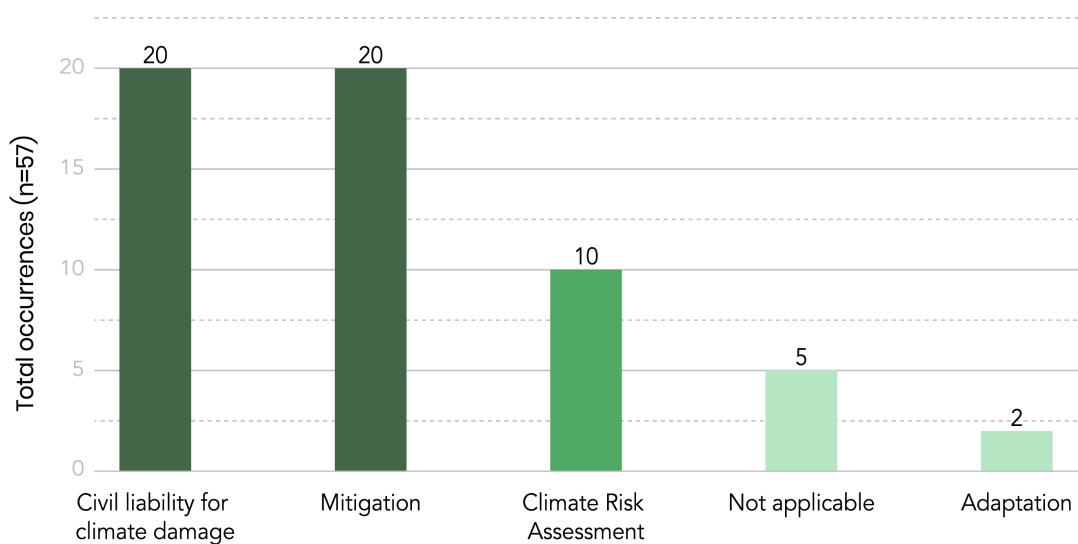


**Graph 20 - Systemic cases: total occurrences by type of measure addressed.**



Source: compiled by the authors, 2024

**Graph 21 - Routine cases: total occurrences by type of measure addressed.**



Source: compiled by the authors, 2024

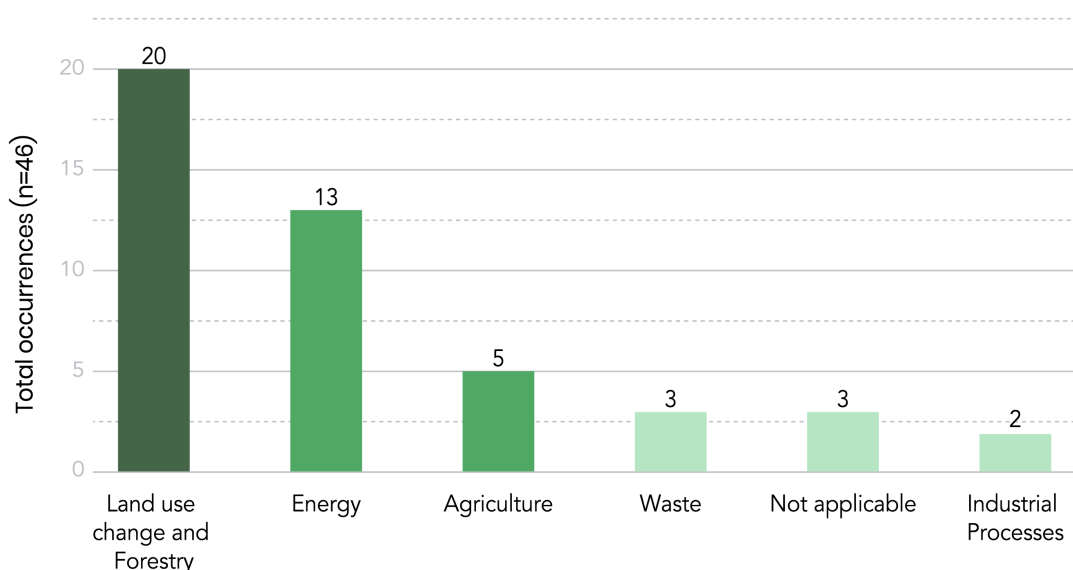


Similarities and differences between systemic and routine cases can be noted. In both types of cases, mitigation appears as the measure that is most frequently addressed. It ranks first in systemic cases (mentioned in 24 of 37 cases) and is tied with civil liability for climate damage in routine cases (both measures mentioned in 20 of 43 cases). Despite the similar numbers on the mention of mitigation measures, the profiles of systemic and routine cases differ on other measures.

While in the systemic cases mitigation appears alone as the main measure addressed, in routine cases there are also significant numbers of cases addressing civil liability for climate damage (20 cases) and climate risk assessment (the latter with ten mentions among the 43 cases). This confirms the previous statement that in routine cases those involving environmental licencing and civil liability for climate-environmental damage stand out. Given the importance of these issues, present in systemic cases but particularly prominent in routine cases, these two types of cases will be analysed in the following section.

The final set of graphs (Graphs 22 and 23 below) shows the classification of the GHG emission sector, illustrating which sectors are central in systemic and routine cases in Brazil, respectively.

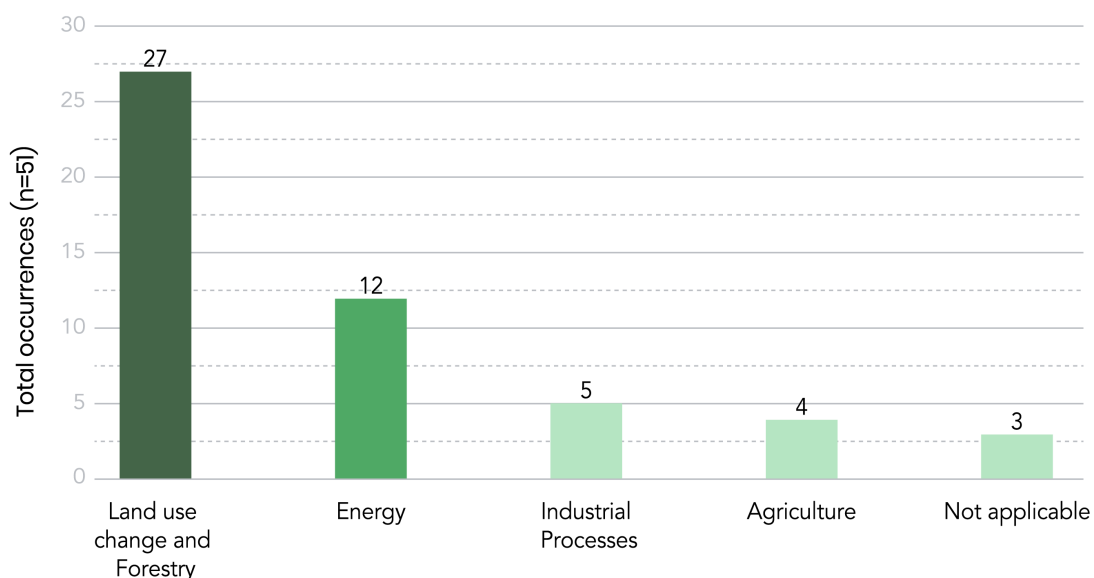
**Graph 22 - Systemic cases: total occurrences by GHG emission sector.**



Source: compiled by the authors, 2024



**Graph 23 - Routine cases: total occurrences by GHG emission sector.**



Source: compiled by the authors, 2024

Considering the results shown in the graphs above, systemic and routine cases tend to address the same GHG emissions sectors, although the approach differs between these two types of cases. In both, the primary sector mentioned is land use change and forestry, appearing in over half of the actions (in 20 of 37 systemic cases and in 27 of 43 routine cases), followed by the energy sector (mentioned in 13 of 37 systemic cases and in 12 of 43 routine cases).

This common profile reflects the focus on deforestation, the main activity responsible for GHG emission in Brazil, in the discussions of climate litigation in the country. In systemic cases, the sector is discussed with a broad perspective, questioning, for example, the lack of implementation of public policies to combat deforestation.<sup>56</sup> In routine cases, this emission

56 Examples include “ADPF 760 (PPCDAm e emergência climática)”, which questions the non-execution of the Action Plan for the Prevention and Control of Deforestation in the Legal Amazon (PPCDAm), and “ADO 54 (Desmatamento na Amazônia)”, which questions the unconstitutional omission of the Federal Government on combating deforestation in the Amazon. Due to the similar objects of both actions, the Rapporteur, Justice Carmen Lúcia, decided to judge them together.





sector appears through a more focused and specific angle, with case seeking, for example, reparation for the climate-environmental damage resulting from the deforestation of a particular area.<sup>57</sup>

The same applies to cases addressing the energy sector, which can be seen as a response to the percentage – considered excessive in the face of the climate crisis – of fossil fuels in the Brazilian energy matrix. Especially concerning the exploration, production and use of fossil fuels, the energy sector has been addressed both in systemic cases, regarding Brazilian energy policy as a whole,<sup>58</sup> and in routine cases, questioning the installation of specific projects related to the extraction and burning of fossil fuels.<sup>59</sup>

It is also important to mention the main norms mobilized in systemic and routine cases in Brazil. In both types of cases, Article 225 of the CF, which provides for the fundamental human right to an ecologically balanced environment and encompasses the right to a stable climate, is the most frequently mentioned norm (cited in 36 of 37 systemic cases and 38 of 43 routine cases).<sup>60</sup> While in systemic cases the mention of Article

57 Examples include (i) “Ministério Público Federal e INCRA vs. Dauro Parreira de Rezende (Desmatamento e dano climático)”, which represents a set of 22 cases filed by the MPF, based on the same civil inquiry, as a result of illegal deforestation in the Amazon; (ii) “IBAMA vs. Brandão e Jovino (Desmatamento ilegal no Cerrado)”, which is part of a set of two lawsuits filed by IBAMA on the same grounds, but against different defendants, to question illegal deforestation in the Cerrado; and (iii) “IBAMA vs. Silmar Gomes Moreira (depósito de madeira ilegal em Anapu e dano climático)”, which is part of a set of eight lawsuits on the same grounds concerning the deposit of logs without an environmental license, associated with deforestation in the Amazon.

58 One example is “ADI 6932 (Privatização da Eletrobras)”, that questions whether a law privatizing a national electric company and making changes to the electricity plans in Brazil is unconstitutional.

59 This is especially evident in environmental licencing cases that challenge coal extraction projects and thermoelectric plants, as will be presented in the next section of this report. Examples include three cases challenging the licencing of the Mina Guaíba: (i) (i) “Associação Arayara de Educação e Cultura e outros vs. FUNAI, Copelmi Mineração Ltda. e FEPAM (Projeto Mina Guaíba e comunidades indígenas afetadas)”; (ii) “Associação Arayara de Educação e Cultura e Colônia de Pescadores Z-5 vs. Copelmi Mineração Ltda. e FEPAM (Projeto Mina Guaíba e comunidades atingidas)”; (iii) “Associação Arayara de Educação e Cultura vs. Copelmi Mineração Ltda. e FEPAM (Projeto Mina Guaíba e riscos hidrológicos)”.

60 Among the lawsuits that do not mention article 225, the only systemic case is “BRASILCOM vs. Ministro de Minas e Energia (Mandado de Segurança e CBios)” and the five routine cases are the following: (i) “Flexpetro Distribuidora de Derivados de Petróleo Ltda. vs. ANP e União Federal (Aquisição de CBios)”; (ii) “Carbonext Tecnologia em Soluções Ambientais Ltda. vs. Amazon Imóveis (Mercado de carbono voluntário)”; (iii) “AMOREMA e AMORETGRAP vs. Sustainable Carbon e outros (Créditos de carbono e Reservas Extrativistas)”; (iv) “Ministério Público Federal vs. Rogério (Incêndio

225 is followed by other general references to the Federal Constitution<sup>61</sup> (cited in 31 of 37 cases), in routine cases the second most cited norm is the PNMA (cited in 29 of 43 cases). This reflects the significant presence of constitutional arguments in systemic cases, many of which are actions of concentrated constitutional, and the tendency for routine cases to follow well-established strategies in Brazilian environmental litigation, which largely relies on provisions outlined in the PNMA. The PNMA also appears with some prominence in systemic cases (cited in 19 of 37 cases), as do general references to the Federal Constitution in routine cases (cited in 12 of 43 cases).

In addition to Article 225, the second most mentioned article of the Constitution in both types of cases is Article 170 (cited in 16 of 37 systemic cases and 16 of 43 routine cases), which establishes that the protection of the environment is one of the guiding principles of Brazilian economic order (Clause VI). In both types of cases, the PNMC is widely mobilized (cited in 23 of 37 systemic cases and in 21 of 43 routine cases) and, particularly in systemic cases, also the Paris Agreement (cited in 24 out of 37 systemic cases and 12 out of 43 routine cases), highlighting the importance of climate norms in climate litigation in Brazil.

In addition to the Paris Agreement, there is also significant mention to other international treaties, notably (i) the United Nations Framework Convention on Climate Change (UNFCCC) in systemic cases (cited in 13 of 37 cases), confirming the importance of the International Climate Change Regime in this type of case and (ii) the International Labour Organization (ILO) Convention 169 in routine cases (cited in 12 of 43 cases), due to references to the right to free, prior, and informed consultation of Indigenous peoples and traditional communities.

The analysis of this set of characteristics confirms that there are significant similarities and differences between systemic and routine cases. As previously highlighted, systemic cases were heavily utilised during the Bolsonaro administration, in an attempt to prevent environmental and

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florestal)”, which is a criminal action; and (v) “Ministério Público Federal vs. União Federal e outros (Avanço do mar e erosão costeira)”.

61 A general mention of the Constitution is considered to have occurred when any of the articles not specified in the Platform’s prior selection of relevant norms are identified. The prior selection indicates Articles 5, 170, 225 and 231.

climate setbacks. This has facilitated identification of a specific profile for this set of cases. Routine cases, however, are characterised by a broader range of topics, as they focus on more specific discussions related to a particular act or enterprise. Despite this range, climate litigation focuses on two traditional instruments of Brazilian environmental law: environmental licencing and environmental civil liability (see Graph 23, above). The following section shows how both instruments are being discussed in Brazilian climate cases.



**3**

# **Climate litigation in focus**



### 3.1 Cases of environmental licencing

Among the legal instruments of Brazilian environmental law that are suited to tackling the climate crisis are environmental licencing and the prior environmental impact assessment. Both serve as tools to prevent, mitigate and compensate socio-environmental impacts, including those related to climate change.<sup>62</sup> In Brazil, these instruments impose a comprehensive and prior analysis of environmental impacts (including direct and indirect impacts; short, medium and long-term effects and synergistic and cumulative factors) of potentially polluting activities. Activities that lead to GHG emissions, directly or indirectly, must be considered among them.<sup>63</sup>

Existing regulatory framework supporting environmental licencing is also being applied in discussions brought to the courts relating to climate change. This is confirmed by a keyword search for “environmental licencing” on the Platform,<sup>64</sup> which produces a result of 19 of the 80 cases registered on the database until March 2024.

From this set of 19 lawsuit, 13 cases were selected for analysis. These 13 actions discuss environmental licencing in direct association with climate issues in the claims and/or the cause of action.<sup>65</sup>

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62 MOREIRA, Danielle de Andrade *et al.* Litigância climática no Brasil: argumentos jurídicos para a inserção da variável climática no licenciamento ambiental. p. 27.

63 *Ibid.* p. 7.

64 Search conducted on March 23, 2024.

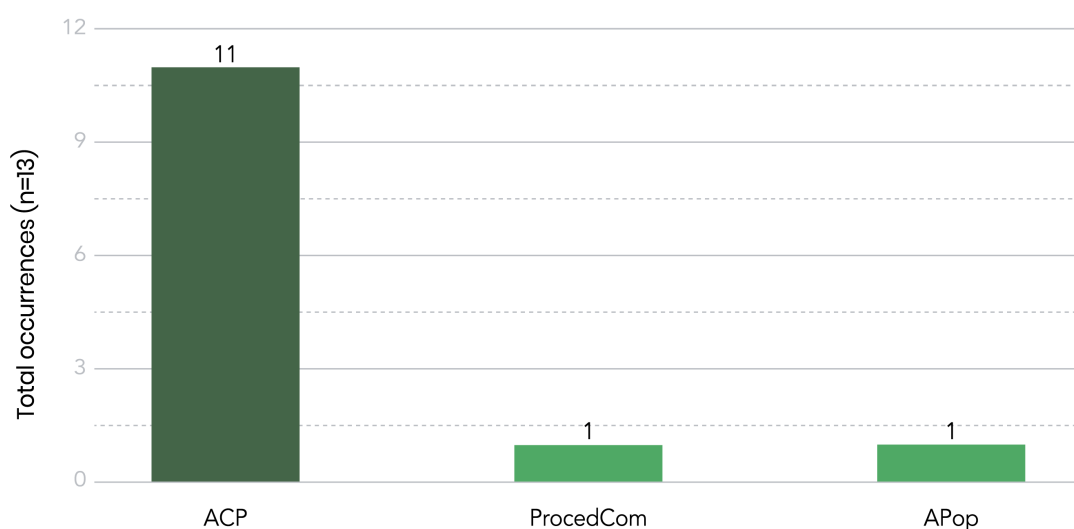
65 Examples of cases that expressly mention environmental licencing but were not selected for this analysis because they do not directly address the climate issue either expressly in the claims and/or cause of action, include: (i) “Conectas Direitos Humanos vs. BNDES e BNDESPAR (Avaliação de riscos climáticos em investimentos públicos)”: questioning the lack of rules or protocols to assess the climate impacts of its investments, including the financing of projects that depend on environmental licencing; (ii) “ADI 6932 (Privatização da Eletrobras)”: questioning the privatisation of Eletrobras and changes in the Brazilian electricity sector, as well as the legal authorisation for the Federal Union to start construction of the Linhão de Tucuruí (transmission line), disregarding ongoing environmental licencing procedures and consultation with the affected Indigenous population; (iii) “ADPF 749 (Revocation of CONAMA Resolutions)”: questioning CONAMA Resolution 500/2020, which revoked Resolutions CONAMA 284/2001, 302/2002, and 303/2002, as well as the new CONAMA Resolution 499/2020. It argues that the changes in environmental licencing for irrigation and the burning of toxic waste are measures that counteract environmental protection efforts, without directly mentioning their relationship to climate issues.



This group of actions include both routine cases, which typically challenge a specific project or enterprise, and broader cases that address environmental licencing and its regulation. The following sub-section presents an analysis of how some of the Platform’s classifications apply to this specific group of cases.

Graph 24, below, presents the results of the classification regarding the type of action, showing which actions are being mobilised in Brazil to address environmental licencing in climate litigation.

**Graph 24 - Environmental licencing cases: type of action.**



Source: compiled by the authors, 2024

The vast majority of cases are ACP (11 of 13 cases). This data confirms the focus on ACPs not only in climate litigation but also in cases concerning environmental licencing. Besides this type of action, only one Citizen Suit<sup>66</sup> and one Common Procedure Action were identified.<sup>67</sup>

Regarding the court of origin, all 13 cases were filed in trial courts, with eight before Federal Courts and five before State Courts. This result is expected, considering the types of actions used in this group of cases. Most

66 Case “Duda Salabert Rosa vs. Estado de Minas Gerais e Taquaril Mineração S.A. (Complexo Minerário de Serra do Taquaril)”.

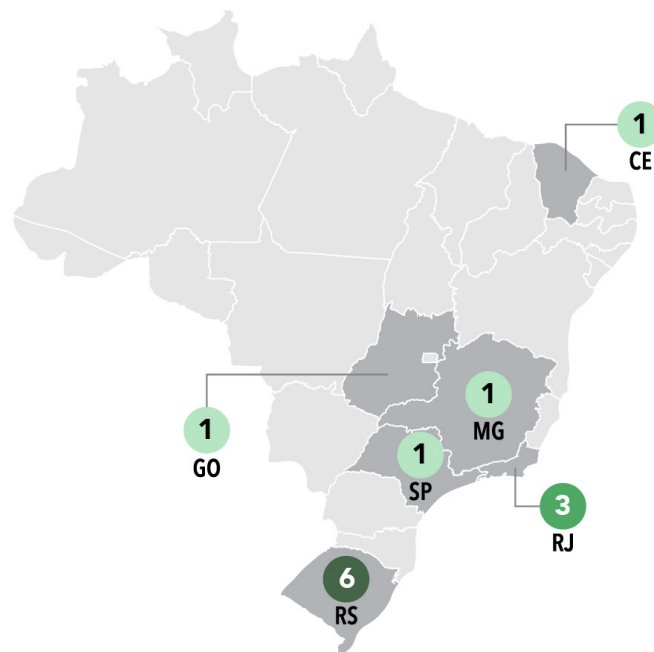
67 Case “ABRAGET vs. Estado do Rio de Janeiro (Decreto estadual que institui o Mecanismo de Compensação Energética)”.



of these cases (eight of 13) are routine, typically challenging the licencing of a specific project. However, there are also systemic cases in this group (five of 13 cases). These cases discuss licencing in a broader context, including lawsuits that address the environmental licencing of an activity or sector as a whole, and/or the norms that regulate it, and associate them with climate issues. It is possible that in the future, actions directly filed in the higher courts may also be identified in this group of cases, such as actions for constitutional review in the STF, challenging environmental licencing regulations in association with climate change.

The following map (map 4) shows the classification by state of origin, illustrating the geographical distribution of these cases in Brazil.

**Map 4 - Environmental licencing cases by state of origin.**



Source: compiled by the authors, 2024

There is a notable concentration of cases in the State of Rio Grande do Sul, which has six actions. This is due to the focus on discussions surrounding mineral coal in the region, whether it be extraction in mines or the burning of the fossil fuel in thermoelectric plants. A paradigmatic example is the Mina Guaíba Project, considered the largest open-pit coal mining project in the country, which is addressed in several cases regis-

tered on the Platform.<sup>68</sup> Rio de Janeiro ranks second, with three cases also related to thermoelectric projects and the regulation of energy licencing using fossil fuels. The other states, São Paulo, Minas Gerais, Goiás, and Ceará, have one case each.

**Box 4: Associação Arayara de Educação e Cultura e outros vs. FUNAI, Copelmi Mineração Ltda. e FEPAM (Projeto Mina Guaíba e comunidades indígenas afetadas)**

This case was filed in October 2019 with the aim of suspending and annulling the environmental licencing process of the Mina Guaíba Project, an open-pit coal mining enterprise by Copelmi. The plaintiffs claim non-compliance with legal norms and omissions in the Environmental Impact Study (EIA), as well as the absence of free, prior and informed consultation with the Indigenous people that are part of the Poty Guarani Association, particularly the Guajayvi Village (TeKoá) of the MByá Guarani people, located less than three kilometers from the project site. They claim that coal mining causes significant social and environmental impacts for nearby communities, potentially causing irreparable environmental damage, particularly due to GHG emissions, effluents and contamination of surface and groundwater, acid mine drainage, among others. The climate issue was, therefore, addressed as a contextual argument.

In February 2022, a ruling was passed that did not mention the climate but did grant the request to nullify the licencing process. The judge acknowledged the traditional communities' right to participate in decisions that could affect their way of life and culture. It was concluded that the environmental licencing process for the project is already at

68 Using a keyword search for “Mina Guaíba” on the Platform, five results are obtained. Three of these cases specifically question the project: (i) “Associação Arayara de Educação e Cultura e outros vs. FUNAI, Copelmi Mineração Ltda. e FEPAM (Projeto Mina Guaíba e comunidades indígenas afetadas)”; (ii) “Associação Arayara de Educação e Cultura e Colônia de Pescadores Z-5 vs. Copelmi Mineração Ltda. e FEPAM (Projeto Mina Guaíba e comunidades atingidas)”; (iii) “Associação Arayara de Educação e Cultura vs. Copelmi Mineração Ltda. e FEPAM (Projeto Mina Guaíba e riscos hidrológicos)”. There are also two other cases, on a broader theme, which mention this project when addressing the set of projects of which the Mina Guaíba Project is a part: (i) “Ministério Público do Estado do Rio Grande do Sul vs. Estado do Rio Grande do Sul e FEPAM (Polo Carboquímico)” and (ii) “ADI estadual 0007238-31.2021.8.21.7000 (Plano Diretor de Eldorado do Sul)”. Search conducted on 23 Mar. 2024.



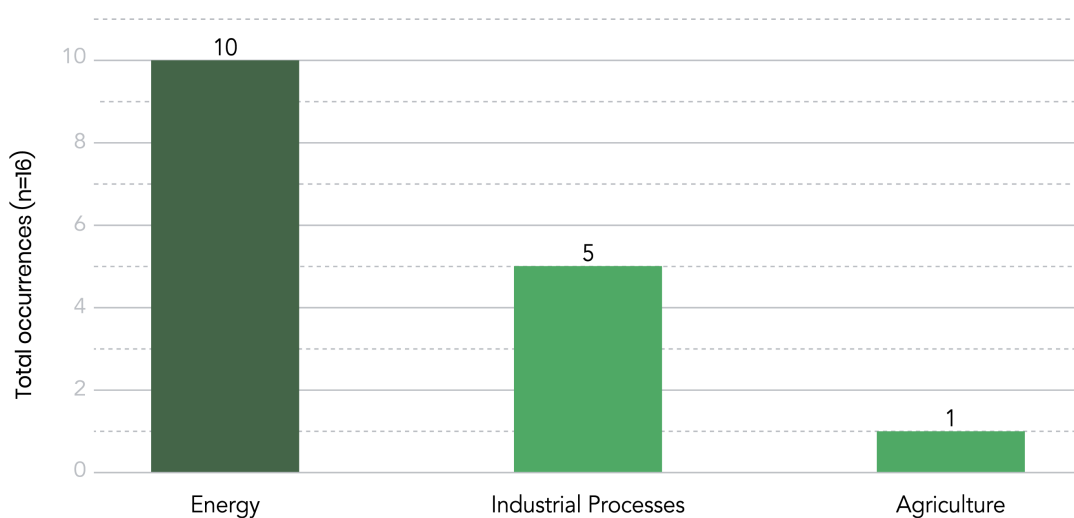


an advanced stage and the EIA does not acknowledge the existence of the Indigenous community or the fact that they did not participate in discussions. The judge ruled that these shortcomings need to be corrected. Appeals have been filed, but have not yet been adjudicated.

Although the ruling did not explicitly address the issue of the climate change it is a paradigmatic case given its effects: halting a coal mining project that would have significant impact on the climate. It is an example of the considerable influence that cases addressing the climate issue in a contextual manner can have on climate litigation in Brazil.

The next graph (graph 25) shows the classification of GHG emission sectors, illustrating which sectors are central in the discussions on environmental licencing in articulation with climate change.

**Graph 25 - Environmental licencing cases: total occurrences by GHG emission sector.**



Source: compiled by the authors, 2024

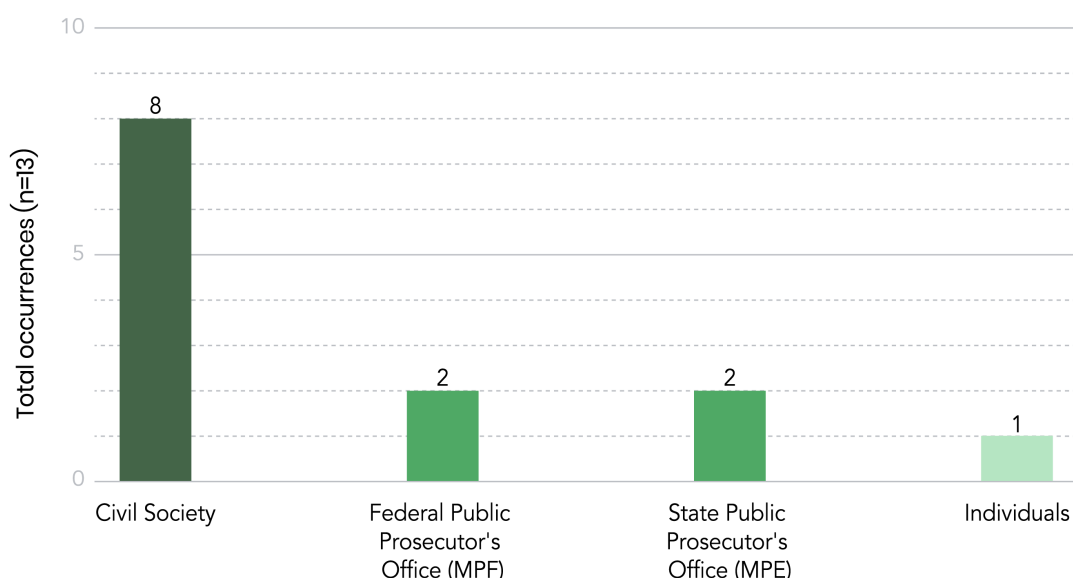
The vast majority of cases (ten out of 13) are in the energy sector, followed by industrial processes with five cases and only one case addressing activities in the agricultural sector. This is the only group of cases analysed in this report where the energy sector is the most prominent. This is



due to the existence of several cases questioning especially projects for fossil fuel extraction and burning, for energy generation. It is also notable that this is the only segment where the land use change and forestry sector, the main contributor to GHG emissions identified in climate litigation in Brazil as a whole, is not seen.

The following graph (Graph 26) indicates the classification regarding the type of plaintiff, illustrating which actors are leading the initiatives to bring the issue of environmental licencing associated with the climate issue to courts in Brazil.

**Graph 26 - Environmental licencing cases: total occurrences by type of plaintiff.**



Source: compiled by the authors, 2024

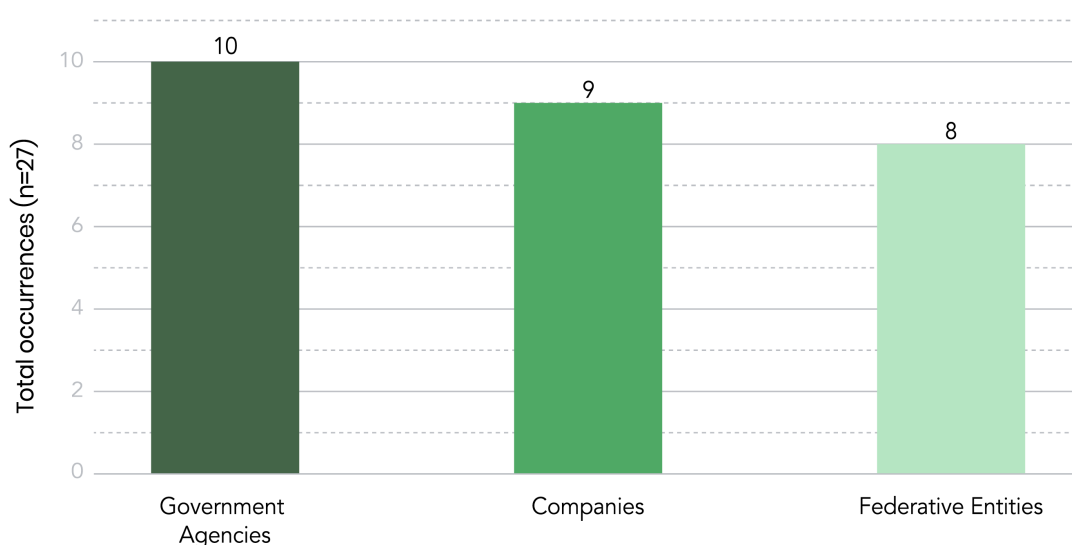
Organised civil society has established itself as the main plaintiff in this type of case, having filed eight out of the 13 actions. It is followed by the Public Prosecutor's Office, with the State Public Prosecutor's Office and the Federal Public Prosecutor's Office each responsible for two cases. Additionally, there is one Citizen Suit filed by an individual. The number of occurrences matches the number of cases, indicating that none of the actions in this group were filed jointly by more than one type of actor. This is also the only group of cases analysed in this report where civil society is



the main plaintiff and has filed significantly more climate-related actions. This highlights its prominent role in discussions on environmental licencing and climate in Brazilian courts.

The graph below (Graph 27) presents the classification regarding the type of defendants, illustrating the main parties sued in this group of cases.

**Graph 27 - Environmental licencing cases: total occurrences by type of defendant.**



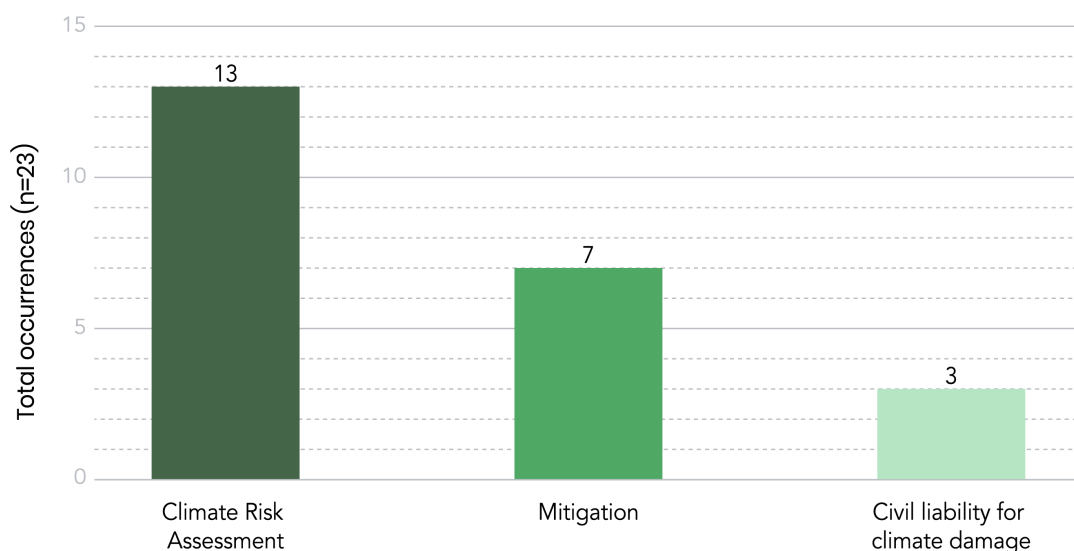
Source: compiled by the authors, 2024

Unlike the profile for plaintiffs, it is very common to have more than one type of defendant in the same case. The graph shows that the three types of defendants identified, public administration bodies, companies, and federative entities, are sued in a similar number of cases: ten, nine, and eight respectively. This reflects the very nature of environmental licencing, which involves the need for authorisation by the competent environmental agency for the development of potentially polluting projects. Thus, legal challenges related to the environmental licencing process, whether to question a specific project or its regulation and application, usually involve both public actors (environmental agencies, linked to one of the federative entities: municipal, state, or federal) and private actors (entrepreneurs).



Graph 28 below indicates the classification regarding the measures addressed in in these cases.

**Graph 28 - Environmental licencing cases: total occurrences by measure addressed.**



Source: compiled by the authors, 2024

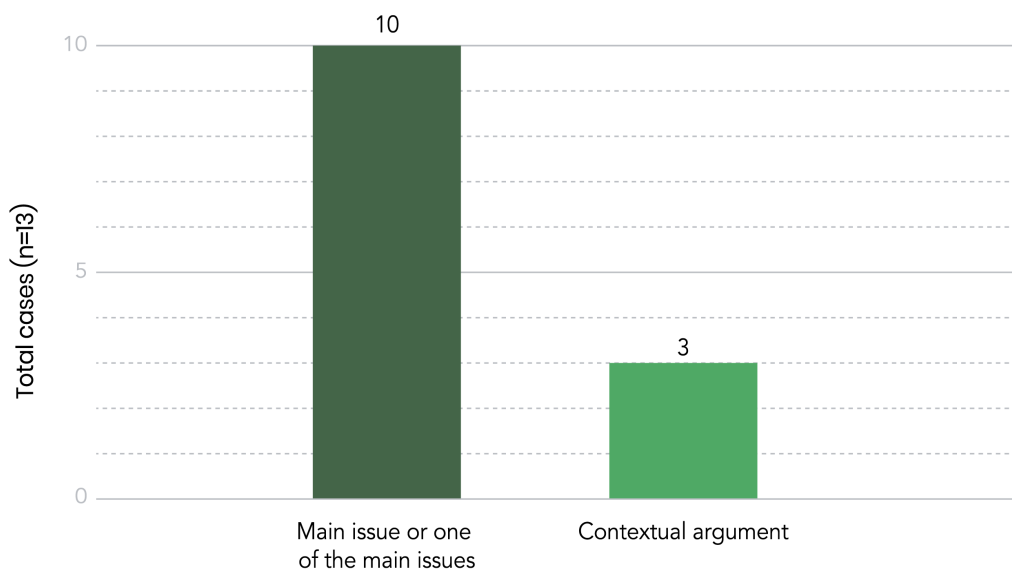
All 13 cases mention the measure “climate risk assessment”. This is to be expected given the purposes of environmental licencing and the need for the environmental risks of projects that have the potential to cause environmental degradation to be broadly assessed. Next, there are seven cases that also address mitigation measures, highlighting that the main focus of this group of cases is the containment of and/or compensation of GHG emissions. There are currently no cases in this group that include adaptation measures, a significant aspect that can –and should– be evaluated within environmental licencing processes. Considering the impacts of climate change on projects, it is essential that such measures be assessed in their planning and execution.<sup>69</sup>

69 In this regard, it has been stated that the “Public Authority, when conducting the environmental licencing procedure, has a duty to consider and require the consideration of the climate variable in all its aspects: both the direct and/or indirect impacts of the project on the climate – mitigation – as well as the impacts of climate change on the project – adaptation”. MOREIRA, Danielle de Andrade *et al.* Litigância climática no Brasil: argumentos jurídicos para a inserção da variável climática no licenciamento ambiental, p. 39.



Graph 29, below, presents the classification regarding the climate approach, demonstrating the relevance of the climate argument in cases dealing with environmental licencing in Brazil.

**Graph 29 - Environmental licencing cases: climate approach.**



Source: JUMA, 2024.

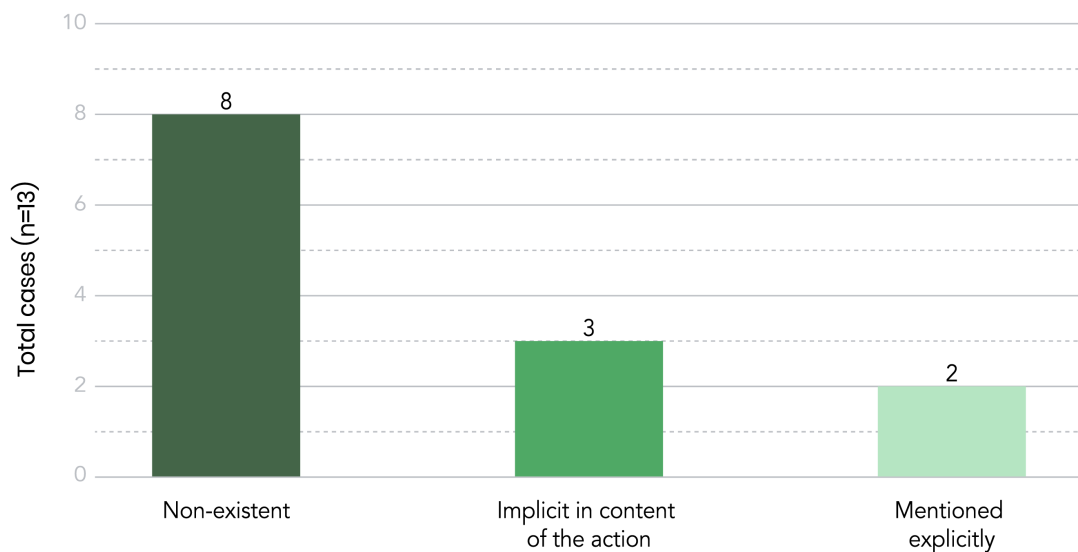
In the vast majority of cases (ten of 13), climate is the main issue or one of the main issues, with only three cases in which it appears as a contextual argument. Although the significance of climate arguments in environmental licencing cases is evident, even in cases where climate is a primary issue, climate-related issues are often associated with other environmental impacts, such as air pollution, water issues, the participation of affected populations and consultations with Indigenous peoples and traditional communities. This may be a strategic choice aimed at obtaining a positive decision regardless of the recognition of the climate argument, thereby increasing the likelihood of favourable outcomes for the climate.<sup>70</sup>

70 On the subject see MOREIRA, Danielle de Andrade *et al.* Litigância climática no Brasil: argumentos jurídicos para a inserção da variável climática no licenciamento ambiental, p. 102.



The next graph (Graph 30) presents the classification regarding the approach to environmental and/or climate justice, identifying how these concepts are mentioned in environmental licencing cases of climate litigation in Brazil.

**Graph 30 - Environmental licencing cases: environmental and/or climate justice approach.**



Source: compiled by the authors, 2024

There is no mention to the concepts of environmental and/or climate justice in most cases (eight of 13). Three cases contain implicit mentions and two explicit mentions. This shows that the approach to these concepts is still incipient in climate litigation on environmental licencing in Brazil and that it can –and should– be better developed. This is particularly important since several of these cases mention the rights of Indigenous peoples and traditional communities impacted by extractive and/or projects that are highly polluting.

Finally, when analysing the main norms mobilized in this group of cases, it is noted that all mention Article 225 of the CF, and almost all (12 out of 13 cases) mention the PNMA. The results are as expected given that these norms contain the foundations for environmental licencing and prior impact assessments in the country. Other frequently cited norms include those specific to environmental licencing (such as CONAMA Resolution 1/1986, cited in nine cases, and CONAMA Resolution 237/1997,



cited in eight cases), as well as climate norms (such as the PNMC, cited in 11 cases, and the Paris Agreement, cited in six cases). A profile is therefore established of cases that invoke one of the longest-standing instruments of Brazilian environmental law, seeking its application in association with concerns and norms on climate change.



## 3.2 Cases of civil liability for climate-environmental damage

Among the 80 cases registered on the Platform until March 2024, civil liability is the second most addressed measure (24 occurrences), coming second to mitigation (with 44 occurrences) and followed by climate risk assessment (19 occurrences).

There are 24 climate-related cases that mobilize civil liability for climate-environmental damage,<sup>71</sup> taking into account both the reparatory and preventive dimensions of the instrument.<sup>72 73</sup> As will be seen later, many of these actions are related to damages associated with deforestation and begin to explicitly develop the argument of climate damage. There are also cases where the climate dimension of environmental damage is not explored in detail, although the demonstration of damage is based on issues related to GHG emissions and climate change.

71 Another 21 class actions related to the “Ministério Público Federal e INCRA vs. Dauro Parreira de Rezende (Desmatamento e dano climático)” case were also analysed. These lawsuits were assessed and considered similar because, although they were filed by the same plaintiffs against different defendants –all individuals– they all stem from investigations carried out under the same civil investigation procedure (1.13.000.001719/2015-49) into illegal deforestation carried out inside the Agro-extractive Settlement Project (PAE) Antimary. Because they are running in the same court, we decided to follow the progress of the 21 lawsuits, and any connections between them, without, however, including them individually on the Platform. Therefore, the information contained in this report does not account for these 21 lawsuits, but only the first case, filed against Dauro Parreira de Rezende. The same applies to the case “Ministério Público do Estado de São Paulo vs. KLM (Caso Companhias Aéreas)”, which is also covered by the measure of civil liability for climate damage. We opted to include only one of the class actions, among other similar ones filed by the MPSP against more than 30 airlines operating at São Paulo International Airport.

72 Regarding the preventive dimension, it has been said that “new functions are being assumed by environmental civil liability given the proliferation of risks inherent in post-industrial society. In this sense, and keeping in mind the guiding principles of prevention and precaution, the instrument of civil liability has also taken on the task of contributing to the avoidance of environmental damage”. MOREIRA, Danielle de Andrade. **Responsabilidade ambiental pós-consumo: prevenção e reparação de danos à luz do princípio do poluidor-pagador**. São Paulo: Letras Jurídicas; Rio de Janeiro: Editor PUC-Rio, 2015. p. 266.

73 For example, the preventive dimension of civil liability appears in the case “Associação Arayara de Educação e Cultura e outros vs. FUNAI, Copelmi Mineração Ltda. e FEPAM (Projeto Mina Guaíba e comunidades indígenas afetadas)”, outlined in Box 4 above. A class action was filed to suspend and annul the environmental licencing process for the Mina Guaíba Project, a Copelmi open-pit coal mining enterprise. The plaintiffs argue that in addition to legal violations, omissions in the EIA, and the absence of free, prior, and informed consultation with affected communities, coal mining poses significant social and environmental impacts to nearby communities, potentially causing irreparable environmental damage. Environmental civil liability was expressly mobilized to prevent future climate-environmental damage resulting from the installation and operation of the project.



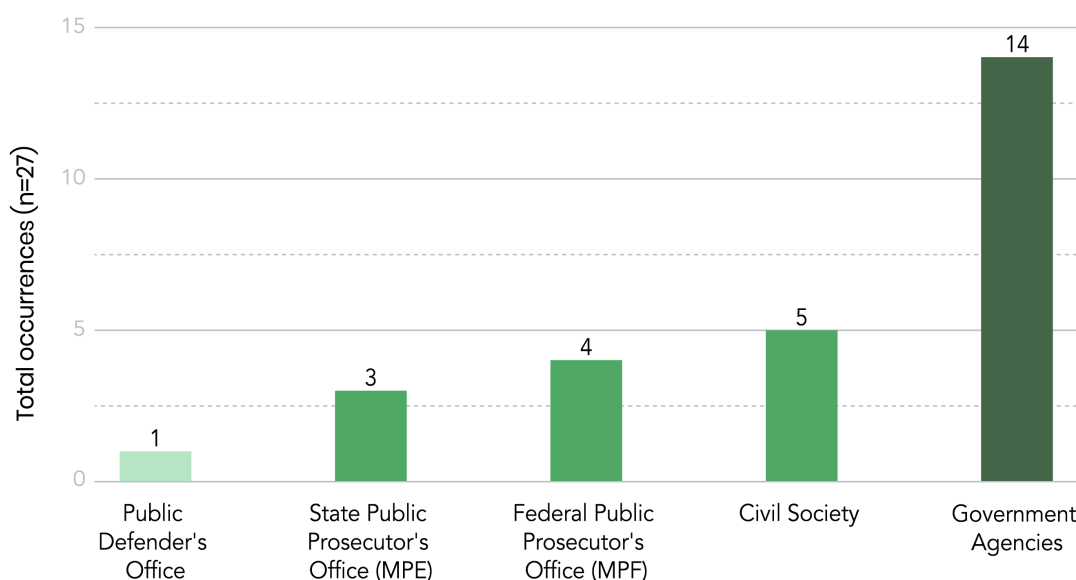


Analysis of this group of cases on civil liability, when considered in conjunction with other classifications provided on the Platform, allows for the identification of its main characteristics and specific features.

Regarding the court of origin, cases involving civil liability for climate-environmental damage are mostly filed before Federal Courts, jurisdiction that is determined, among other factors, by the plaintiff. When analysing the classification of the type of plaintiff, a difference is observed in relation to other climate cases in the country.

These lawsuits are primarily filed by public administration bodies, as shown in Graph 31 below. This diverges from the general trend of Brazilian climate litigation, which is mostly initiated by the Federal and State Public Prosecutor's Offices and organised civil society.<sup>74</sup>

**Graph 31 - Civil liability cases: total occurrences by type of plaintiff.**



Source: compiled by the authors, 2024

Public administration bodies are responsible for 14 out of the 24 cases registered on the Platform on this topic. The Federal Public Prosecutor's Office and the State Public Prosecutor's Office are responsible for four

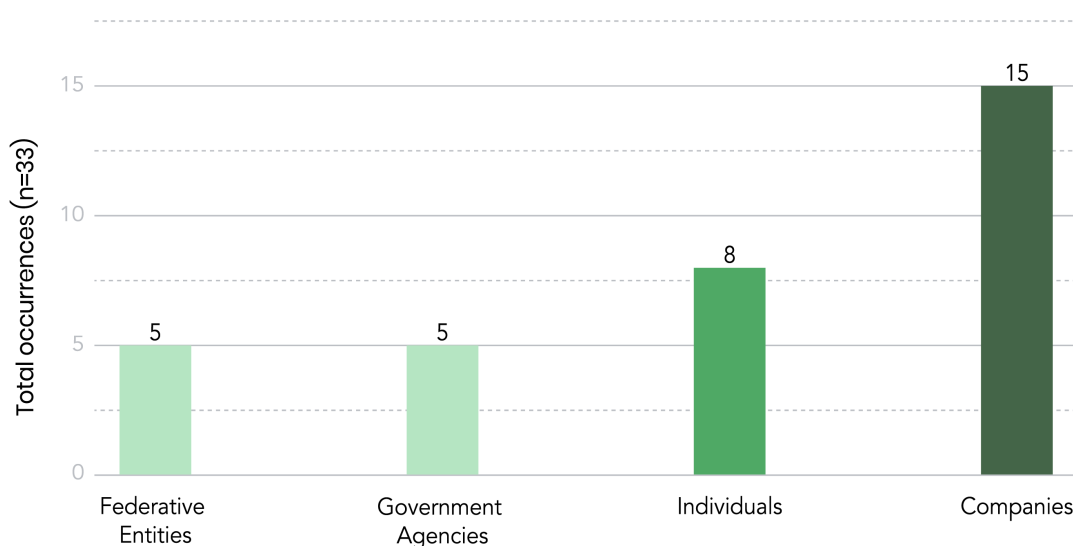
74 See Graph 4, above.



and three actions, respectively.<sup>75</sup> The combined occurrences of these two categories of public actors total the majority of civil liability cases (21 occurrences out of 24 cases).

Graph 32 below indicates the profile of the most frequently sued parties in climate-related civil liability actions.

**Graph 32 - Civil liability cases: total occurrences by type of defendant.**



Source: compiled by the authors, 2024

Defendants in climate-related civil liability cases are mostly companies and individuals (acting as defendants in 15 and eight cases, respectively).<sup>76</sup> This reflects a growing trend in Brazilian climate litigation. In contrast, federative entities and public administration bodies act as defendants in only a minority of cases (each accounting for just five actions).

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75 Again, the methodological option of including only one action representing a larger set of similar actions filed by the same actor in the cases “Ministério Público Federal e INCRA vs. Dauro Parreira de Rezende (Desmatamento e dano climático)” and “Ministério Público do Estado de São Paulo vs. KLM (Caso Companhias Aéreas)” covered by this section is noteworthy. Considering the total number of actions that make up these two sets of cases, the State and Federal Public Prosecutors’ Offices should be considered central players in the filing of lawsuits dealing with climate-environmental civil liability.

76 Once again, it is worth mentioning the methodological option of including only one action representing a larger set of similar actions, related to the same civil inquiry, filed by the same actor in the case “Ministério Público Federal e INCRA vs. Dauro Parreira de Rezende (Desmatamento e dano



These public actors, when sued, appear as defendants for not complying with climate regulations, failing to enforce them, or for irregularities in environmental licencing, for example. With this, even if indirectly, they contribute to the GHG emission –and therefore to causing the damage– by not efficiently exercising their duty to apply the rules, supervise, manage, control or authorise the activity identified as polluting.

Consider, for instance, the case “IEA e Ministério Público Federal (MPF) vs. União Federal, IBAMA e ICMBio (RESEx Chico Mendes)”. The aim is to prevent the ongoing illegal deforestation in the Chico Mendes Extractive Reserve (RESEx), restore deforested areas and hold the public authorities accountable, specifically the Federal Union, IBAMA, and ICMBio, for their failure to protect the environment. It is argued that deforestation in the area has advanced because of the weakening of public policies, land invasion, road construction, fires in the region, among other situations directly related to the actions of public authorities and their regulatory role.

To the extent that the defendants are not complying with their duty of management and control –contributing to the damage caused to the Extractive Reserve and the community– compensation for material damages and collective moral damages is sought, as well as the immediate reforestation of the entire area that has been deforested beyond the prescribed limit. Even though the perspective of the climate dimension of environmental damage is not explicitly developed in this case, the demonstration of environmental damage is based on questioning GHG emissions, and the context of climate change is expressly considered.<sup>77</sup>

In an analysis of the GHG emission sector, it is noted, as indicated below (Graph 33), the main sector questioned in civil liability cases is related to land use change and forestry, addressed in the vast majority of cases (19 occurrences in 24 cases). It is followed by mention of the energy sector (five occurrences), agriculture (four occurrences), and industrial processes (two occurrences).

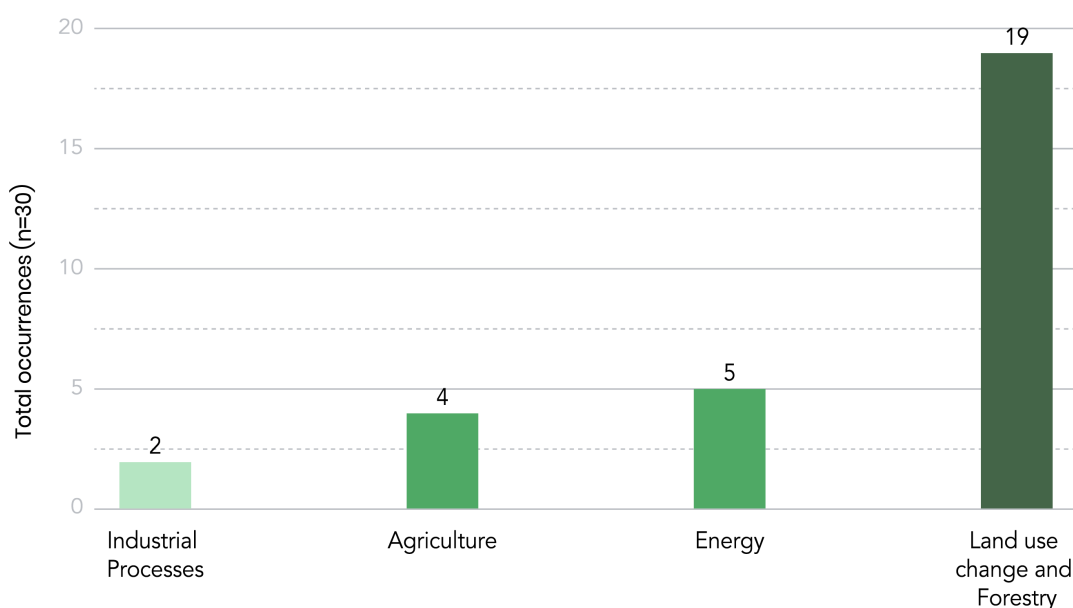
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climático)”. Although the 21 similar cases were not included individually in the Platform, they were filed against individuals, which confirms that individuals and companies are the most common climate polluters sued in climate–environmental civil liability cases in Brazil.

<sup>77</sup> This approach confirms the broad scope of the concept of environmental damage, which can encompass, among other aspects, the climate dimension.



**Graph 33 - Civil liability cases: total occurrences by GHG emission sector.**



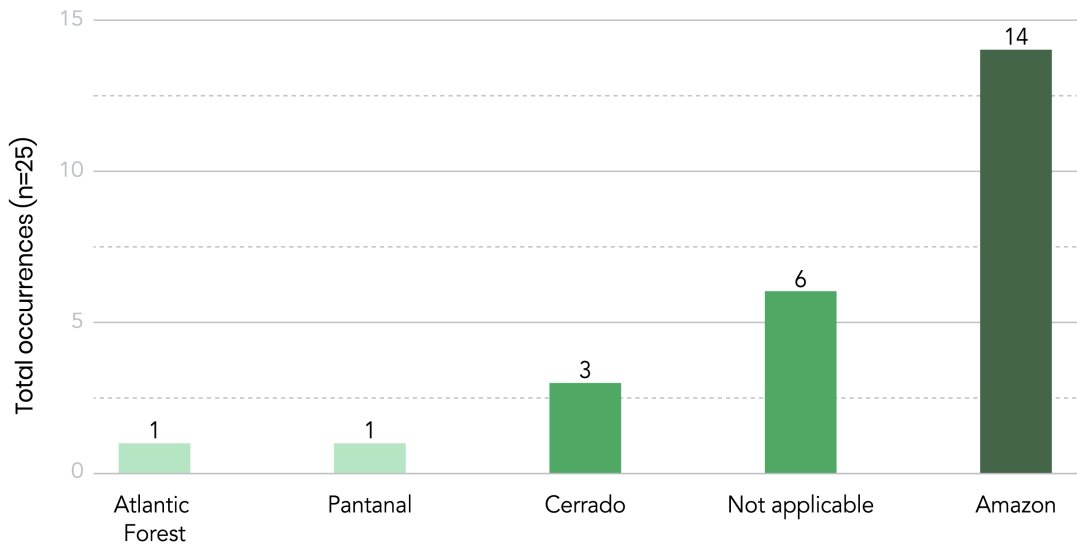
Source: compiled by the authors, 2024

In discussions about land use change and forestry, deforestation in the Amazon stands out,<sup>78</sup> being the biome that appears most frequently (14 occurrences in 24 cases), as shown in Graph 34 below.

78 It's worth noting that deforestation in the country broke consecutive records between 2018 and 2022. In 2022, for the fifth consecutive year, the Amazon saw record deforestation, according to data from Imazon. AMORIM, L. *et al.* Sistema de Alerta de Desmatamento (SAD) – Dezembro de 2022. Belém: Imazon, 2022.



**Graph 34 - Civil liability cases: total occurrences by biome.**



Source: compiled by the authors, 2024

The data in the above graph is also reflected in the locations where these cases are filed, being concentrated in the northern region of the country, as demonstrated in the map below (Map 5).

**Map 5 - Civil liability cases by state of origin.**



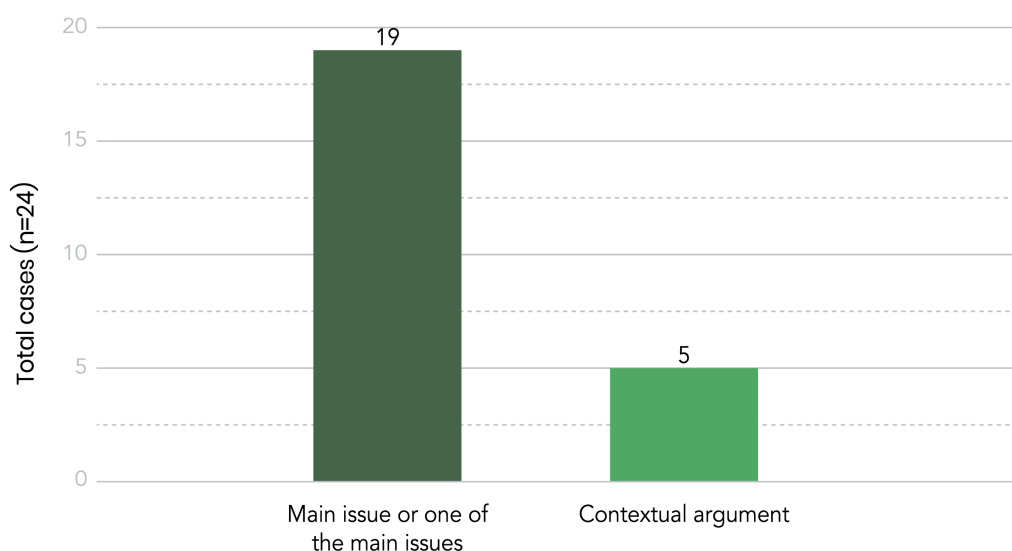
Source: compiled by the authors, 2024



The two states with the highest concentration of cases are Pará and Amazonas, with five and four actions respectively. Also, the total number of cases filed in the states of the Legal Amazon region accounts for more than half of the cases of civil liability for climate-environmental damage (16 of 24 cases).

Regarding the approach to climate in these cases, most frequently, the climate issue appears as the main or one of the main issues addressed (in 19 of 24 cases), confirming the significance of the climate dimension in the discussion on environmental damage (see Graph 35 below).

**Graph 35 - Civil liability cases: climate approach.**

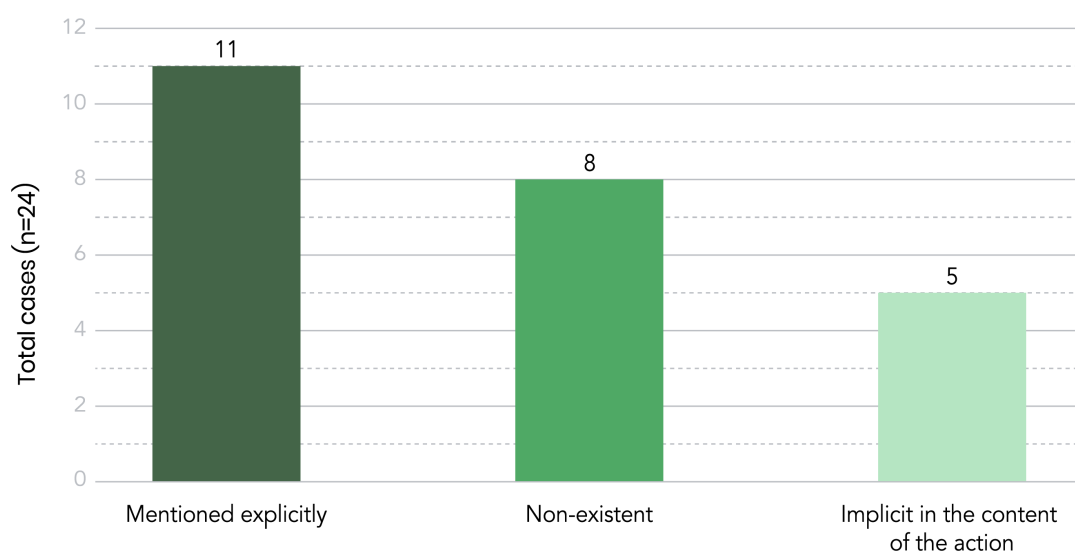


Source: compiled by the authors, 2024

Another possible analysis of this group of cases concerns their approach to environmental and/or climate justice, as seen in Graph 36 below.



**Graph 36 - Civil liability cases: environmental and/or climate justice approach.**



Source: compiled by the authors, 2024

Almost half of the cases explicitly mention environmental and/or climate justice (11 of 24 cases). Therefore, plaintiffs in these cases, in some way, acknowledge that the consequences of emissions generated by the defendants will affect vulnerable groups more intensely and they make reference to this in order to reinforce the need for accountability. Five cases were identified where these concepts were implicitly mentioned.

The main regulations mobilized by the plaintiffs in this type of lawsuit are Article 225 of the CF (mentioned in all 24 cases) and the PNMA (mentioned in 23 of 24 cases). Climate norms are also used, for example the PNMC (mentioned in 11 of 24 cases) and the Paris Agreement (mentioned in seven of 24 cases).

The data presented here allows for the identification of the current profile of climate litigation concerning civil liability in Brazil. The cases are primarily focused on addressing illegal deforestation, especially in the Amazon, which is responsible for GHG emissions that cause damage to the climate system.



The polluter is defined as anyone who has directly or indirectly engaged in the activity,<sup>79</sup> including those who have profited from it. There are cases against the deforesters themselves, as well as against those responsible for other activities in the deforestation chain. There is a set of at least eight civil liability lawsuits<sup>80</sup> filed by IBAMA that question illegal timber deposits and the associated climate-environmental damage.

**Box 5: “IBAMA vs. Indústria, Comércio, Importação e Exportação de Madeiras Floresta Verde Ltda. (depósito de madeira serrada em Itaituba e dano climático)”**

In 2019, IBAMA filed an action against Floresta Verde Ltda. seeking reparation for environmental and climate damage caused by the storage of logs without an environmental licence. It is alleged that the storage of timber without proven origin is associated with illegal deforestation and predatory exploitation in the Amazon biome, releasing CO<sub>2</sub> into the atmosphere and depleting the forest’s carbon sinks. The lawsuit seeks reparation for damages caused to flora and fauna, soil erosion, and the contribution to global warming. It demands that the defendant be ordered to undertake vegetation recovery in an area equivalent to that estimated by IBAMA, based on the volume of seized logs, and to pay compensation for climate damage, which is calculated based on the Social Cost of Carbon (SCC).

The ruling was delivered in 2020 and upheld the initial requests, condemning the defendant to: (i) restore 96 hectares by developing a reforestation plan; (ii) pay compensation of R\$ 1 million for climate

79 In view of the broad legal concept of polluter, set out in article 3, IV, of the PNMA, defined as “the individual or legal entity, whether public or private, responsible, directly or indirectly, for an activity that causes environmental degradation”.

80 They are: (i) “IBAMA vs. Silmar Gomes Moreira (depósito de madeira ilegal em Anapu e dano climático)”;

(ii) “IBAMA vs. Alto Norte Indústria, Comércio e Exportação de Madeiras Ltda. (depósito de madeira ilegal em Colniza e dano climático)”;

(iii) “IBAMA vs. Gabriel Indústria e Comércio Madeiras EIRELI (depósito de madeira ilegal em Tailândia e dano climático)”;

(iv) “IBAMA vs. Seringal Indústria e Comércio de Madeiras EIRELI (depósito de madeira ilegal em Monicore e dano climático)”;

(v) “IBAMA vs. Indústria, Comércio, Importação e Exportação de Madeiras Floresta Verde Ltda. (depósito de madeira serrada em Itaituba e dano climático)”;

(vi) “IBAMA vs. Madeireira Madevi (Depósito de madeira ilegal em Santarém e dano climático)”;

(vii) “IBAMA vs. V. de Souza Brilhante EIRELI (Depósito ilegal de madeira em Porto Grande e dano climático)”;

and (viii) “IBAMA vs. Madeira Nova Aliança (Depósito ilegal de madeira em Placas e dano climático)”.



damage; (iii) loss or suspension of their participation in financing lines offered by official credit establishments; and (iv) loss or restriction of access to incentives and tax benefits offered by the government. The plaintiff has initiated the enforcement of the ruling. However, the defendant has challenged this on the grounds that the decision has not yet become final, making enforcement unfeasible. This appeal is awaiting trial.

The case demonstrates how civil liability can be used in climate litigation against both direct polluters, such as those who deforest an area without authorisation from the environmental agency, and indirect polluters, whose activities are somehow associated with or benefit from illegal deforestation. Moreover, it indicates how civil liability can be used to address a dimension of environmental damage that is understood to be a climate damage. This requires its characterisation, quantification and valuation.

In addition to this one, there are three other cases that address the existence of climate damage associated with the deposit of illegal timber and whose judgements analyse the merits of the action,<sup>81</sup> in ruling that vary. In the cases “IBAMA vs. Seringal Indústria e Comércio de Madeiras EIRELI (depósito de madeira ilegal em Monicore e dano climático)” and “IBAMA vs. V. de Souza Brilhante EIRELI (Depósito ilegal de madeira em Porto Grande e dano climático)” the defendants were also determined to pay compensation for climate damage (as in the case indicated in Box 5 above). In these decisions, the court recognised the existence of a climate dimension to environmental damage due to the negative impacts of the suppression of carbon sinks and GHG emissions, accepting the methodology indicated by the plaintiffs for identifying the extent of the damage and the corresponding amount to be paid in compensation.<sup>82</sup>

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81 The case “IBAMA vs. Madelin Madeireira Linhares LTDA (Depósito de madeira ilegal em Rorainópolis e dano climático)” is also a case of civil liability for climate damage that reached a verdict. However, the ruling was the dismissal of the case without a judgment on the merits, thus not addressing the discussion on climate damage and its valuation based on the understanding that IBAMA did not have the legal standing to file the lawsuit.

82 In cases where specific accountability for climate damage is sought, there is the challenge of quantifying the damage and thus determining the compensatory value due. This calculation has been made based on the estimate of the amount of GHG emissions generated by deforestation,



However, in “IBAMA vs. Silmar Gomes Moreira (depósito de madeira ilegal em Anapu e dano climático)”, the ruling only partially upheld the plaintiffs’ requests, with the request for climate damage being denied due to the lack of expert evidence to quantify the climate dimension of the environmental damage. This shows that there are still divergences in the few, and not yet definitive, rulings of cases on this subject in the country.

In civil liability cases that specifically address climate damage, the multifaceted nature of environmental damage and the need for its full reparation have been considered. This profile shows that this type of lawsuit is in line with the characteristics of environmental civil liability which is already well developed in Brazilian environmental law.

The case “IBAMA vs. Dirceu Kruger (Desmatamento ilegal na Amazônia e dano climático)”, for example, includes various requests aimed at full reparation of damages.<sup>83</sup> Reparation for climate-environmental damage is sought through ecological compensation measures –aimed both at reversing the damage and providing reparation for interim damage, among other objectives–, financial compensation for illegal GHG emissions, and with the aim of disgorgement of profits illegally obtained by the defendant. This case, in addition to representing one of the civil liability actions filed against an individual, stands out because the total compensation requested exceeds R\$ 292 million.

In “Ministério Público Federal e INCRA vs. Dauro Parreira de Rezende (Desmatamento e dano climático)”,<sup>84</sup> the requests include reparation for environmental damage resulting from illegal deforestation through the

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according to the biome in question, subsequently multiplied by the price per tonne of carbon. The methodologies employed for carrying out the two stages of calculation – measuring the amount of GHG emitted and assigning the value per tonne of GHG emitted – have varied in cases that discuss the matter. For more on this subject, see: MOREIRA, Danielle de Andrade. GONÇALVES, Victória Lourenço de Carvalho e; BARBOSA, Fernanda Leite. Valoração da dimensão climática do dano ambiental no Brasil. **Revista de Direito Ambiental**, v. 114 (forthcoming), April/June 2024.

83 IBAMA alleges that the defendant was responsible for the illegal deforestation of 5,600 hectares of forest, which is said to have caused the emission of 901,600 tonnes of CO<sub>2</sub>. In this case, the illegal deforestation was allegedly carried out by setting fire to the area to prepare it for pasture for the defendant’s cattle ranching activities.

84 The plaintiffs allege that the defendant was responsible for the illegal deforestation of an area of 2,488.56 hectares, between 2011 and 2018, in Boca do Acre, Amazonas, with the estimated emission of almost 1.5 million tons of CO<sub>2</sub>. The area was allegedly occupied illegally because it



adoption of in natura reparation measures and the payment of compensation for intermediate and residual material environmental and climate damages, the disgorgement of profits illegally obtained from deforestation and for collective moral damages.

Cases like those mentioned seek reparation encompassing all the impacts that a single polluting activity inflicts on the environment, including the climate. These lawsuits demonstrate that civil liability in climate litigation in Brazil is aligned with the developments of environmental civil liability in the country, aiming to impose the duty of full reparation for damages caused, on anyone practising harmful conduct. This includes: (i) damages that will be endured until the environment is fully restored (for example, the loss of carbon sinks); (ii) damages that are not recoverable (residual damages); (iii) extra-patrimonial (moral) damages imposed on the community; as well as the need for (iv) disgorgement of profits obtained from engaging in polluting and illegal activities.<sup>85</sup>

Finally, cases seeking civil reparation for climate-environmental damage focus on what is being called “direct climate damages”, characterised by the affectation of the climate system as an autonomous legal asset, due to GHG emissions.<sup>86</sup> No cases were identified that address indirect climate damage, which arises from the deleterious effects of climate change or from losses incurred due to impacts on the climate system. Examples of indirect climate damage include those resulting from extreme weather events (caused or exacerbated by climate change) or even gradual changes, such as rising sea levels.<sup>87</sup>

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was part of an Agro-Extractivist Settlement Project (PAE) and was already occupied by traditional extractivist communities.

85 The Superior Court of Justice (STJ) has consistent jurisprudence affirming, by virtue of the polluter-pays principle, the necessity of full reparation for environmental damage. Thus, it allows for the accumulation of obligations to act, to refrain from acting, and to compensate, which should encompass, from retrospective and future rulings, restoration measures and compensation for future, irreparable, or intangible losses. On this matter, see SUPERIOR COURT OF JUSTICE (STJ). 2nd Panel. REsp 1.198.727-MG, Rapporteur Minister Herman Benjamin. Judged on 14/08/2012. DJe: 09/05/2013.

86 Rafaela Rosa identifies direct damage based on proof that there are significant deleterious effects on the climate system. ROSA, Rafaela Santos Martins da. **Dano climático**: conceito, pressupostos e responsabilização. São Paulo: Tirant Brasil, 2023, p. 311.

87 Regarding the difficulties related to the reparation of indirect climate damages, Rafaela Rosa identifies, from a broader perspective, that, given the low effectiveness and implementation of an international agenda on loss and damage, “it is possible to perceive a significant increase in

As climate-related civil liability cases increase in Brazil, the courts are being called upon to discuss criteria for valuing the damage. Difficulties in demonstrating the causal link and in assessing the extent of climate damage to be repaired present a challenge in terms of reparation and prevention of climate-environmental damage.<sup>88</sup> The advancement of attribution science could help address this challenge, paving the way for civil liability cases in Brazil to also focus on indirect damage in the coming years.

It is expected that civil liability actions will also start to be used in cases that discuss the disclosure of information about the climate impacts of products and services circulating in the market (climate-washing or greenwashing),<sup>89</sup> promoting an approach to the issue through consumer protection laws.

For now, it is noted that Brazilian climate actions concerning civil liability for environmental-climate damage rely on well-developed environmental legislation and jurisprudence, integrating them with the particularities of climate change. This demonstrates the intrinsic relationship between climate and the right to a healthy environment.

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claims brought before different justice systems, which seek, from different perspectives, other possible ways of holding private agents accountable for indirect climate losses and damages.” Ibid, p. 400.

88 In 2021, the National Council of Justice (CNJ) issued Resolution 433, which establishes the National Policy of the Judiciary for the Environment and provides, among other topics, for the need for judges to consider, in ruling for environmental damage, the impact of the damage on global climate change. In order to comply with the rule, the Protocol for Judging Environmental Cases was drawn up. The document recognizes the reliability of evidence obtained by remote sensing for the development of guidelines related to environmental convictions and is expected to include guidance for judges on the parameters for measuring and quantifying GHG emissions in civil liability for climate-environmental cases. CONSELHO NACIONAL DE JUSTIÇA (CNJ). **Resolução 433**, de 27 de outubro de 2021. Institui a Política Nacional do Poder Judiciário para o Meio Ambiente. Available at: <https://atos.cnj.jus.br/files/original/1404192021103618296e30894e.pdf>. Accessed on: 04 April 2024.

89 This trend is already being seen more strongly in climate litigation in the Global North, as can be read in BENJAMIN, Lisa, *et al.* **Climate-washing litigation**: legal liability for misleading climate communications. Policy Briefing, The Climate Social Science Network. 2022. Available at: <https://cssn.org/wp-content/uploads/2022/01/CSSN-Research-Report-2022-1-Climate-Washing-Litigation-Legal-Liability-for-Misleading-Climate-Communications.pdf>. Accessed on: 24 April 2024.



# Conclusion



The Climate Litigation in Brazil: 2024 Report analysed general quantitative and qualitative results, of the 80 cases registered on the Climate Litigation Platform of Brazil, until March 2024. This was based on an overview of climate litigation in the country and an analysis of the distribution of cases into four subgroups. Throughout the document, the profiles of (i) systemic cases, (ii) routine cases, (iii) cases on environmental licencing directly associated to the climate issue and (iv) cases on civil liability for environmental-climate damage were presented and outlined.

In the first section, a general overview of climate litigation in Brazil was presented, with an update after the inclusion of ten new cases on the Platform, compared to the 2nd edition of the Brazilian Climate Litigation Bulletin, published in 2023.<sup>90</sup> The profile of Brazilian climate litigation was analysed on the basis of the historical evolution of cases and in terms of classifications such as: (i) the most frequently type of action used and distribution thereof by state; (ii) the main defendants and plaintiffs in these cases; (iii) their objectives; (iv) the most frequent biome mentioned and (v) the approach to climate and the possibility of addressing it in association with environmental and/or climate justice issues.

An assessment of the overview of climate litigation in Brazil confirms that it is growing and diversifying, making it difficult to define a single comprehensive profile. This in-depth analysis revealed the need to define specific segments to broaden the study of groups of cases and their particular features.

In the second section of the report, a comparative analysis was presented of two climate litigation strategies reflected in two types of cases: systemic and routine. This classification distinguishes cases based on the plaintiffs' reasons for filing the lawsuit. These are broader in systemic cases and restricted to a specific act or project in routine cases. The analysis focused on a comparative study of certain aspects of these cases, highlighting similarities and differences.

It was found that systemic cases form a group of lawsuits with a more well-defined profile, primarily filed against public authorities and aimed at preventing regulatory rollbacks and setbacks in the implementation

90 MOREIRA, Danielle de Andrade *et al.* Brazilian Climate Litigation Bulletin 2023.



of environmental and climate policies. The use of constitutional actions and arguments is significant, with cases brought before the STF as well as other Brazilian courts. In contrast, routine cases cover a wider range of issues, primarily in state and federal trial courts and involving a diversity of plaintiffs and defendants.

Due to the wide variety of issues discussed, especially in routine cases, the final section of the report presented in two traditional instruments of Brazilian environmental law that been mobilized in a significant number of climate cases: environmental licencing and environmental civil liability. First, 13 cases that directly address environmental licencing in association with climate as the claim or the cause of action were analysed. Environmental licencing was combined with other classifications applicable to this specific group of cases, such as the type of plaintiff or defendant. Civil society was the main plaintiff, while there were a wide range of defendants –including companies, public administration bodies, and federative entities. The importance of the discussion on the energy sector and environmental licencing for fossil fuel-related projects was also emphasised.

Following, a set of 24 cases addressing the instrument of civil liability for climate–environmental damage and its foundations was assessed. The analysis of this group of cases was conducted in conjunction with other classifications, revealing the following: the prominence of public authorities as plaintiffs and private actors as defendants; deforestation as the most frequently addressed polluting activity causing climate–environmental damage and the fact that this discussion is focused on the Amazon region.

We believe that some of the trends analysed here will be consolidated in the future. In terms of the profile of the main actors involved in climate litigation in Brazil, a consolidation of the prominence of the third sector is expected, with the increased involvement of civil society organisations in filing ACPs and intervening in cases in the role of *amicus curiae*. A reduction in systemic cases filed against the federal government is also expected, along with a steady increase in litigation against the private sector, with a prevalence of new routine cases. Cases associating the climate variable with environmental licencing and civil liability for climate–environmental damages are expected to continue to grow.



Finally, we believe that cases will continue to focus on mitigation measures and reflect the specificity of the country's GHG emission profile, with special focus on deforestation, while not neglecting actions that, from preventive and reparatory perspectives, address emissions from the exploitation of fossil fuels. Additionally, more substantial discussions on the impacts of climate change are expected in cases that address adaptation measures and the discussion of indirect climate damage.

As evidenced throughout this report, climate litigation in Brazil is grounded in and supported by experience gained over more than 40 years of developing environmental law and litigation in the country. Classic environmental norms and instruments form the basis of climate cases, linked with the factual and regulatory context of climate change, taking its specificities into account.

Overall, there is an increasing mobilisation of the Brazilian courts by a wide range of actors in claims that are predominantly aligned with the protection of a stable climate, which is seen as an integral part of the fundamental human right to an ecologically balanced environment. We conclude that the discussion on climate litigation in Brazil has been evolving through the use and improvement of the legal tools that are available and requires consideration of the peculiarities of the country's legal system, with a focus on environmental protection norms –included in the scope of fundamental human rights– and different mechanisms of access to justice.



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# Appendix



## List of the 80 cases registered on the Brazilian Climate Litigation Platform until March 2024

Nº	Nome do caso	Ano	Classificação
1	Ministério Público do Estado de São Paulo vs. Filipe Salles Oliveira e Alexandre Salles Oliveira (Queima da palha da cana-de-açúcar)	1996	Routine; Civil liability for climate-environmental damage
2	IBAMA vs. Município de Pitimbu e outros (construção ilegal em APP)	2000	Routine
3	Ministério Público do Estado de São Paulo vs. KLM (Caso Companhias Aéreas)	2010	Routine; Civil liability for climate-environmental damage
4	Ministério Público do Estado de Mato Grosso vs. Nelson Noboru Yabuta (Dano ambiental moral coletivo)	2010	Routine; Civil liability for climate-environmental damage
5	ABRAGET vs. Estado do Rio de Janeiro (Decreto estadual que institui o Mecanismo de Compensação Energética)	2013	Systemic; Environmental licencing
6	Ministério Público do Estado do Rio de Janeiro vs. Município de Niterói (Estudo de Impacto de Vizinhança)	2013	Routine
7	Ministério Público Federal vs. União Federal e outros (Avanço do mar e erosão costeira)	2014	Routine
8	Ministério Público Federal vs. Estado de São Paulo, CETESB e IBAMA (Queima de Palha de Cana-de-Açúcar)	2017	Systemic; Environmental licencing
9	Ministério Público Federal vs. Rogério (Incêndio florestal)	2017	Routine
10	IBAMA vs. Silmar Gomes Moreira (depósito de madeira ilegal em Anapu e dano climático)	2018	Routine; Civil liability for climate-environmental damage
11	IBAMA vs. Alto Norte Indústria, Comércio e Exportação de Madeiras Ltda. (depósito de madeira ilegal em Colniza e dano climático)	2018	Routine; Civil liability for climate-environmental damage
12	IBAMA vs. Gabriel Indústria e Comércio Madeiras EIRELI (depósito de madeira ilegal em Tailândia e dano climático)	2018	Routine; Civil liability for climate-environmental damage



Nº	Nome do caso	Ano	Classificação
13	IBAMA vs. Madelin Madeireira Linhares LTDA (Depósito de madeira ilegal em Rorainópolis e dano climático)	2018	Routine; Civil liability for climate-environmental damage
14	IBAMA vs. Madeireira Madevi (Depósito de madeira ilegal em Santarém e dano climático)	2018	Routine; Civil liability for climate-environmental damage
15	IBAMA vs. V. de Souza Brilhante EIRELI (Depósito ilegal de madeira em Porto Grande e dano climático)	2018	Routine; Civil liability for climate-environmental damage
16	Fabiano Contarato, Randolph Rodrigues e Joenia Batista vs. Ricardo Salles (Denúncia contra Ricardo Salles por crime de responsabilidade)	2019	Systemic
17	Ministério Público Federal vs. União Federal (Zoneamento da Cana de Açúcar)	2019	Systemic; Civil liability for climate-environmental damage
18	Ministério Público do Estado do Rio Grande do Sul vs. Estado do Rio Grande do Sul e FEPAM (Polo Carboquímico)	2019	Systemic; Environmental licencing
19	Associação Arayara de Educação e Cultura e Colônia de Pescadores Z-5 vs. Copelmi Mineração Ltda. e FEPAM (Projeto Mina Guaíba e comunidades atingidas)	2019	Routine; Environmental licencing
20	IBAMA vs. Siderúrgica São Luiz Ltda., Geraldo Magela Martins e GMM Participações Societárias Ltda. (Carvão de origem irregular)	2019	Routine; Civil liability for climate-environmental damage
21	Associação Arayara de Educação e Cultura e outros vs. FUNAI, Copelmi Mineração Ltda. e FEPAM (Projeto Mina Guaíba e comunidades indígenas afetadas)	2019	Routine; Environmental licencing; Civil liability for climate-environmental damage
22	ADO 54 (Desmatamento na Amazônia)	2019	Systemic
23	IBAMA vs. Seringal Indústria e Comércio de Madeiras EIRELI (depósito de madeira ilegal em Monicore e dano climático)	2019	Routine; Civil liability for climate-environmental damage
24	IBAMA vs. Indústria, Comércio, Importação e Exportação de Madeiras Floresta Verde Ltda. (depósito de madeira serrada em Itaituba e dano climático)	2019	Routine; Civil liability for climate-environmental damage

<b>Nº</b>	<b>Nome do caso</b>	<b>Ano</b>	<b>Classificação</b>
<b>25</b>	<b>IBAMA vs. Madeira Nova Aliança (Depósito ilegal de madeira em Placas e dano climático)</b>	2019	Routine; Civil liability for climate-environmental damage
<b>26</b>	<b>Clara Leonel Ramos e Bruno de Almeida de Lima vs. Estado de São Paulo (Famílias pelo Clima e Programa IncentivAuto)</b>	2020	Routine
<b>27</b>	<b>ADPF 760 (PPCDAm e emergência climática)</b>	2020	Systemic
<b>28</b>	<b>Ministério Público Federal vs. União Federal e outros (Hotspots de desmatamento na Amazônia)</b>	2020	Systemic
<b>29</b>	<b>Biostratum Distribuidora de Combustíveis S.A. vs. União Federal (Aquisição de CBios)</b>	2020	Routine
<b>30</b>	<b>Associação Arayara de Educação e Cultura vs. Copelmi Mineração Ltda. e FEPAM (Projeto Mina Guaíba e riscos hidrológicos)</b>	2020	Routine; Environmental licencing
<b>21</b>	<b>ADO 59 (Fundo Amazônia)</b>	2020	Systemic
<b>32</b>	<b>ADPF 708 (Fundo Clima)</b>	2020	Systemic
<b>33</b>	<b>Ministério Público Federal vs. Ricardo Salles e União Federal (Ação de Improbidade Administrativa)</b>	2020	Systemic
<b>34</b>	<b>BRASILCOM vs. Ministro de Minas e Energia (Mandado de Segurança e CBios)</b>	2020	Systemic
<b>35</b>	<b>Flexpetro Distribuidora de Derivados de Petróleo Ltda. vs. ANP e União Federal (Aquisição de CBios)</b>	2020	Routine
<b>36</b>	<b>ADPF 749 (Revogação das Resoluções CONAMA)</b>	2020	Systemic
<b>37</b>	<b>IEA vs. União Federal (Desmatamento e direito fundamental à estabilidade climática)</b>	2020	Systemic; Civil liability for climate-environmental damage
<b>38</b>	<b>ISA, ABRAMPA e Greenpeace Brasil vs. IBAMA e União Federal (Exportação de madeira sem fiscalização)</b>	2020	Systemic





Nº	Nome do caso	Ano	Classificação
39	ADPF 746 (Queimadas no Pantanal e na Floresta Amazônica)	2020	Systemic
40	Ministério Público Federal, SOS Mata Atlântica e ABRAMPA vs. União Federal (Despacho 4.410/2020 do MMA e legislação especial da Mata Atlântica)	2020	Systemic
41	ADPF 755 (Processo sancionador ambiental federal)	2020	Systemic
42	Ministério Público Federal e Ministério Público do Estado do Paraná vs. IBAMA e Instituto Água e Terra (Mata Atlântica e Código Florestal)	2020	Systemic
43	Estado de Rondônia e Ministério Público do Estado de Rondônia vs. invasores do Parque Estadual de Guajará-Mirim e sua Zona de Amortecimento (ocupação ilegal do Parque Estadual de Guajará-Mirim)	2020	Routine
44	Observatório do Clima vs. Ministério do Meio Ambiente e União Federal (Atualização do Plano Nacional sobre Mudança do Clima)	2021	Systemic
45	ADI 6932 (Privatização da Eletrobras)	2021	Systemic
46	Paulo Ricardo de Brito Santos e outros vs. Ricardo Salles, Ernesto Araújo e União Federal (Jovens contra a pedalada climática)	2021	Systemic
47	Ministério Público Federal e INCRA vs. Dauro Parreira de Rezende (Desmatamento e dano climático)	2021	Routine; Civil liability for climate-environmental damage
48	Carbonext Tecnologia em Soluções Ambientais Ltda. vs. Amazon Imóveis (Mercado de carbono voluntário)	2021	Routine
49	Clara Leonel Ramos e outros vs. Estado de São Paulo, João Doria e Henrique Meirelles (Famílias pelo Clima e Fridays for Future em razão do Programa IncentivAuto)	2021	Systemic
50	AGAPAN e outros vs. IBAMA e outros (Construção da Usina Termelétrica Nova Seival)	2021	Routine; Environmental licencing



<b>Nº</b>	<b>Nome do caso</b>	<b>Ano</b>	<b>Classificação</b>
<b>51</b>	<b>ADPF 814 (Mudança de composição do Fundo Clima e destinação de recursos)</b>	2021	Systemic
<b>52</b>	<b>ONG Costa Legal e outros vs. Município de Florianópolis e outros (Governança ambiental para a Lagoa da Conceição)</b>	2021	Systemic
<b>53</b>	<b>Ministério Público do Estado de Goiás vs. Estado de Goiás (Política pública estadual de controle da qualidade do ar)</b>	2021	Systemic; Environmental licencing
<b>54</b>	<b>ADI estadual 0804739-62.2021.8.22.0000 (Reserva Extrativista Jaci-Paraná e Parque Estadual de Guajará-Mirim)</b>	2021	Routine
<b>55</b>	<b>ADPF 857 (Queimadas no Pantanal)</b>	2021	Systemic
<b>56</b>	<b>ADI estadual 0007238-31.2021.8.21.7000 (Plano Diretor de Eldorado do Sul)</b>	2021	Systemic
<b>57</b>	<b>AMOREMA e AMORETGRAP vs. Sustainable Carbon e outros (Créditos de carbono e Reservas Extrativistas)</b>	2021	Routine
<b>58</b>	<b>Lucas Martins e Paulo Henrique Nagelstein vs. Presidente da República, Ministro de Estado de Minas e Energia e União Federal (Redução do percentual de mistura de biodiesel ao diesel fóssil)</b>	2022	Systemic
<b>59</b>	<b>ADI 7095 (Complexo Termelétrico Jorge Lacerda)</b>	2022	Systemic
<b>60</b>	<b>Ministério Público Federal vs. INEA e Karpowership Brasil Energia Ltda. (Linhas de transmissão e UTE na Baía de Sepetiba)</b>	2022	Routine; Environmental licencing; Civil liability for climate-environmental damage
<b>61</b>	<b>ADI 7146 (Regime de proteção de APPs em áreas urbanas)</b>	2022	Systemic
<b>62</b>	<b>Instituto Saúde e Sustentabilidade vs. União Federal e outros (Emissão de poluentes por veículos automotores)</b>	2022	Systemic; Civil liability for climate-environmental damage
<b>63</b>	<b>Conectas Direitos Humanos vs. BNDES e BNDESPAR (Avaliação de riscos climáticos em investimentos públicos)</b>	2022	Systemic
<b>64</b>	<b>ADPF 934 (Desmatamento no Cerrado)</b>	2022	Systemic



<b>Nº</b>	<b>Nome do caso</b>	<b>Ano</b>	<b>Classificação</b>
<b>65</b>	<b>Duda Salabert Rosa vs. estado de Minas Gerais e Taquaril Mineração S.A. (Complexo Minerário de Serra do Taquaril)</b>	2022	Routine; Environmental licencing
<b>66</b>	<b>IEA e Ministério Público Federal (MPF) vs. União Federal, IBAMA e ICMBio (RESEx Chico Mendes)</b>	2022	Routine; Civil liability for climate-environmental damage
<b>67</b>	<b>Instituto Internacional Arayara de Educação e Cultura vs. ANEEL e União Federal (Leilão termelétricas a gás)</b>	2022	Routine
<b>68</b>	<b>Instituto Internacional Arayara de Educação e Cultura vs. IBAMA e outros (instalação de complexo termelétrico em Macaé)</b>	2022	Routine; Environmental licencing
<b>69</b>	<b>ADI 7332 (Política de “transição energética justa” do Estado de Santa Catarina)</b>	2023	Systemic
<b>70</b>	<b>Instituto Verdeliz, Conselho Indígena do Povo Anacé de Japiman e Associação Indígena do Povo Anacé da Aldeia Planalto Cauipe vs. Portocem Geração de Energia S.A. e outros (Instalação de termoelétrica no Complexo Industrial e Portuário do Pecém)</b>	2023	Routine; Environmental licencing
<b>71</b>	<b>Instituto Preservar, AGAPAN e Núcleo Amigos da Terra vs. União Federal e outros (Emergência climática no estado do Rio Grande do Sul)</b>	2023	Systemic; Environmental licencing; Civil liability for climate-environmental damage
<b>72</b>	<b>ADI 7438 (proteção ambiental do Cerrado)</b>	2023	Systemic
<b>73</b>	<b>IBAMA vs. Minerva Ribeiro de Barros e Genesisagro S/A (Desmatamento ilegal no Cerrado)</b>	2023	Routine; Civil liability for climate-environmental damage
<b>74</b>	<b>IBAMA vs. Brandão e Jovino (Desmatamento ilegal no Cerrado)</b>	2023	Routine; Civil liability for climate-environmental damage
<b>75</b>	<b>IBAMA vs. Dirceu Kruger (Desmatamento ilegal na Amazônia e dano climático)</b>	2023	Routine; Civil liability for climate-environmental damage



<b>Nº</b>	<b>Nome do caso</b>	<b>Ano</b>	<b>Classificação</b>
<b>76</b>	<b>Defensoria Pública do Estado do Pará vs. RMDLT Property Group e outros (Projeto 997 de créditos de carbono e "grilagem de carbono florestal")</b>	2023	Routine
<b>77</b>	<b>Defensoria Pública do Estado do Pará vs. Floyd Promoção e Representação LTDA e outros (Projeto 981 de créditos de carbono e "grilagem de carbono florestal")</b>	2023	Routine
<b>78</b>	<b>Defensoria Pública do Estado do Pará vs. Associação dos Ribeirinhos e Moradores e outros (Projeto 2620 de créditos de carbono e "grilagem de carbono florestal")</b>	2023	Routine
<b>79</b>	<b>Defensoria Pública do Estado do Pará vs. Brazil AGFOR LLC e outros (Projeto 2252 de créditos de carbono e "grilagem de carbono florestal")</b>	2023	Routine
<b>80</b>	<b>Instituto Arayara, APIB e Terra Indígena Rio dos Pardos Aldeia Kupli vs. ANP, IBAMA, União Federal e outros (4º ciclo de oferta permanente de concessão e terras indígenas afetadas)</b>	2023	Routine

