

IMPLEMENT FOR LIFE

# CHALLENGE ACCEPTED?

## HOW TO IMPROVE ACCESS TO JUSTICE FOR EU ENVIRONMENTAL LAWS



**EEB**  
European  
Environmental  
Bureau





## IMPLEMENT FOR LIFE PROJECT



The European Union is a global leader when it comes to protecting the environment. But despite the high number of laws, the environmental benefits often remain unseen given poor levels of implementation across Member States.

To help Member States implement EU laws, the European Commission put in place a process called the Environmental Implementation Review (EIR).

The EIR aims to screen implementation gaps of EU environmental law in the Member States. This process should inform Member States where they have succeeded in ensuring that EU environmental laws are followed and in which areas there is still room for improvement.

With the project 'Implement for LIFE', the EEB aims to feed information to the EIR process by identifying the opportunities for NGOs to engage with authorities to ensure that the law in place is properly followed. We also aim to raise the alarm on poor implementation and recommend ways of improving implementation.

NGOs on the ground are in a key position and often have crucial knowledge needed to inform authorities of the good and bad examples of EU environmental law implementation. Therefore, the objective of this project is to empower NGOs, provide information, support and call to participate in the implementation process at national level.

This first report will focus on Access to Justice and how barriers to it can affect the way EU environmental laws are followed in the Member States.

In exploring these barriers, the report will highlight how the barriers directly affect the quality of EU legislation on water, air, nature, waste and circular economy and climate change at national level.

*More than 75 % of European citizens consider EU environmental legislation is necessary to protect the environment in their country, and nearly 80 % agree that the EU institutions should be able to check that environmental laws are being applied correctly in their country.* [EC Document](#)



# EXECUTIVE SUMMARY

Access to environmental justice allows NGOs and individuals the right to challenge decisions which harm the environment in court. However this report finds that barriers to environmental justice are currently widespread across the EU.

This report examines how access to the courts and the ability to challenge decisions that impact the environment is crucial to achieving the proper implementation of EU law, and how even the best environmental laws are rendered almost meaningless if they are not properly implemented and enforced.

The report identifies and explains five current barriers to access to justice: 'standing', 'time', 'knowledge', 'money' and 'repercussions' and makes key recommendations to remove these barriers. Having the possibility to bring to court decisions which are considered unlawful is very important. Putting such decisions to the test before competent administrations and courts allows them to assess whether decisions by the authorities are in line with the EU laws and policies that Member States are bound to follow. NGOs play an important role as watch-dogs, monitoring that rules intended to protect the environment and society are followed properly. In this sense, the ability for NGOs to access courts is a key element for them to exercise their public interest function.

Environmental laws exist for good reason, yet they are frequently regarded as being contrary to industry and wider economic interests. In fact, the opposite is true: good implementation of environmental laws increases the durability and viability of projects and industrial policies as they will receive wider support by the general public and will be in line with general public interests. Ultimately, the increased legal certainty of an investment will reduce long-term costs, as they will be less prone to future adaptations to the law and less likely to be opposed by the public. Hence, it is vital that NGOs are given ample opportunity to challenge decisions as this will ultimately benefit wider societal interests, including long-term economic ones.

This report includes case studies from across the EU. The recommendations made on page 13 will help to improve access to environmental justice across the EU and remove some of the current barriers that are undermining Europe's hard-fought environmental protection.

## CURRENT BARRIERS TO ACCESS TO JUSTICE



### Standing

**'Standing'** is the ability for environmental groups or citizens to challenge decisions in courts.



### Time

**Time** is crucial for environmental protection. The longer it takes for a court to make a decision, the more harm is done to the environment.



### Knowledge

Judges need capacity to handle **environmental matters**.



### Money

**Lawsuits** can cost a lot of money and this can prevent NGOs to take cases.



### Repercussions

Use of **intimidation** and **retaliation tactics** by companies or investors against NGOs, civil society or individuals.

# STANDING



‘Standing’ is the ability for environmental groups or citizens to challenge decisions in courts. Two points are essential to understand this concept: who can challenge decisions? And what kinds of decisions can be questioned?

NGOs have different experiences and difficulties in challenging decisions in Member States, according to survey answers received by [Justice and Environment](#) (these answers will be made available in December). This is in large part due to the need to demonstrate that the party challenging a measure has an interest in the decision it seeks to change. Article 9(2) of the Aarhus Convention makes clear that environmental NGOs are understood as having an interest in administrative decisions concerning the environment. This is also supported by case-law of the EU Court of Justice (CJEU), recognised in the EU Aarhus Regulation and in the [Commission Notice](#) on Access to Justice in Environmental Matters.

However there is not a uniform application of this rule in all cases across Member States. For example, there are different applications of the Environmental Impact Assessment Directive (EIAD) in the Member States regarding the instances where they grant NGOs standing to challenge authorities. Only some Member States do not require NGOs to demonstrate that their rights have been breached, so long as they fulfil the conditions qualifying them as a non-governmental organisation under national law. These countries have interpreted, and rightly apply, Article 11(3) EIAD in a way to ensure the wide access to justice which the Directive requires and the Aarhus Convention call for. The [Protect](#) case from Austria, the [Djurgården](#) case from Sweden and the [Bund für Umwelt und Naturschutz](#) from Germany are leading EU case law on the correct application for ‘standing’.

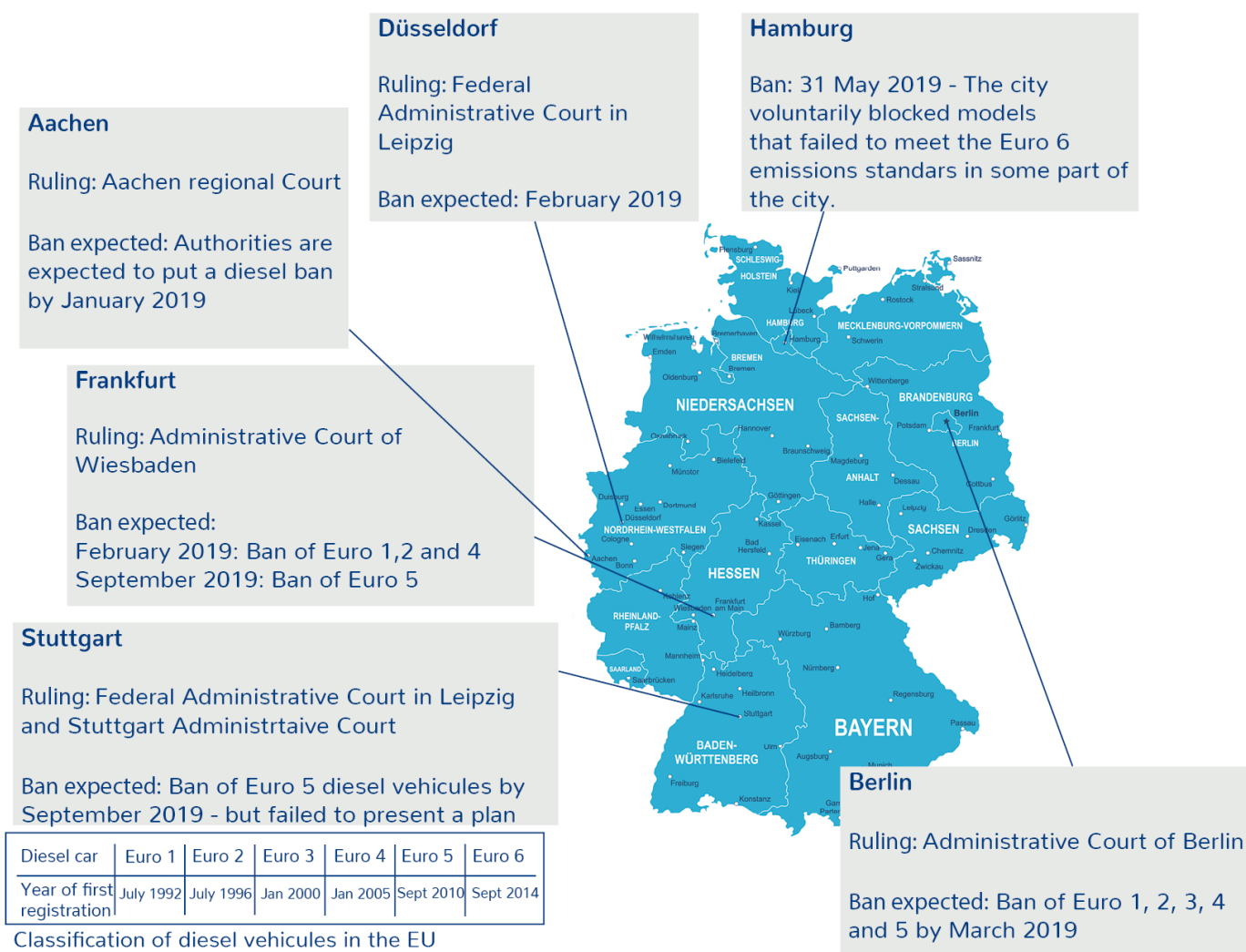
Another barrier to ‘standing’ for NGOs is their pre-involvement in a procedure. In some cases, NGOs were not able to challenge authorities’ decisions because they did not formally participate in the development consent procedure under EIAs for certain projects. This was for instance the case in Germany where an environmental NGO asked the Court for an interim measure to stop the [development of a windmill park](#), but the Court refused to grant it on the basis that the NGO did not previously provide the authority with an expert opinion on the project and therefore did not have standing to challenge the development. In another case, Germany was [found in breach of the EIAD](#) for a practice called ‘materielle Präklusion’. This ruling ended up changing the law but some debate remains on whether or not the new Umweltrechtsbehelfsgesetz is fully in line with EU law and Aarhus. A similarly restrictive approach is applied in Hungary.

The margin of discretion that some Member States have taken to define who the “public concerned” is, has resulted in NGOs not being granted the right to challenge environmental decisions in a uniform way across the Union, despite the [CJEU ruling](#) that denying NGOs access to the courts for decisions authorising projects is “likely to have significant effects on the environment”.



# AIR POLLUTION

Air quality plans have been the cause for a lot of concern regarding NGOs' opportunity to challenge local authorities' emissions limits. In the case of air quality plans, not only have NGOs had the difficulty to show that they are an interested party to clean air cases, but there have been instances where the authorities have said that the air quality plans are not decisions that can be challenged in the courts. Yet, there have been very different interpretations to who is an interested party regarding air quality plans in Member States. Just recently in Spain, there was a clear added value to allowing citizens to stand before the courts: because the court recognised that citizens have a right to clean air, the region of Castilla y Leon was obliged to create and enforce an air quality plan, despite Spain not having a national plan in place. Moreover, over the past years Diesel bans have been issued in several cities in Germany, following successful litigation by citizen groups.



In Germany, the cities of Aachen, Düsseldorf, Hamburg, Frankfurt, Stuttgart and Berlin are using Diesel Ban to ensure a better air quality for their inhabitants.



## Illegal burning of waste

"An environmental NGO submitted a complaint to the competent environmental authority about an incident involving illegal burning of waste in an open space in Budapest. The competent authority investigated the case and imposed an air pollution fine on the perpetrator but did not involve the environmental NGO in the administrative procedure of fining. Upon the appeal of the NGO, the argumentation of the competent authority was the following: considering that the law does not define an impact area attached to an illegal burning of materials, the standing conditions set by the Act on the General Rules of Environmental Protection are meaningless. Therefore, no NGO can be granted legal standing in such cases. The case has not been submitted to court review."

Source: Justice & Environment

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## Silesia air quality – an enforceable right?

In April 2017, a resident of the town of Rybnik, in the region of Silesia, Poland, with the support of ClientEarth, demanded the Silesian Regional Assembly to amend the air quality plan adopted in 2014 for the period of 2014 – 2017. The adoption of this air quality plan was required by law due to illegal levels of PM2.5, PM10 and B(a)P in ambient air in Silesia. According to the local resident, the existing air quality plan did not include adequate measures to bring levels of pollutants below the limit values set under EU and Polish law in the shortest possible time. Additionally, the citizen complained that the regional assembly failed to carry out an assessment of proportionate and financially feasible measures to reduce levels of B(a)P below the target value.

Following the regional assembly's failure to respond to the complaint within the mandated deadline, the local resident filed a complaint before the Regional Administrative Court in Gliwice in June 2017. The court case was based on the same grounds as the original administrative complaint.

In its judgment delivered on 15 September 2017, the Regional Administrative Court in Gliwice declared the local resident's challenge inadmissible, on the grounds that the air quality plan did not infringe his legal interest. According to the court, the fact that the local resident lived in an area where air quality limit values were exceeded, causing harm to his health, did not mean that he had a legal interest to challenge a defective adequate air quality plan. In the Regional Administrative Court's view, the content of the air quality plan and its effects on air pollution and the health of the resident had only an impact on the claimant's factual situation but did not breach any legally enforceable right.

Additionally, the court noted that under Polish law air quality plans are directed at the administrative authorities responsible for their implementation and do not impose any obligations or grant any rights to individuals; therefore, no private legal interest is affected by the content of air quality plans.

In coming to such decision, the Gliwice Regional Administrative Court refused to interpret Polish law in conformity to EU law.

The ruling of the Gliwice Regional Administrative Court follows established Polish case law, governing the criteria for challenging

local laws by private citizens.

This decision confirms that it is practically impossible for citizens and NGOs to successfully challenge air quality plans in Poland.







### **‘Sofia’s air quality plans cannot be challenged’**

In June 2017, a group of local residents and the Bulgarian NGO Za Zemiata, supported by ClientEarth, took a legal action before the Sofia Administrative Court. The claimants challenged the air quality plan adopted with decision no. 252 of the Sofia Municipal Council on 18 May 2017. According to the claimants, the city’s air quality plan failed to comply with several procedural and substantial requirements in the Air Quality Directive. The claimants requested the Sofia Administrative Court to quash the existing plan and issue a mandatory order to adopt a new plan, complying with the requirements in the Air Quality Directive. Both the Sofia Administrative Court, on 25 September, and the Supreme Administrative Court, deciding on the appeal on 1 November, declared the action inadmissible for lack of standing. In particular, both courts held that under Bulgarian law air quality plans are not administrative acts that can be challenged by members of the public.

In the courts’ opinion, air quality plans are internal administrative decisions, directed only to the local authorities tasked with their implementation. As such, air quality plans do not create rights or obligations for citizens and NGOs. Concerned persons, therefore, lack interest to seek judicial review of the adequacy of air quality plans by Bulgarian administrative courts. In reaching such decisions, both Bulgarian courts failed to apply the relevant access to justice principles, binding rules, and well-established case law under EU law. In particular, the claimants submitted extensive arguments based on the Aarhus Convention, EU law and the relevant case law of the CJEU. The claimants expressly requested the Bulgarian court to interpret the provisions of Bulgarian law in conformity with EU access to justice rules.

However, the decision of the Sofia Administrative Court on 25 September did not at all consider the provisions of EU law. Similarly, the decision of the Bulgarian Supreme Administrative Court simply dismissed the references to EU law and CJEU case law.



**Needs:** Member States should allow wide legal standing to NGOs in environmental matters, in line with established EU law and case law, given the important role that NGOs play in supporting the implementation of laws.

**Needs:** revival of an Access to Justice Directive in the EU to ensure that all citizens in the EU have equal rights to go to court.

**Did you know?** The Commission had a legislative proposal for a Directive on Access to Justice already in 2003, but this initiative was blocked by the Member States and remained dormant in the Council for years, and in 2014 was eventually abandoned.



# TIME



Court and procedural timelines differ between countries and this means that there are not the same guarantees and rights for all individuals equally across the EU to obtain justice.

Court procedures can be lengthy, and a long time may pass before a final judgment is made. In cases where there is an urgency to prevent or stop environmental harm, this can mean that even where there may be a favourable court decision, the environmental damage will not be restored (e.g. [Bialowieza Forest case](#)). In the Justice and Environment country surveys (due to be made public in December), the answers from Croatia have shown that this is a common problem, where reviewing an administrative decision can last 3-4 years. This urgently needs to be addressed. Inspiration can be taken from other Member States' practice (see table below).

It is often very important that courts are able and willing to order a contested activity to stop (injunctive relief) while the court decides on a case. There are different experiences in member states on the difficulty for NGOs to ask for injunctive relief while a case is on-going. This can greatly impair the pursuit of justice, as a harmful and destructive activity can go on for the duration of the case (sometimes taking advantage of long court procedures). While the case is pending, profits may accrue from on-going environmental damage, while it is too late to reverse or remedy the damage done once the final decision is made.

It seems that in all Member States there is no automatic injunctive relief when administrative

decisions are challenged. Rather, there needs to be a request to the court that an activity be suspended during the course of the court proceedings. In some member states the conditions to fulfill for the court to grant an injunctive relief are very difficult to meet, most notably because Member States often require proof of an imminent or urgent damage. This is an inadequate condition for environmental matters where the aim is very often to prevent the occurrence of an imminent or urgent damage. This condition makes injunctive relief very difficult to obtain, such as in Romania and in the Czech Republic.

In the case of the D8 highway in the Czech Republic, NGOs successfully claimed that the EIA procedure had been carried out in an unlawful manner and the courts therefore cancelled the zoning (land use) permit for the highway. However, the court did not grant injunctive relief and the procedure lasted for more than 5 years. This meant that the building permits for most parts of the highway that were based on the unlawful EIA were issued before the zoning (land use) permit was quashed by the court. At the same time, the courts declared that the deficits of EIA were not a sufficient reason for revoking the building permits during the course of the trial. The highway was therefore built despite the court declaring that it was based on an invalid EIA.

	Bulgaria	Croatia	Czechia	Estonia	Hungary	Romania
Average duration of an administrative review process	14 days	1 to 4 years	30 days	10 to 30 days	60 days to 6 month	30 days
Average duration of a judicial review process	1 year to 1.5 years	'urgent' in theory	2 years	1 to 13 months		1 year to 1.5 years
Average duration of granting an injunction	depends	up to 4 years	1 to 2 months	1 to 2 weeks	1 to 3 months	1 year to 1.5 years



This data was provided by Justice & Environment.



# KNOWLEDGE



## Knowledge and capacity of the Judiciary to handle environmental cases

Environmental laws and processes are complex and exist to best protect our health and natural heritage. Resources to train the Judiciary to handle environmental cases are not always made available and have not been a political priority, especially since the 2008 crisis that led to a cut in public funding. This part will focus on the barriers to reaching fair judgements in the courts.

In most Member States, environmental issues, in particular where permits and licences for industrial activity or construction are the contested measure, it will usually be administrative courts who will handle the case. Because administrative law will look at procedures that need to be followed by authorities, for instance procedures which should be guaranteed under the EIA Directive, it is not expected for judges to be familiar with the environmental effects of issuing certain environmental licences and permits. It may be the possible negative effects to the environment resulting from those permitted activities that will prompt NGOs to challenge those decisions: not necessarily because a procedure was not followed. A decision to grant a licence may gravely affect environmental conditions, and therefore may be contrary to overarching objectives to reduce emissions, halt the effects of climate change, or restore the trend of biodiversity loss. In these instances, a just outcome of the case will depend on the judge's knowledge of environmental processes and conditions to fully appreciate whether an authority was right in granting a licence, for instance, not only whether the procedure for granting the licence was followed.

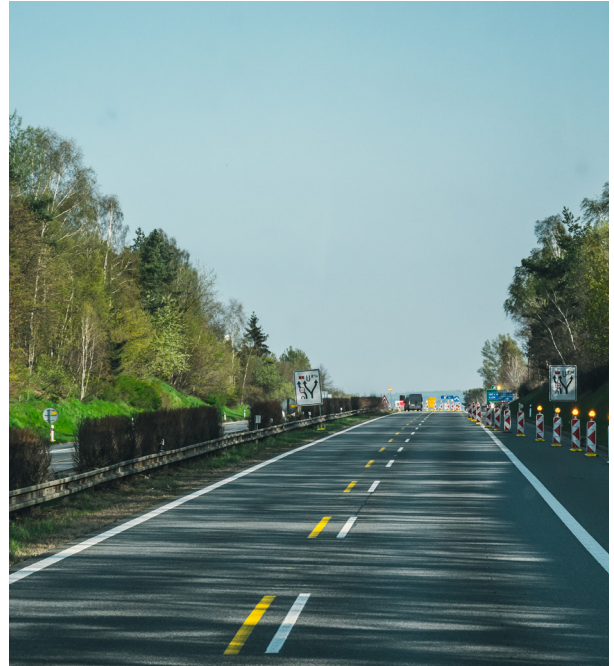
Whether states have the capacity to train judges adequately on environmental processes, or

whether the judicial system is structured in a way where environmental cases are heard in special courts, is a national prerogative and will also depend on the political will to invest in a judicial system to allow for this. In some countries outside the EU, notably in China and India, there are specialized environmental courts where the judges presiding have the scientific knowledge to hear environmental cases. Since the financial crisis ten years ago many EU governments have cut public spending, a lot of which has also affected budgets to the judiciary. What is clear is that there is a demand for judges who have specialized knowledge of environmental law and who can handle environmental cases, especially at local level. Although increasing efficiency of the judiciary can only have advantages, trimming public sector spending should not be a detriment to the proper adjudication of the courts. Ultimately, the decisions by governments to cut their public spending and where to allocate resources is a matter of political priority. Given the importance implementation of EU law - for our natural heritage, health and confidence in the rule of law - it is imperative that greater resources are allocated to the judiciary and to their capacity to address breaches of EU environmental - and other - laws.



## Highway planning: A5 Vienna-Brno

In the planning stages of the [A5 between Vienna and Brno](#), the highway was split into three sections meaning that each section underwent a separate EIA procedure. This meant that the assessments on air pollutants, emissions and other environmentally harmful aspects only referred to the territorially limited effects. In the planning of the Austrian A5 Northern National Highway, the impacts on climate change were not assessed in an adequate way with only superficial assessments such as “climate change effects remain low”. Particularly in the transport sector as a big emitter of CO<sub>2</sub>, climate change factors must be allowed to play an important role in assessing the overall effects of a project on the planet, the environment and human health.



**Needs:** training for judges on environmental law and environmental processes.

**Needs:** funding to increase capacity for judges to handle environmental cases, especially in the lower courts.



# MONEY

## Financial burdens to claim justice



Financial capacity of claimants can be an important barrier to achieving justice. In some cases, environmental groups or individuals are asked to pay enormous amounts of money for trials.

In a recent preliminary reference from the Irish High Court, the CJEU gave [a very narrow interpretation of the Art.11\(4\) provision](#) in the EIAD that judicial proceedings shall not be prohibitively expensive. The CJEU held that this rule only applies to aspects of proceedings that relate to the public participation requirements of the EIA Directive, not to a general need to keep court costs low which is up to each national court to decide. [This rule](#) does not only create uncertainty for a standard across the EU, where national judges have to decide on whether costs are “prohibitively expensive”, but due to its unpredictability is capable of discouraging litigants from bringing an environmental claim at all.

One way of tackling the financial burden of legal disputes is through legal aid or cost-capping schemes. All Member States have instances where those in most

need will have the right to legal counsel, yet how this is administered and who has a right to receive legal aid varies from country to country. In Romania there is a cap on some legal expenses for NGOs, whereas in Estonia no such cost-capping mechanism exists at all for environmental cases. Legal fees, between court costs and legal advice, may add up to a considerable sum over the years of litigation, which is why not all NGOs take lightly the decision to go to court.

One way to help the financial burden of litigation, is to allow for affected individuals and groups to bring class actions before courts. [Such a proposal](#) is being discussed for consumer cases. This could be a great opportunity to allow class actions for victims of corporate harm generally, and therefore those affected by environmental harm.



**Needs:** cost-capping measures should be introduced in all Member States, preferably at EU-level through a Directive on Access to Justice for Environmental Matters so that there are no cost differences between Member States that could still lead to a barrier to access courts.

**Needs:** legal aid should be made available to all public interest litigants

**Needs:** Member States should ensure that their laws allow for NGOs to recover court costs when they win a case.





# REPERCUSSIONS



A rising concern for achieving environmental justice is the use of intimidation and retaliation tactics by companies or investors against NGOs, civil society or individuals. They make use of their power and the financial capacity against citizens and NGOs when they oppose companies, resulting in legal disputes intended to deter NGOs from protecting the environment.

Strategic Litigation Against Public Participation (SLAPP) is a commonly used term to refer to civil legal charges that are brought by companies or investors against those that have been openly critical about the company's work by e.g. obtaining a court ruling on the illegality of a project development, disclosing information that is harmful to the company's image or revealing their involvement in environmentally harmful activities. Such lawsuits are often based on defamation and often demand compensation sums that are exorbitantly high for individuals and NGOs and would drive them into financial ruin, thus exploiting the disparity of power and resources of the parties. They may also have as a main purpose to divert the NGO's time and resources to fighting the lawsuit, rather than the actual issue at stake. Another aim can be to undermine the credibility of an organisation or individual so as to render their public engagement more difficult. In addition to intimidating the individuals or NGO directly under attack, SLAPP lawsuits can also aim to send out a wider signal to deter others from getting involved in similar activism or investigations.

While previously more common in the human rights context, SLAPP or similar intimidation tactics are also increasingly used by companies and investors against environmental activists and NGOs within Europe, and the NGO community in general is more and more on the alert for these cases.

Intimidation activities of companies can constitute a practical barrier to effective access to justice which can in turn have a negative impact on the effective implementation of EU environmental legislation. NGOs are often key in pointing out deficiencies to the European Commission and to raising awareness about an issue to the wider public or before the courts. The fear of a lawsuit that can result in the financial ruin of an organisation, can be a deterring factor in raising environmental non-compliance issues and even more so in instigating legal action against a company or project investor. Hence, it is of vital importance for environmental justice and democracy that NGOs, journalists and civil society do not have to fear retaliation cases being brought against them when

they are simply seeking to protect the environment through lawful investigations and legal tools.

In some instances, the mere raising of the issue can be enough to raise tension. Seven NGOs complained to the Commission about the violation of EU conservation laws of Poland by tripling logging in the Natura 2000 and UNESCO World Heritage Site of Białowieża Forest. The logging activities endangered the old forest and, amongst other species, the largest European population of bison. The NGO's complaint led to infringement proceedings by the Commission which resulted in [a ruling of the CJEU](#) that found Poland in breach of the Habitats Directive. There are now charges being brought against the activists who protested and obstructed the felling work. Thus, while the trespassing charges do not directly relate to the NGOs' successful involvement in the legal proceedings against Poland, there is at least the perception that these charges are being brought as a response against the environmental NGOs that instigated the proceedings through their complaint to the Commission. This form of retaliation or appearance of revenge can also hinder full practical access to justice and can deter NGOs, individuals and civil society from drawing the Commission's attention to compliance and implementation deficits.

Another very clear SLAPP case is the claim for damages against EEB Member Zelena akcija (Friends of the Earth Croatia). After over 10 years of activism by the local community and Zelena akcija through the campaign Srđ je naš (Srđ is ours) against the development of a golf resort on top of Dubrovnik, the NGO has now been sued for around €30,000, an amount that could force them to close down. On top of that, the investors are also seeking a court order to prevent Zelena akcija from speaking out in public about the project.

The work of Srđ je naš led to three successful court cases: in 2014 the 2006 decision to triple the size of the project from 100 to 310 was annulled, and in September 2016 the environmental permit of 2013 followed by the location permit in February 2017 were also annulled. The investor Elitech and its 'daughter company' Razvoj Golf responded in September 2017 by



filing a €500 million claim at an arbitration tribunal against Croatia. They argued that Croatia had taken away their development licenses and brought their claim based on a bilateral agreement between Croatia and the Netherlands, where Elitech is based when in fact the license was annulled in a judicial procedure in which the investor took part.

The filing of the claim seems to have put such pressure on Croatia that it simply issued new environmental and location permits. Yet, the 'new' permits are based on the same documents as those that were annulled by the court so that the executive bluntly ignored the rulings of its court.

The lawsuit against Zelena akcija appears to have the aim to frighten off the activists from further pursuing their fight for environmental justice against the project. In addition, Zelena akcija has to devote valuable time and resources to defend itself from the attack by the investor on top of the preparation for the lawsuit against the 'new' permits. An order for Zelena akcija not to speak about the project would further completely defy basic democratic freedoms and would thus set dangerous precedent.

The initiative of MEPs proposing an [Anti-SLAPP Directive is welcomed](#). Representatives of the major parties in the European Parliament propose a directive that includes requests to expediently dismiss such lawsuits within the EU, punitive fines when such claims are made outside the EU, a SLAPP-fund to support investigative journalists as well as a register of firms pursuing such abusive claims. Yet, it is important that such efforts are broadened to also include SLAPP lawsuits against environmental NGOs and civil society more broadly.

It is essential that no one has to fear the consequences when seeking to protect the environment through freedom of expression or legal means. The effects of SLAPP or other more indirect forms of retaliation and intimidation are also likely to be felt beyond the specific case. They are meant to induce insecurities and fear of financial ruin and thus deter similar activities by others. So far it seems that the environmental NGO community has been able to stand strong against this threat to access to justice; however, it is clear that this threat cannot simply be left to those affected to endure and fight it.



**Needs:** broaden the proposed Anti-SLAPP Directive to cover NGOs and activists.





# CONCLUSIONS AND RECOMMENDATIONS

- ➔ Access to Justice is a fundamental guarantee for NGOs and individuals to ensure that laws are being implemented: without proper access to justice, decisions which harm the environment cannot be challenged in court.
- ➔ Barriers to access justice are widespread across the EU: the main barriers identified are limitations to who can challenge decisions, which decisions can be challenged, the amount of time it takes for courts to decide on a case, the financial burden for NGOs to do public interest litigations, and the missing safeguards against SLAPP lawsuits.
- ➔ Member States need to prioritise more training and resources to the Judiciary so that environmental cases are handled in a more efficient way, and so that courts are enabled to reach a just outcome for the environment.
- ➔ Judges need to appreciate the nature of environmental claims and the importance of giving injunctive relief to on-going environmental cases.
- ➔ Legal aid should be provided to public interest litigation in all Member States.
- ➔ The EU institutions should revive the Directive on Access to Justice for Environmental Matters to guarantee that all of civil society and individuals have equal rights in all Member States.
- ➔ The proposed Anti-SLAPP Directive and the proposed Collective Redress for Consumers Directive should widen their scope to include protections for NGOs and activists.



## NEXT STEPS



In Spring 2019, the second cycle country reports will be published by the Commission. They will assess the Member States' levels of implementation in the areas of air, water, waste, biodiversity, climate change, chemicals and industrial emissions. Read the first cycle country reports of 2017 [here](#).



Green Week in 2019 will take place 13-17 May. The focus of the 2019 Green Week will be on implementation of environmental laws across the EU. The EEB is organising an event around the occasion and the EEB Law Working Group will convene on the 14th May. For more information on the 2019 Green Week, click [here](#).



This report is the first in a series of four. The next report will be released ahead of the European Parliament elections in May 2019, and will focus on Public Participation as a tool for implementing environmental rules in Member States. For more information on the Implement For LIFE project of the EEB, [visit our website](#).



### Hot Topics

Lack of compliance and enforcement on chemicals in the EU – the Member States are not taking action to ensure that companies follow EU law. [Just 31%](#) of chemicals used in the EU are compliant.

Member States are not recording the emissions from industries in a uniform way, and are not updating data which should be in the public domain. For more information see the EEB's report '[Burning the Evidence](#)' and [META](#) for more of this story. A future issue of the EIR report will focus specifically on barriers to Access to Information as a limitation to the implementation of EU environmental law.

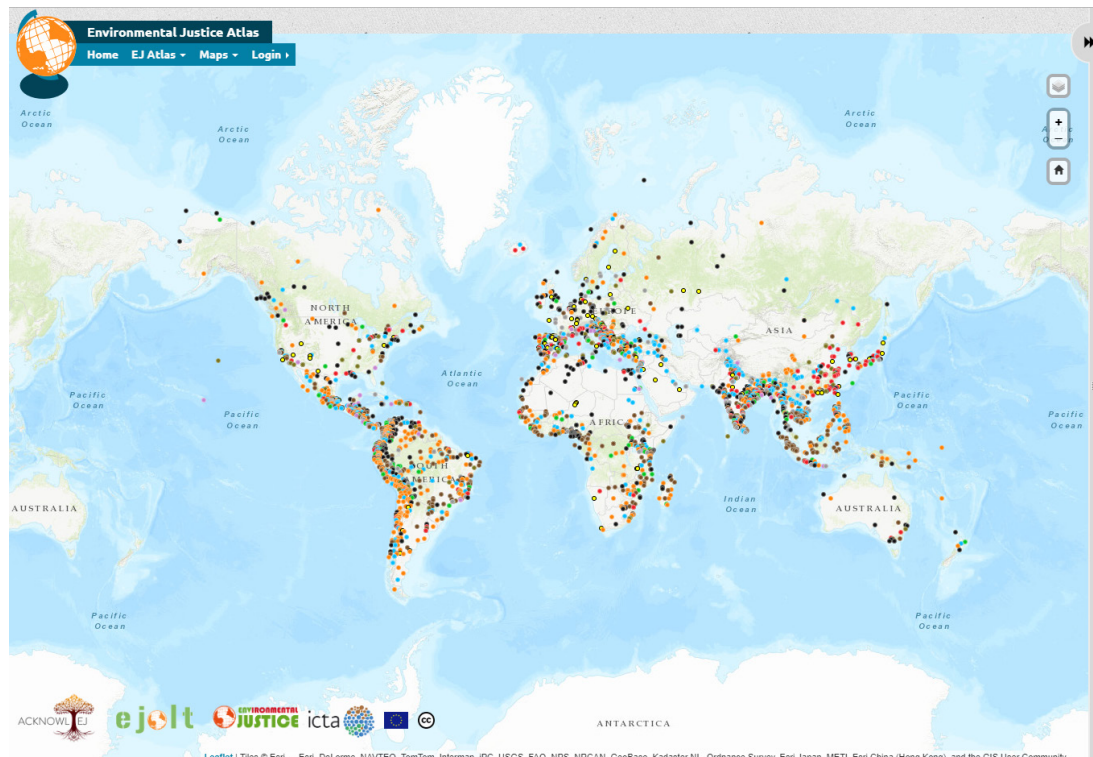


## RELATED TOPICS

Environmental justice means sharing environmental benefits and burdens fairly. Environmental injustice occurs when those with political or economic power exploit the planet's resources to the detriment of poorer communities or the average citizen. These have frequently led to legal and/or physical conflict.

The EEB is working along with other NGOs on the [Atlas of Environmental Justice](#), a project aiming to gather cases of environmental injustice around the world. The EJAtlas maps resistance in almost 3000 places, from mines to landfills.

Visit the website if you have a case to share related to environmental justice, or contact Francesca Carlsson ([francesca.carlsson@eeb.org](mailto:francesca.carlsson@eeb.org)) to signal implementation gaps in the EU.





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