

TOTAL IN COURT

ACT 2

The tough fight for access to evidence

MAY 2025



EAST AFRICAN
CRUDE OIL
PIPELINE

INITIALS

ENUMERATOR
CHECK



In June 2023, 26 members of affected communities, human rights defender Maxwell Atuhura, and five Ugandan and French organizations (AFIEGO, Friends of the Earth France, NAPE/Friends of the Earth Uganda, Survie, and TASHA Research Institute) filed a lawsuit against Total in France. After a first legal action in 2019, this time they are seeking compensation for human rights violations caused by the Tilenga and EACOP projects¹.

Today, the affected people and civil society organizations are asking the French judge to force Total to disclose essential documents for the case. The judge is expected to rule following a hearing at the Paris civil court on May 15, 2025.

¹ For more information on this second lawsuit and the claims for compensation, see: Friends of the Earth France and Survie, [Total in court: Act 2. Ugandan Communities Sue The French Oil Giant In France](#), June 2023.



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PROJECTS MOVING FASTER THAN JUSTICE

THE TILENGA AND EACOP PROJECTS IN 2025

Although Total² is struggling to secure full financing for the Tilenga and EACOP projects, construction work continues to progress. In Uganda, drilling began in June 2023: according to information published by Total, 109 wells have already been drilled, a significant number of them within the Murchison Falls National Park. The construction of the central processing facility (oil plant) is underway, and earthworks have already caused several floods³.

As for the EACOP — the pipeline intended to transport oil extracted in Uganda to the port of Tanga in Tanzania — pipeline sections are being built and transported in both countries. Finally, the construction of the oil terminal in Tanga, Tanzania, is progressing rapidly.

THE ONGOING LEGAL PROCEEDINGS

The French Duty of Vigilance Law provides two key legal mechanisms. The first is an injunction claim, which allows claimants to bring a case before the French courts even before human rights

violations occur. If the judge finds that the company's vigilance plan is inadequate and/or poorly implemented, he can order the company to review its plan and/or take concrete measures to prevent violations from happening or to stop them if they have already occurred. This is the mechanism that was used in the first lawsuit filed in 2019.



KEY FIGURES

→ 1 443 km of heated pipeline under construction

→ 420 oil wells, one third of which are in the protected Murchison Falls National Park

→ Over 100,000 people fully or partially displaced



Follow the progress of the projects in pictures at eacopmap.org !



² In this document, "Total" refers to the parent company TotalEnergies SE.

³ Total's website, accessed in April 2025: "[Tilenga and EACOP: Key Project Progress Indicators](#)".

The second mechanism is a **claim for compensation (action for damages)**. This allows victims to sue a company in order to hold it liable and to obtain compensation for harm caused by the company's activities or those of its subsidiaries or subcontractors. **This is the mechanism being used in this new lawsuit**, since, unfortunately, the human rights violations that the first lawsuit sought to prevent, mainly due to the eviction of Ugandan and Tanzanian communities without fair and prior compensation, have now happened.

Today, the affected people and the supporting organizations are seeking compensation for violations of land rights, the right to food, and the right to freedom of expression.

Almost two years after this legal action began, and **in the face of Total's refusal to provide essential documents** despite repeated requests from lawyers, **the affected people and civil society organizations are now asking the court to compel Total and its subsidiaries to hand over these documents.**

WITHOUT ACCESS TO EVIDENCE, NO EFFECTIVE ACCESS TO JUSTICE

THE BURDEN OF PROOF

Bringing an action for damages is a real uphill battle. The burden of proof lies with the claimants, who must demonstrate to the judge that violations took place and that their harm results from the company's failure to comply with its duty of vigilance, that is, a failure to elaborate and/or effectively implement a proper vigilance plan.

However, it is extremely difficult for affected people and civil society organizations to gather the necessary evidence and establish the causal link between the harm suffered and the company's failures, especially since **much of the key information is held by the company itself**. Moreover, collecting evidence and testimonies on the ground in authoritarian countries like Uganda comes with additional risks and challenges, including threats and harassment against community members and activists. Ultimately, victims facing transnational corporations have very limited means of accessing the evidence they need — and without that access, effective access to justice becomes impossible.

This is why, during debates over the drafting of the French Duty of Vigilance Law and the European Corporate Sustainability Due Diligence Directive, and in ongoing negotiations for the UN Treaty on Transnational corporations and Human Rights, civil society has consistently called for a **reversal of the burden of proof**. This would require transnational corporations to demonstrate that they are not responsible for the acts of which they are accused, thus re-establishing a form of procedural equality between those affected and the corporations.

Unfortunately, due to corporate lobbying, this reversal of the burden of proof was not included in either the French law or the European directive. In the absence of such a mechanism, it is absolutely crucial that affected people and their supporting organizations can rely on strong provisions ensuring access to evidence.

A LEGAL TOOL TO OBTAIN OTHERWISE INACCESSIBLE EVIDENCE?

According to French law, parties in a lawsuit can request that the court resolve procedural difficulties that prevent the case from moving forward properly. In this case, the claimants are asking the judge to order Total to produce documents considered necessary for the fair handling of the case — documents that Total possesses and that are inaccessible to the claimants.

The documents requested include certain internal audits, minutes from « Human Rights Steering Committee » meetings at the parent company or subsidiary level, reports used to calculate compensation for evicted individuals, a study on the floods caused by construction works, etc. Unlike certain external audits published on Total's website, these internal documents are confidential. Only Total holds them or has access to them. Yet they are essential to assess whether Total has effectively implemented measures to identify and prevent human rights violations, and to evaluate whether the company respects — or fails to respect, as documented violations suggest — its obligations under the French Duty of Vigilance Law.

Total is also being asked to disclose individual forms related to the eviction of the affected individuals involved in this lawsuit, particularly concerning the compensation and food aid they received. The information in these documents would help determine whether land and crops were properly assessed, and whether the compensation paid was adequate. It would also serve as evidence confirming that the compensation was largely insufficient. The same applies to evaluating the food support program.

While some affected people have managed to obtain copies of a few of these forms, this is far from being the case for everyone. The lack of transparency in the eviction process has been highlighted in field investigations conducted by Friends of the Earth France and Survie, as well as by FIDH and Oxfam: « Respondents said they did not have any copies

of these signed documents and therefore had no evidence for any legal claims in the future. »⁴ In the specific case of the affected people involved in the lawsuit, none of them have received all the necessary documents. This represents a clear failure to comply with international standards on land acquisition that Total claims to respect.

TOTAL'S ARGUMENTS TO MAINTAIN OPACITY

Total refuses to disclose the requested documents and puts forward several arguments to justify it. The company mainly claims that the documents:

- are not in its possession;
- are not relevant to the legal action.

Total argues that some of these documents are held by its subsidiary operating in Uganda and that it is therefore not in a position, or not responsible, to provide them. However, TotalEnergies E&P Uganda is a wholly-owned subsidiary and Total claims to exercise effective oversight of its activities and its respect of human rights. **Total should therefore be in possession of the requested documents or be able to easily obtain them from its subsidiaries**, which appears to be the case since Total refers to many of these documents to argue against the allegations contained in the summons filed by civil society organizations and affected people.

The second argument put forward by Total is that the claimants are requesting documents that are not relevant. On the one hand, Total argues that these documents are mainly intended to assess the harm suffered by the victims, and that it would therefore be premature to produce them at this stage of the proceedings, before any recognition of its liability. According to Total, it is only once its liability has been established that the disclosure of these documents could be considered, in order to assess the amount of damages. This argument, however, is questionable on two counts. First, these documents are essential to demonstrate Total's

⁴ Oxfam, *Empty Promises Down the Line: A Human Rights Impact Assessment of the East African Crude Oil Pipeline*, September 2020, page 38. See also: FIDH & FHRI, *New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda*, December 2020, p. 52 : « Key information regarding the compensation of affected individuals was mainly provided orally. Copies of essential documents, such as land asset surveys, were not initially given to residents, preventing them from reviewing the content and assessing its accuracy. »

fault and establish its liability. Second, making the disclosure of these documents conditional on prior recognition of liability would considerably prolong the proceedings, to the detriment of the affected people, who have already been waiting for many years to obtain reparation.

On the other hand, Total claims that the content of some of the requested documents would largely fall outside the scope of the legal action, as they are not directly related to the EACOP and Tilenga projects. In some cases, **Total has provided heavily redacted documents** — sometimes only 9 pages out of 92 were accessible (with only a few sentences remaining, containing keywords such as « EACOP », « Tilenga », « Uganda », or « Tanzania »). Yet these documents, including those setting out a general human rights policy, even if they do not explicitly mention Tilenga and EACOP, are crucial to assess how Total approached these projects. One still wonders why Total is so opposed to sharing this information: what is it trying to hide?

Above all, this raises the question of the quality of Total's defense, which relies mainly on the existence of multiple internal audits or monitoring committees put in place: their mere existence cannot suffice to demonstrate that duty of vigilance obligations are being met. **If neither the claimants nor the judge can read these documents, how can the relevance of Total's vigilance measures and their effective implementation in Uganda be assessed?**

Moreover, Total refuses to disclose the individual forms of the affected people who are parties to the proceedings, arguing that, as these are contracts, the latter should have a copy in their capacity as signatories. According to Total, the mere fact that some people have a copy of certain forms would prove that all of them have all the forms. Yet Total provides no proof that copies were handed over to the people concerned at the time of the signature. Finally, why would these people and the supporting organizations request documents already in their possession, especially when their interest is to obtain a judgment without delay?

Finally, a few days before the hearing, Total's subsidiaries EACOP and TotalEnergies E&P Uganda sent part of the forms concerning around 10 affected

people. According to the claimants, however, it was Total's responsibility as parent company to provide full access to these documents from the start. **Moreover, to date, many are still missing.**



NEXT STEPS

On May 15, 2025, a public hearing at the Paris civil court will allow the lawyers of both parties to present their pleadings. Following this hearing, the judge will rule on whether or not Total is required to disclose these documents, or part of them, to the claimants. Then, the exchange of written arguments on the merits of the case will resume, with or without these new documents, before a new hearing is scheduled, probably in 2026.

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EACOPMAP.ORG



Friends of the Earth France and Mémoire Vive have joined their forces to develop eacopmap.org, an interactive map that will take you deep into the Tilenga and EACOP projects.

Through satellite images, photos, and videos, this site allows users to follow and visualize the progress of the works and their impacts on the environment and human rights. It includes specific modules on floods, wells at risk, the eviction of local communities, and a record of intimidation, arrests and harassment against those who dare to oppose these projects.

Regularly updated, this map is a useful citizen monitoring tool.



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