

## France

# Predictions 2026

### Expect a claims and regulatory clampdown on PFAS

PFAS-related litigation in France will accelerate, with the class action near Lyon expected to become the largest of its kind in Europe. The legal environment in respect of PFAS is shifting rapidly, with France banning PFAS in cosmetics, clothing, footwear, and ski waxes from 2026, and in all textiles from 2030, marking a regulatory turning point. Enhanced monitoring of drinking water is also underway. The 'polluter pays' principle is also gaining traction, increasing the risk of significant indemnity exposures for both liability and environmental lines. Insurers must be aware of the introduction of additional regulatory requirements, which will drive up compliance costs and could trigger coverage disputes, especially for legacy and silent exposures.

### France will be a climate change hotspot in 2026

Following a year in which international advisory opinions have generated significant discussion about the future of climate change litigation, France will be a crucial jurisdiction in the year ahead. France will see novel actions progress, following the judgment in the greenwashing action against TotalEnergies brought by Greenpeace on their net-zero claims. A further claim against Total, pursued under the French duty of vigilance, continues its efforts to force the company to report on and take action to reduce carbon emissions in line with the Paris Agreement. That claim was reinstated in June 2024, having initially been dismissed, and ordered to proceed to trial. In addition, a further action brought by activist group Notre Affaire à Tous against BNP Paribas was the first climate-related lawsuit commenced against a commercial bank, also based on the French corporate duty of vigilance law. Although developments in the litigation remain limited, this is a potentially important action.

### Generative AI will generate major risks for professional liability and cyber lines in France

The rise of generative AI exposes French companies to a diverse range of risks: errors, discrimination, illicit content and deepfakes are all likely to result through increased use. Early court decisions show that both the designers and end-users of AI will be targeted, even without specific legislation. Insurers must adapt cyber and professional liability policies to cover or limit these new exposures. Further, the growing use of AI to generate deepfakes or manipulate images exposes companies to major legal risks as a result of the actions of third parties. These AI creations raise the prospect of privacy actions, defamation and identity theft. Insurers must adapt media liability, cyber and PI covers to address these new exposures.

### Subrogation requirements will increase risk of claims rejection

Confirmed by a decision in the French Supreme Court, an insured must express its intention to pursue a subrogated recovery on behalf of the insurer at or before payment. Insurers will need to take a series of steps to ensure that their position is protected and reduce the risk of having a subrogated claim rejected. Insurers should ensure that written subrogation agreements are obtained from policyholders before the making of payments. Further, insurers should include clear provisions in their policies and ensure that their employees and representatives are familiar with the requirements of a valid subrogation agreement. Failure to do so could risk financial losses for insurers.

### Direct actions by third parties will multiply, even against foreign insurers

Following a decision by the French Supreme Court providing a major change in how direct actions against insurers will be treated under French law, insurers must anticipate more direct actions across several lines. The decision confirmed that an insurance contract may not prevent a direct action if the law of the 'main obligation' giving rise to the underlying claim (such as tort or contract) allows it. This is particularly relevant to actions involving foreign insurers, with liability, transport and marine insurers particularly at risk of direct actions.



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