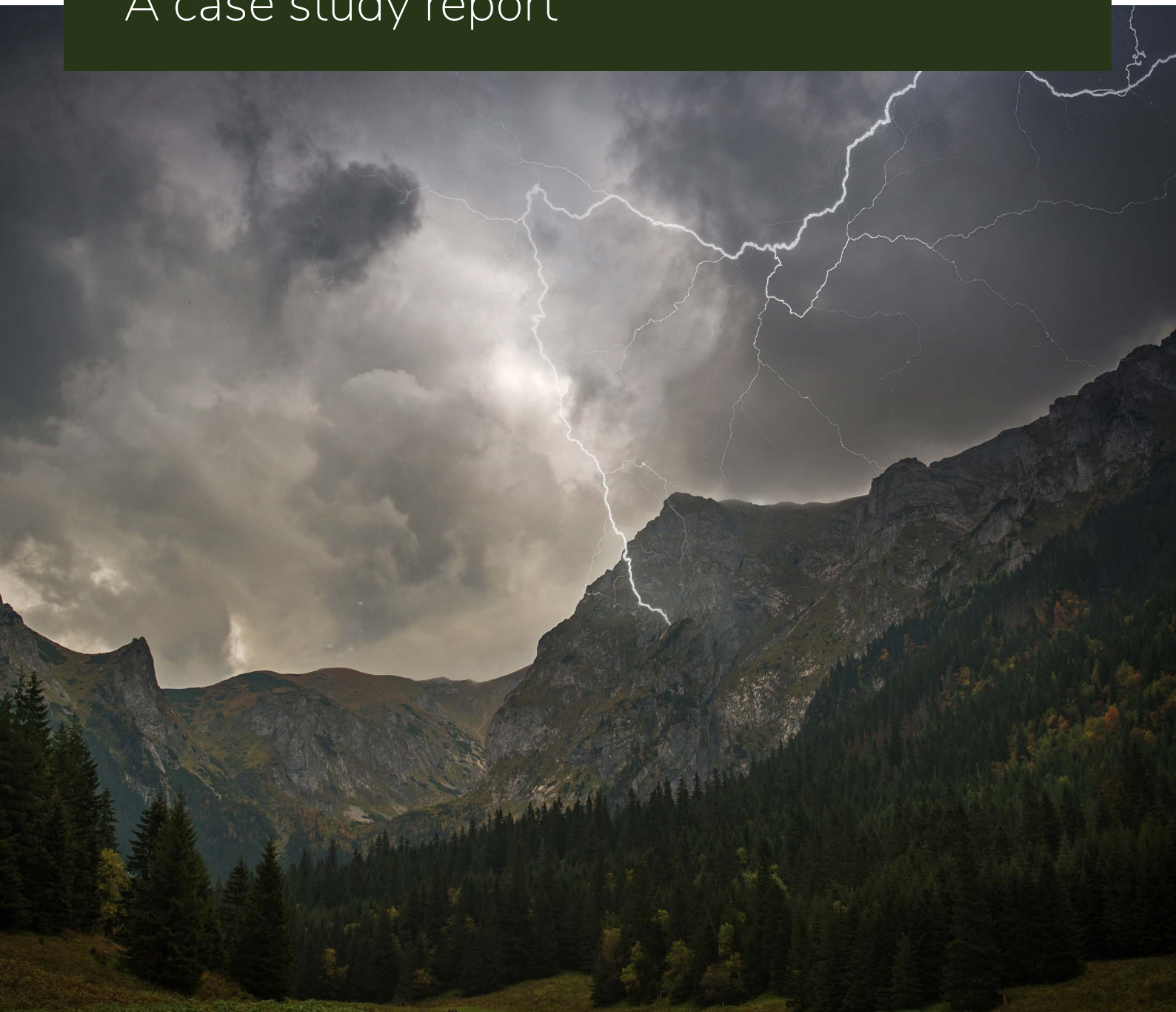


THE HARASSMENT OF **ENVIRONMENTAL DEFENDERS** IN THE EUROPEAN UNION

A case study report





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FOREWORD

It is sometimes said, in relation to political or bureaucratic decision-making processes, that nature has no voice. Endangered species cannot lodge petitions to complain about threatening developments or bring a case before a judge to plead their right to exist.

Fortunately, there are human beings who act on behalf of nature, whether organised into citizens' associations or as individuals. These people provide a line of defence and are known as environmental defenders. Whether their preferred modus operandi is lying in front of bulldozers or filing litigation, they often undertake their activities at considerable personal risk.

Globally, the number of defenders that have been murdered has quadrupled in the last ten years. Worldwide, environmental activism has gained momentum due to the escalating existential threats of climate change and exponential biodiversity loss. Frequently, the activists who have been targeted and harassed are those who cause most disturbance to those benefitting from environmental destruction, and in that sense, they become victims of their own success.

The international community is beginning to recognize that there is a need to protect the people who put their lives on the line for a better future for everyone. In April 2019, the UN Human Rights Council passed a resolution calling for the protection of environmental defenders. It is high time to put in place a response mechanism to react to any form of threat, intimidation or harassment of environmental defenders before the situation worsens.

Within this context, this report by Justice and Environment, Harassment of Environmental Defenders in the European Union, comes at a crucial point in time, both internationally and for the EU. The accounts detailed in the report reflect the general atmosphere within which many activists, civil movements and environmental organisations find themselves today, as we become more aware of instances of violence against environmental defenders in the EU. With the growing concern that the space for civil society is shrinking in the EU, and concerns about forces that undermine the rule of law, the new European Commission needs to stand firm against any threat to our human rights and democratic ideals.



Jeremy Wates
Secretary General
European Environmental Bureau

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1 SUMMARY

Members of the public have a right, under the **Aarhus Convention**, to access justice and to be able to exercise this right safely, without any harassment or exposure to repercussions or retribution.

Those applying their rights to remedies are often referred to as 'environmental defenders'. Given that environmental issues are becoming more pressing and publicised, environmental rights need defending more often, leading to a growing trend in environmental defenders. The context of these environmental issues is often particularly contentious given the high stakes and economic value of much of the proposed infrastructure for private interests and, sometimes, authorities. Environmental defenders regularly face negative repercussions for their stance against these corporations and often find themselves harassed or threatened.

This harassment of environmental defenders is considered a large issue across the globe. The southern states of the world, such as Brazil, which are often characterised by high corruption, low levels of democracy and economy over environment, see much higher levels of harassment of environmental defenders. It is still important though to consider the safety of environmental defenders in northern states, and particularly in relation to European Union states, as harassment is a barrier to accessing environmental justice.

This study was therefore designed with the goal of documenting and analysing the harassment of environmental defenders in the European Union. It found that harassment is growing across the studied states and much of it remains without punishment or legal resolution. However, environmental defenders remain absolute in their activism. The main challenge is therefore protecting the environmental defenders from harassment and protecting their rights to remedies for environmental issues.



2 INTRODUCTION

NGOs and civil society are a vital part of improving and enforcing environmental laws.

Civil society have a particular right to: justice should they consider their rights to a healthy environment impaired; access to public consultation prior to a decision; and access to review. They, along with NGOs who have a more strained relationship with their rights of access, are of primary importance in ensuring the environmental laws are enforced and developed by the legislators when necessary. Civil society and NGOs serve as a check on the implementation and enforcement of environmental laws by private parties, such as corporations, authorities and the judiciary. Should these rights be restricted in the form of harassment, where society does not feel they can safely exercise their rights, they are less likely to try to enforce environmental laws – at a great detriment to the environment.

Their rights are protected under the Aarhus Convention whereby every person 'to be able to assert this right [to a healthy environment] ... must ... have access to justice in environmental matters, and [they may require] ... assistance in order to exercise their rights'¹. They are protected under this Convention from being 'penalized, persecuted or harassed in any way'² for their involvement in environmental matters. This reference to their protection is only found in one sentence in the Aarhus Convention and is non-existent in EU legislation, including the Aarhus Regulation³, the Access to Environmental Information Directive⁴ and the Participation Directive⁵. This means that environmental defenders are not specifically mentioned in legislative instruments regarding their attempts to access their rights to justice and redress. The study was therefore aimed at identifying whether this lack of legislative protection is an issue for environmental defenders' in the EU and whether it prevents them from safely accessing their rights and protecting the environment, and if so, to what extent.

3 SCOPE AND METHODOLOGY OF CASE STUDIES

3.1 SCOPE OF THE CASE STUDIES

The study focussed on any harassment cases that had occurred between the period of January to November 2018 for each Justice and Environment member country. Of those countries, ten delivered case study replies. These are as follows: Austria, Bulgaria, Czech Republic, Estonia, Greece, Hungary, Romania, Slovakia, Slovenia, and Spain. They have varied economies, legislatures, judiciaries, enforcement mechanisms, democracies

and levels of corruption. Many of the states within the study are Eastern European states, often associated with corruption and bribery between the public officials and corporations, and therefore the study also wanted to see if there was any particular correlation between harassment of the environmental defenders and these states.

¹ Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), 25 June 1998, Preamble.

² Ibid. Article 3(8).

³ Council Regulation (EC) 1367/2006 of 6 April 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters to Community institutions and bodies [2006] OJ L264/13 (Aarhus Regulation).

⁴ Council Directive (EC) 2003/4/EC of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC [2003] OJ L041 (Access to Information Directive).

⁵ Council Directive (EC) 2003/35/EC on 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC (on the assessment of the effects of certain public and private projects on the environment) and 96/61/EC (concerning integrated pollution prevention and control) (Participation Directive).

3.2 METHODOLOGY

The study was designed as a questionnaire for the particular states to fill in regarding harassment of the respective nations' environmental defenders. The questionnaire was split into two parts with the first part asking questions directly relating to incidents of harassment that had arisen and the second part an evaluation of the overall atmosphere in that state regarding harassment.

Part 1

- Have there been any cases of harassment of environmental defenders?
- If yes, how many within the reported period?
- Who was affected by the harassment (individual, group of individuals, NGO(s))?
- What was the role of the harassed person or organization in the antecedents of the harassment?
- Who committed the harassment?
- When did the harassment happen?
- Where did the harassment happen?
- How did the harassment happen?
- Please describe shortly the harassment!
- Was it a one-time action or a series of actions?
- What was the form of harassment (please choose one or more from the following list)?

Retribution	By non-state actors (business)	By state actors
Hostile environment and restrictions	<ul style="list-style-type: none"> • Media Harassment 	<ul style="list-style-type: none"> • Media harassment (or stigmatization) • Hostile legislation
Lack of action	<ul style="list-style-type: none"> • Lack of Business Ethics 	<ul style="list-style-type: none"> • Lack of due diligence (when investigating retribution by State or Non-State Actors)
Direct action	<ul style="list-style-type: none"> • Harassment (direct; cyber; judicial [criminal charges, civil lawsuits, administrative proceedings], criminalisation, penalisation, imprisonment as a result) • Violence • Killing 	<ul style="list-style-type: none"> • Excessive use of force • Arrest and detention • Judicial harassment

- Was the harassment reported to the authorities?
- Was there any reaction to the report on harassment?
- How was the case resolved?
- What was the impact of the harassment?
- Does the individual/organization continue its work as an environmental defender?

Part 2

How would you describe your country in terms of legislation re: sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country in terms of practice re: sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country for environmental defenders in terms of harassments?

- tough
- relatively tough
- neutral
- liberal
- ignorant

4 COUNTRY SUMMARIES

4.1 AUSTRIA

In 2018, Austria had two reported incidents of harassment against environmental defenders by state actors. The first of these was a direct action by the head of the Nature Conservation Department using excessive force to threaten, over the phone, an environmental NGO employee with legal consequences for the violation of the GDPR as documents the employee had received from the department and was using in a trial were found to contain personal information. The employee said she would blacken out the sensitive information parts of the document but continue to use the document for the purposes of the trial. She was once again threatened with a formal complaint to the Data Protection Authority. No complaint was ever made against the employee and whilst they continue to work as environmental defenders, they are more cautious with this authority and only communicate in writing.

The second incident involved the creation of a hostile environment and legislation by the authorities whereby a roadblock was set up to block animal welfare activists. They were campaigning for a ban on hunting in enclosed compounds and thus trying to film the conditions of the hunt compound for animals and the manner in which hunts of these animals is practised but were prevented by the police roadblock. The NGO have issued a press release regarding this incident. Austria, therefore, saw two incidents in 2018 involving certain state authorities who tried to hamper in one form or another the activists defence of the environment, neither of which has seen a full resolution yet as fear of repercussions and continuing repression remains.

Austria also had other relevant incidents prior to 2018 involving threatening protests outside the home of a spokeswoman for a citizen's initiative; media slander and internal investigation for abuse of power of judges for ruling against the expansion of an airport for environmental reasons (although this doesn't directly relate to civil harassment); and physical violence against the same animal-welfare NGO as mentioned above.

According to their own evaluation, Austria's legislation on the sanctioning of harassment is relatively tough, the enforcement of this legislation is neutral, and they

believe their country is relatively safe for environmental defenders. Given that the sanctioning of harassment contrary to the legislation is neutral, it is not surprising, therefore, that harassment of environmental defenders by authorities, particularly, in Austria is not unusual, although it has not deterred environmental activists from continuing their work.

4.2 BULGARIA

Bulgaria reported one case of civil harassment in the time period. A coalition of environmental NGOs against the construction of a highway in a Natura 2000 area were subject to a direct action campaign of financial restrictions by the authorities whereby their access to public funds and resources was limited. These authorities also created a hostile environment, restrictions and legislation for these NGOs through media harassment and stigmatization. They received threats to cease campaigning or their financing and future in Bulgaria was at risk; their previously approved applications for particular projects were denied; legislation was enacted preventing any NGOs from receiving funding regarding the Operational Programme Environment; the Minister for Environment and Water allegedly instructed all state agencies not to provide sub-contracts to environmental NGOs; a black PR campaign was initiated by government officials against anyone campaigning against the highway; environmental NGO's rights to appeal environmental decisions and EIA's was limited; and finally the NGOs were subject to a prosecution inspection by the Chief Prosecutor which ultimately found no crimes had been committed but was used to fuel the black PR campaign. This campaign of harassment has led to great financial crises and limited capacity for many of the environmental NGOs and some closing entirely. A strong public negative opinion has been fuelled by the black PR of the media against environmental NGO's actions and campaigns, which places added strain on these NGOs.

Bulgaria's legislation on harassment of environmental defenders is considered to be liberal, with the enforcement of such legislation ignorant. It is therefore understandable that they consider Bulgaria to be neutral for environmental defenders in terms of harassment, rather than safe. Yet the lack of sanctioning of already liberal legislation and the fact that the two reported

cases involved state actors, rather than private actors, could be considered dangerous, although danger in what form is questionable, given that violence was not involved in the mentioned cases.

4.3 CZECH REPUBLIC

Both cases reported in the Czech Republic in 2018 were in relation to the creation of a hostile environment and restrictions through media harassment. The first case was by non-state actors and the second by state actors.

The incident by the non-state actors saw environmental experts related to an environmental NGO harassed on cyber space by individuals linked to certain industry-related pressure groups or businesses. Defamation pamphlets spread online through social media and emails, downplaying their skills and accusing them of having links with the former Soviet secret police, as well as financially fraudulent behaviour. This harassment still continues occasionally.

For the second incident, state actors were involved in creating a hostile environment and restrictions related to funding through media harassment. The Czech Ministry of Environment placed very restrictive conditions upon a grant for an environmental NGO that prevented them from accomplishing much of their work, thus forcing them to either give up their defence of the environment or refuse the grant; they refused the grant. The ministry consequently shamed the NGO on social media for this refusal.

Legislation on the harassment of environmental defenders is considered to be relatively tough in the Czech Republic but the sanctioning of harassment is neutral. Despite this, it remains a relatively safe country for environmental defenders, particularly given the two reported cases in 2018 were not violent and focussed mainly on media and cyber harassment, as well as restrictions, rather than physical direct action.

4.4 ESTONIA

Although in 2018, there were no reported major incidents in Estonia regarding the harassment of environmental defenders, two cases from previous years were reported, both involving direct action by a non-state actor in the form of judicial harassment.

The developer of a real estate development brought a civil court case against an environmental activist for an

article she published in which she criticised the planned development. The case was negotiated to a compromise where the developer must incorporate the concerns of the activist into his development and the developer had to reimburse the activist her legal fees. It was the first Strategic Litigation Against Public Participation (SLAPP) case in Estonia, thus raising awareness of developers trying to silence community opposition and was widely criticised.

Secondly, activists and protestors of an illegally built track for endurance bikes and ATV's asked the local municipality to take action against the operator of the track. The operator sent them a letter informing them that they must cease their activities and protests and pay him damages allegedly illegally caused to him by their 'bad faith' requests to the municipality as he had to pay for legal fees for this case. Suffice to say, the activists continued their protests and this threat was never followed through as it was unfounded and made on the basis of bad faith to scare the locals into stopping their opposition to the track. The activists also won their case against the local municipality for their lack of decisive activity regarding the track and the operator was forced to stop his operations.

Considering the legislation and practise of sanctioning harassment of environmental defenders were rated ignorant, the country for environmental defenders was rated relatively safe. This can be confirmed by the two aforementioned cases as they only refer to judicial harassment, where the activists were successful in their protests and none were harmed.

4.5 GREECE

Greece reported two main cases of harassment during the reporting period that involve the same situation – direct action by the state actors through excessive use of force, arrest and detention as well as judicial harassment against certain individuals, party to residents' associations. These individuals were campaigning against the transfer of rubbish to an illegal rubbish tip and the extraction of gold contrary to the relevant legislation. Many individuals were arrested during these campaigns, using heavy handed police tactics and spurious criminal proceedings, however it is not clear how many defenders had indeed committed the crimes they were alleged to have committed. Some of them were indeed involved in resisting arrest and the destruction of property but there have been an excessive amount of criminal proceedings

initiated (over 500 so far) and many of these have been acquitted. Most of these proceedings are still pending and have yet to be completed.

There is currently no national legislation on the sanctioning of harassment of human rights defenders, thus their rating of the legislation as neutral, despite them sponsoring the 2017 UN Consensus Resolution on Human Rights Defenders. It is therefore unsurprising that the practise of sanctioning harassment was rated ignorant due to this lack of legislation. Despite this, Greece remains very safe, according to their evaluation, for environmental defenders.

4.6 HUNGARY

The single reported case in Hungary of harassment of environmental defenders involved direct action by non-state actors in the form of violence and a lack of action, in the form of a lack of due diligence, by state actors with regards investigating retribution by state and non-state actors. Environmental activists against the tree felling and construction of large public buildings in the 'so-called' City Park of Budapest were assaulted by security guards. The guards used force on the activists causing one activist to fall to the ground she was hit so hard; the police did not intervene - it is not clear whether they were unable or simply unwilling. These activists have been charged with breaching the peace and sentenced to between 200 and 250 hours of public duty but there were no consequences for the security guards. After the incident, the activists, whilst still working as environmental defenders, were forced to give up their demonstrations and abandon their picketing camps.

Hungary's legislation on environmental defenders has been rated as tough and there was only one reported case for 2018, thus the assessment that the country is relatively safe for activists seems to be a fair assessment. However the sanctioning of harassment is only considered neutral, meaning there is still more work to be done to ensure the full effectiveness of the legislation.

4.7 ROMANIA

Ongoing civil lawsuits, brought by non-state actors as a form of judicial harassment, are the subject of the single reported incident of harassment of the environmental defenders in Romania, as well as a lack of action by these same non-state actors due to a lack of business ethics. Two wood-processing plants brought civil lawsuits against an environmental NGO for the reimbursement of the companies' lawyers' expenditures, due to previous

and current suits brought against the companies by the NGO. The companies argued that the NGO's lawsuits were designed to financially damage the companies through lawyers' honorariums and thus the company was due this money back in damages. However, given that the NGO used its legitimate right to file suits, they cannot be held accountable for the damages using this right causes. Furthermore by filing these lawsuits out of bad faith and intentionally harassing the NGO, the companies set out to damage the NGO and thus in fact abused their right to file suits. The companies also harassed and blackmailed the NGO by contacting it a day after the lawsuits were filed and offering to negotiate with the NGO if they were to give up their lawsuits, which built up financial and judicial pressure. The cases are currently still on-going and have forced the NGO to give up considerable time, effort and resources to the cases.

Romania's legislation on harassment of environmental defenders has been rated neutral, as has the practise of sanctioning harassment – which without legislation is understandably not possible. The safety of their environmental defenders has also therefore been rated as neutral.

4.8 SLOVAKIA

Slovakia, with three, had the most incidents during 2018; all using direct action but two of them were harassment by non-state actors and one using state action.

A mining company threatened an elderly activist with a court action. The attorney for the activist provided written declaration presented at court and one representation at the court hearing – this was enough for the mining company to take their action back before the conclusion of the trial as it was clear they would lose. This confirmed that the action was just a threat to scare the activist into ceasing his protests. The harassment ended as the company took its lawsuit back and have not harassed the activist again.

The second case of harassment by a non-state actor was in the form of verbal and physical violence by villagers of a scientist who conducted field research for an EIA for the construction of a highway. He was verbally assaulted – told to get out because otherwise they'd 'tear off his teeth' and physically assaulted – they hit the scientist, forcing him to defend himself and devolve the hit. They also told him that he brought the conflict to the village that everyone curses him and they said, 'we know who pays you'. The scientist has informed the mayor of the village and the law enforcement authorities, saying he

won't file a criminal complaint this time but he will in the future.

The third incident of harassment was carried out by state actors through the excessive use of force, arrest and detention of 12 Greenpeace activists. These activists were taken into preventive custody (to prevent them continuing their 'crimes') following a protest at a mining tower. The district court prosecuted them in custody, of charges of harming and endangering the operation of a generally beneficial device. They filed complaints against the detention decision and were liberated after the General Prosecutor reviewed the decision and decided preventive custody was too harsh a measure as no reasons for its use existed in this case. It should be noted though that activists are still prosecuted at liberty.

In the evaluation, the legislation on harassment was rated as tough, although with a side comment that in the codes, rather than a strong regulation, there is simply a standard. The other two evaluation points could not be rated due to varying reasons. Regarding the sanctioning of harassment, political influence may impact the investigation and prosecution of harassment but they did not feel there was enough data to make a conclusive evaluation of harassment cases. As for how Slovakia is as a country for environmental activists, prior to the Greenpeace case they would have evaluated it as very safe, however due to the involvement of and harassment by state authorities in this case and the precedent that it sets, they believe there are growing hostilities and mistrust towards NGOs in Slovakia which could risk the safety of environmental defenders in the future. The three incidents reported vary in their form of harassment and so it can be confirmed that the safety of environmental activists is variable, particularly depending on the type of harassment and who committed it.

4.9 SLOVENIA

The single case reported by Slovenia involved a wide variety of harassment: direct action by non-state actors through cyber harassment; hostile environment and restrictions in the form of media harassment and stigmatization by both state and non-state actors; and a lack of action due to a lack of due diligence by state actors. NGOs opposing construction in and investment into the Hoče-Slivnica Development Area applied as parties for an administrative procedure against the EIA procedure occurring in that area and opposed the act adopted for that development as the project had already begun before the act was adopted. The harassment

therefore centred around discrediting these NGOs for intentionally acting against economic progress. Media actions and harassment stigmatizing the NGOs aroused hate speech and individual threats were made on social media and through cyber harassment via mail and mobile phone. Protests by individuals were also made outside the offices of the NGOs and preparations were made in favour of the project without informing the NGOs. Finally, the Minister for Economic Development and Technology gave a hostile speech branding the environmental NGOs as 'eco-terrorists'; the government did not look into the minister's speech. These threats and protests were reported to police and the police provided protection to those threatened in accordance with their duties for protection. An agreement was signed between the NGOs and the investor of the project whereby further actions would take place in the EIA to meet the demands of the NGO and the NGO will not appeal the EIA decision.

The legislation on the sanctioning of harassment is considered neutral in Slovenia as the Criminal Code has criminalised certain acts of harassment, and there are some rules on the regulation of media. The practise of sanctioning however is ignorant and it is therefore no surprise that the country is considered dangerous for environmental defenders; the above case highlights this danger as harassment came from both State and non-State actors and puts the functioning of environmental defenders in jeopardy.

4.10 SPAIN

There were no cases of harassment in Spain in 2018 but one incident was reported that occurred in 2017 and the issuing judgement for it was given in September 2018. Direct action in the form of direct harassment occurred when the Mayor and a member of the Town Council hit the wheel of the car of a member of the Friends of the Earth la Rioja who was checking for potential illegal waste discharge in a gypsum quarry, and damaged it. It was reported to the police, and the mayor and the member of the town council were found guilty in a first instance criminal court of having committed a crime of non-serious damage and ordered to pay 10 euros a day each for 3 months to the court.

Spain's legislation on the sanctioning of harassment of environmental defenders and the enforcement of this sanctioning is relatively tough, thus making the country very safe usually. This incident has changed the view slightly but it remains a safe country for environmental defenders.

5 ANALYSIS OF THE MAIN RESULTS

5.1 DATA

Data matrix

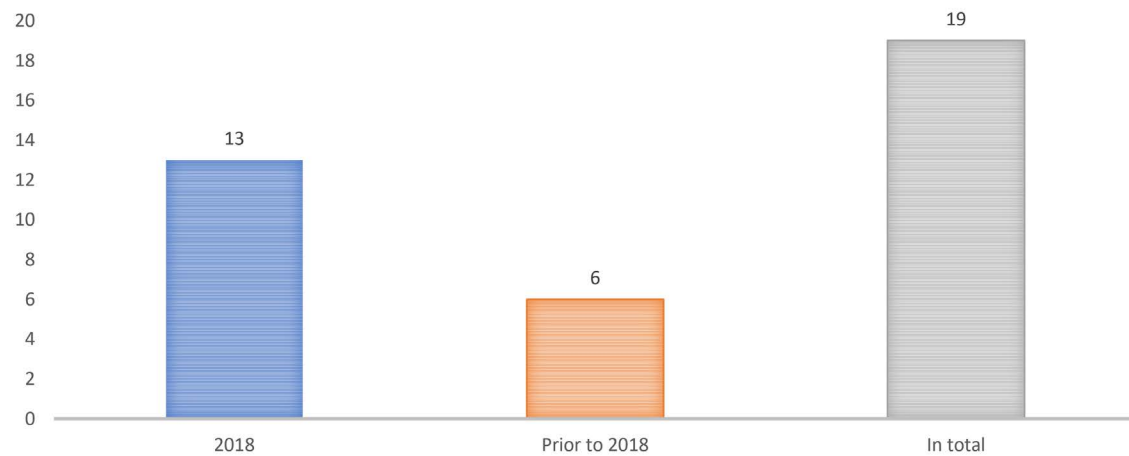
Retribution	A By non-state actors (business)	B By state actors
1 Hostile environment and restrictions	1A(i) Media Harassment	1B(i) Media harassment (or stigmatization) 1B(ii) Hostile legislation
2 Lack of action	2A(i) Lack of Business Ethics	2B(i) Lack of due diligence (when investigating retribution by State or Non-State Actors)
3 Direct action	3A(i) Harassment (direct; cyber; judicial [criminal charges, civil lawsuits, administrative proceedings], criminalisation, penalisation, imprisonment as a result) 3A(ii) Violence 3A(iii) Killing	3B(i) Excessive use of force 3B(ii) Arrest and detention 3B(iii) Judicial harassment 3B(iv) Financial restrictions

Austria	Bulgaria	Czech Republic	Greece	Hungary	Romania	Slovakia	Slovenia
3B(i) 1B(ii)	3B(iv)	1A(i) 1B(i)	3B(i),(ii), (iii) 3B(i),(ii), (iii)	2B(i) + 3A(ii)	2A(i) + 3A(i)	3A(i) 3B(i),(ii) 3A(ii)	3A(i)+ 1B(i)+ 1A(i)+ 2B(i)

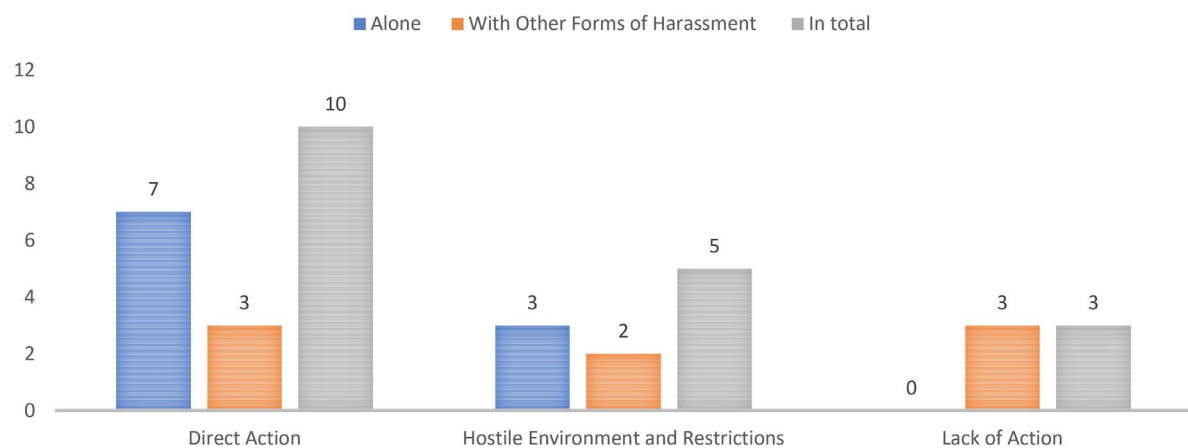
Austria (prior 2018)	Estonia (prior 2018)	Spain (prior 2018)
3A(i) 3A(ii)	3A(i) 3B(iii)	3A(i)

Data graphs and charts

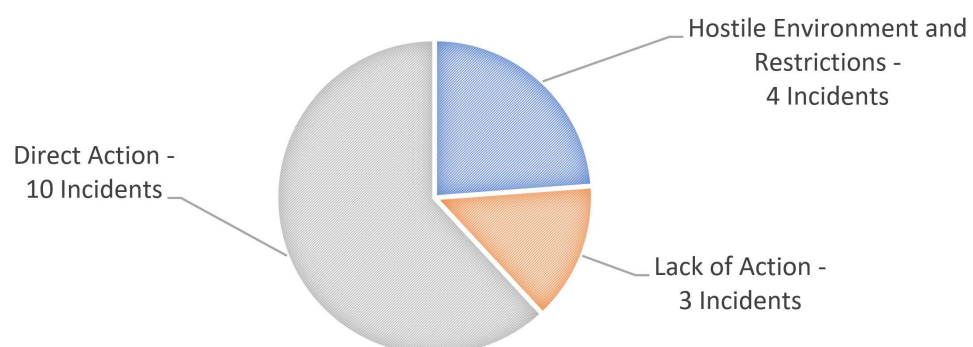
NUMBER OF CASES



INCIDENT TYPES



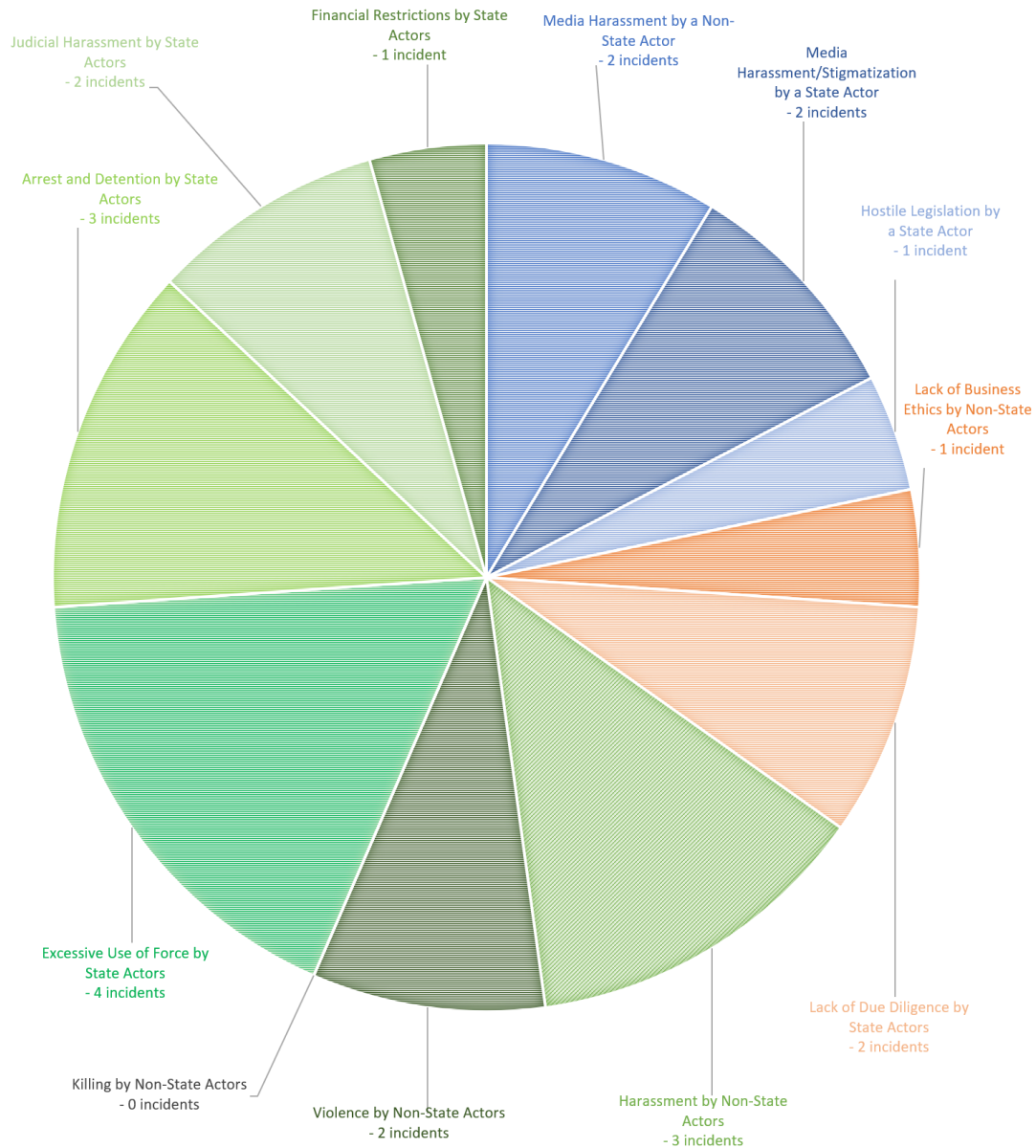
NUMBER OF INCIDENTS INVOLVING EACH FORM OF HARASSMENT - 2018



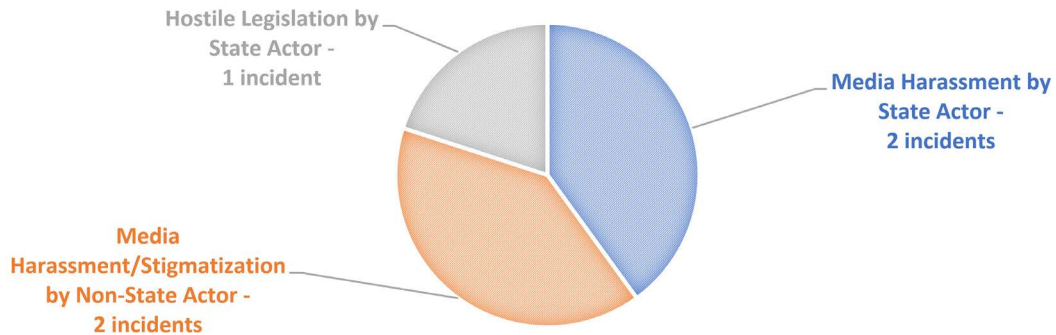
HARASSMENT INCIDENTS - 2018



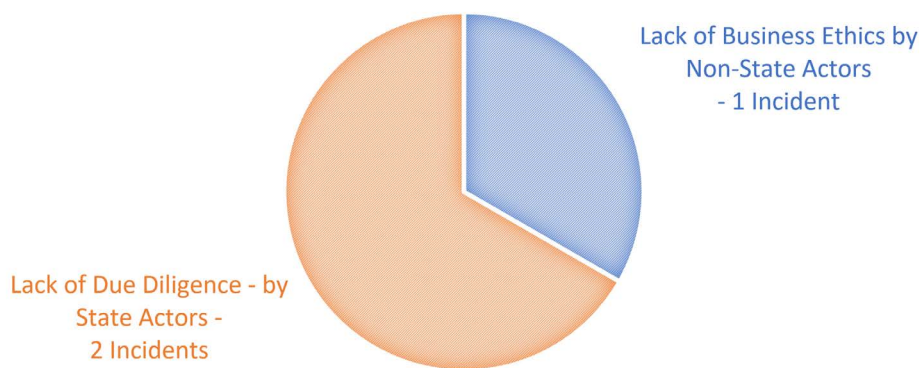
ALL HARASSMENT INCIDENTS - 2018



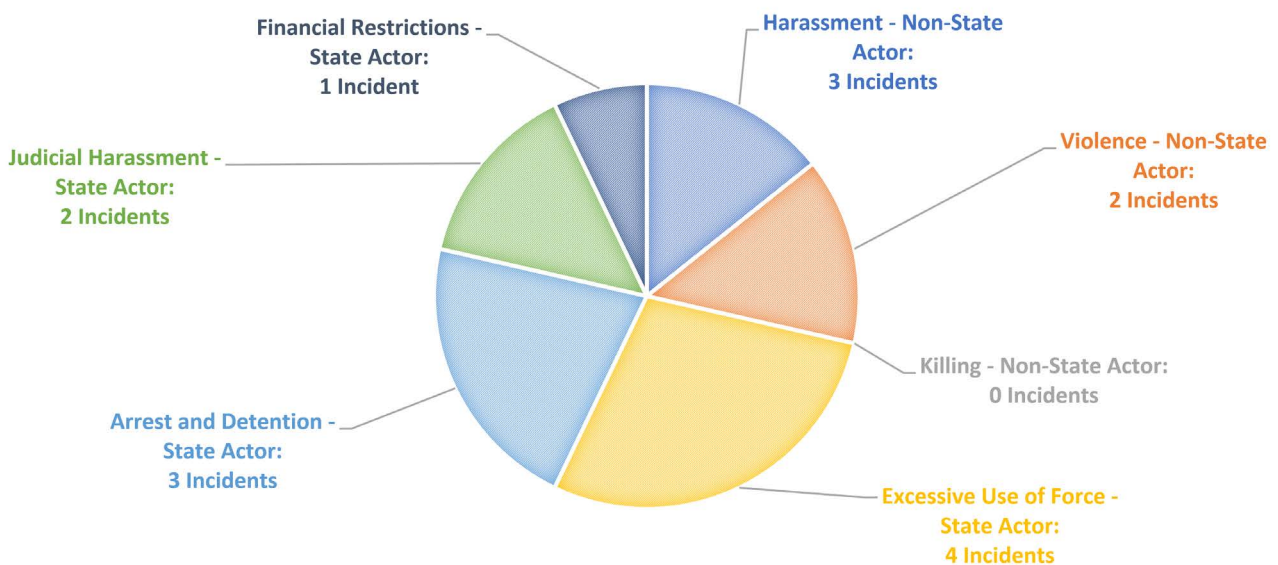
INCIDENTS INVOLVING HOSTILE ENVIRONMENT AND LEGISLATION - 2018



INCIDENTS INVOLVING LACK OF ACTION - 2018



INCIDENTS INVOLVING DIRECT ACTION- 2018



5.2 ANALYTICAL SUMMARY OF THE MAIN RESULTS

There were 13 reported incidents of harassment for the 2018 period. There were also five cases of civil harassment discussed that were not in the 2018 period as three countries provided details of cases prior to 2018: Estonia and Spain did not have any cases to report for 2018 but did have cases in previous years and Austria reported two civil harassment cases prior to 2018 as well as the two incidents during 2018. Half of the countries with reported incidents for 2018 say more than one incident occurred showing that harassment is not purely an anomaly. Although, the highest number of cases in the reporting period was only three in Slovakia, which means that harassment is still not necessarily a regular occurrence in the reporting countries. This does not mean though that the threat of harassment is minimal, particularly as environmental awareness, and consequently defenders, is rising. The often high stakes of the projects damaging the environment and the increasing reliance of citizens on media, which has the ability to fuel negativity regarding environmental defenders, mean there is the potential for an increase in the number of harassment incidents too.

Ten of the 13 reported and discussed cases in 2018 involved direct action (13 out of 19 in total, when including the two cases discussed by Estonia and Spain prior to 2018) – making it the most common form of retribution. Out of those ten, five were committed solely by authorities, i.e. state actors. This is a troubling statistic as it means that many of the authorities are likely abusing their powers, possibly for profit, rather than protecting the defenders.

Furthermore, five of the incidents including direct action were conducted by non-state actors such as individuals or companies, with two of those involving violence: Hungary and Slovakia. The violence in Hungary involved a security guard hitting a female activist so hard that she fell to the ground. This harassment was also coupled with a lack of state action however as the police and authorities did nothing to prevent the violence and in fact arrested the activists and charged them with breaching the peace. There is only one other case where both state and non-state actors were involved – the incident in Slovenia. This is the worst incident of harassment reported as it involved not only direct action by that of non-state actors (individuals and the harassment initiated by multinational corporation Magna Steyr) but also lack of action by the

state through a lack of due diligence and the creation of a hostile environment and restrictions by both the state and non-state actors. This is the only case that had all three main types of harassment and used media and cyber harassment to such a vast extent. Despite this harassment, the activists achieved their aim as they succeeded in reaching an agreement and still continue to work as environmental defenders. Retribution in the form 'lack of action' by state actors only occurred twice throughout the reported incidents and only when direct action by a non-state actor had occurred too – in the Slovenia case above and in Hungary. A lack of action by a non-state actor only occurred once in the Romanian wood processing case.

As for the cases provided in Estonia and Spain prior to 2018 these were also direct action by non-state actors. In Estonia, both cases involved judicial harassment although with only two cases prior to 2018 and none in 2018, it cannot be said that there is a pattern or common form of harassment occurring. It is unknown whether the activists are still working as environmental defenders in Estonia but for the case in Spain, the Friends of the Earth la Rioja employee is still working as an environmental activist.

Hostile environment and restrictions was used three times on its own, twice in the Czech Republic and once in Austria, and twice in conjunction with other forms of harassment. Both cases in the Czech Republic and one of the cases in Austria involved the use of hostile environment and restrictions. Two out of three of these were conducted by state actors and both were effective in their methods as they restricted the abilities of the environmental defenders greatly by physically restricting them (roadblocks in Austria), discrediting them (defamation of environmental experts in the Czech Republic) and preventing financing (unfavourable grant conditions in the Czech Republic). The incident in Slovenia is also an incident where the creation of a hostile environment and restrictions was used in conjunction with the other two forms of retribution and thus cannot be used to assess the effectiveness of this form of retribution. It should be noted however that despite the various forms of retribution in Slovenia and various actors, the incident was unsuccessful in deterring the activist and instead concluded with an agreement satisfying their environmental concerns.

The reported case in Bulgaria for 2018 also suggests that it is becoming increasingly difficult for NGOs to function as environmental defenders. Financial and legislative restrictions placed upon NGOs in Bulgaria, as well as negative public opinion, have ensured that environmental defenders are functioning with a very limited capacity and have already caused some to close. This may be an indication of Bulgaria's ever-growing policy against environmental defenders and that it may soon become a hostile environment for any environmental activists.

The fact that all of the harassed are still working as environmental defenders suggests that harassment is not being conducted to such an extent as to prevent environmental activists. This is a positive conclusion as

it means that the majority of the activists are allowed to defend the environment and make a difference. Furthermore, over half of the reported and discussed cases in 2018 (nine out of 13) were not effective in ensuring the defenders cease their activities for that given project. Out of the four that were effective, three of these were conducted by state actors which suggests that state harassment is the most effective method. It is a troubling and yet unsurprising conclusion as state-backed harassment leads to restrictions on the engagement with civil society and may lead to corruption. For example, permits may be provided without the necessary checks; constructions approved despite environmental issues; a lack of clarity as to what remedial methods there are for those seeking retribution or environmental protection; and a general decline in environmental welfare.



Fotaken (stock.adobe.com)

6 FINAL CONCLUSIONS

In general, however, it must be said that the incidents of harassment are ineffective at preventing the environmental defenders. Only four of the 13 incidents in 2018 were effective in ensuring the defenders ceased their activities whilst the other 9 incidents restricted, prevented and prosecuted defenders.

Incidents of purely direct action were the least effective as only one out of seven cases were successful in limiting the abilities of the environmental defenders: the Bulgarian incident used financial restrictions by the state to limit environmental NGO's access to funds and resources which severely restricted their abilities to function, thus effectively eliminating them.

As for incidents with a combination of harassment tactics and those only involving the use of hostile environment and restrictions, they were a little more effective as three out of six were successful in stopping the environmental defenders' activities in that situation, making them three times more effective than purely direct action. Furthermore, the fact that there are almost equal numbers of incidents of harassment committed by state actors and non-state actors is troubling.

Harassment, especially the creation of a hostile environment, particularly through media harassment, for the defenders causes great distrust and skepticism amongst the public which can lead to even greater harassment and more direct forms of harassment. If the harassment is committed by state actors particularly, this then becomes an even bigger issue as the non-state actors will feel protected and validated in their harassment or their schemes that are contrary to the protection of the environment as the state will likely protect them and their projects over the environmental defenders and NGOs.

Justice and the state therefore cannot be relied upon to protect the rights of the defenders and those who are suspicious of the defenders will feel more brazen in their harassment. State-backed harassment could be considered a form of propaganda that sways the opinions of the public and corporations against NGOs and environmental defenders, thus hindering or preventing them from functioning efficiently – the case in Bulgaria is evidence of this.

Whilst harassment is not rife throughout these countries, it can still be considered an issue that needs addressing. Without valid protection from the state, environmental defenders cannot be expected to be accepted and respected in society. If the state has committed the harassment, the harassed have nowhere to turn and whilst the results show that this does not deter them from continuing their work, they should be protected and provided with sufficient redress.

The Aarhus Convention is not being properly implemented and met if the harassment of environmental defenders continues.

It is true that five out of the ten states have tough or relatively tough legislation, however there are still some that have liberal, ignorant or non-existent legislation surrounding harassment of environmental defenders and many states considered themselves to be ignorant with regards the sanctioning of harassment.

Harassment of environmental defenders is a growing concern that must be addressed by state actors soon or the protection the defenders should be accorded will be lost, as will the environment.

Annex I – Case Summaries

Austria

Case 1 (direct action by State Actors (Head of the Nature Conservation Department) – excessive use of force)

- Threatened with legal consequences for a ‘violation of the GDPR’
- Harassed over the phone
- Threatened with complaint to the data protection authority
- NGO said would blacken out sensitive info and delete all non-blacked but still use for trial
- No complaint ever made – just a threat

Case 2 (hostile environment and restrictions by State Actors: hostile legislation)

- Roadblocks by police to prevent filming of hunt (authorities)
- NGO issued press release

+ other cases prior to 2018

- Protests outside spokeswoman for the citizen’s initiative’s home – felt threatened (filed charges against the protesters)
- Media slander of judges on an environmental issue + investigations initiated for ‘abuse of office’
- Physical assault

Bulgaria

(direct action by State Actors - financial restrictions – limiting the access to any public funds and resources)

- Threat to stop financing and future in Bulgaria
- Refused previously agreed projects
- Prevented NGOs from getting funding (legislation)
- Black PR campaign
- Limited NGO’s right to appeal environmental decisions and EIA’s
- Prevented employment of NGOs as subcontractors by State Agencies
- Prosecution inspection by the Chief Prosecutor – nothing found
- Significant financial crises for all active environmental NGOs, some closed + strong negative public opinion against NGO actions and campaigns

Czech Republic

Case 1 (hostile environment and restrictions by a Non-State Actor - media harassment)

- Online/social media defamation of environmental experts – their skills were downplayed and accused of financially fraudulent behaviour and having links with former secret police
- Defamation pamphlets spread through social media and emails
- Harassment continues on occasion

Case 2 (hostile environment and restriction by a State Actor – media harassment)

- Funding grant had many restrictive conditions preventing the NGO from accomplishing much of its work
- Refused grant so shamed on social media by the Ministry
- NGO did not seek more funding from the ministry

Estonia

None in 2018

+ other cases prior to 2018

Case 1 (direct Action by a Non-state Actor – judicial harassment)

- Civil court case brought against an environmental activist for a published article criticising a planned real estate development (= Strategic Litigation Against Public Participation case – SLAPP)
- Case negotiated with a compromise + developer must pay for activist's legal fees
- Case widely publicized and raised awareness of SLAPP cases

Case 2 (direct action by Non-State Actor – judicial harassment)

- Activists and protesters provided with a letter informing them to stop protests and to pay damages allegedly illegally caused to operator of track (threat never followed through as unfounded on the basis of 'bad faith' by the land owners as they asked the local municipality to take action against the illegally built track)
- Claim unfounded and made in bad faith with aim of scaring local people and forcing them to stop their opposition
- Ignored claim + case against lack of decisive activity of the municipality won by local landowners = track illegally built and operated
- Operator never followed up on threat

Greece

Case 1 (direct action by a State Actor – excessive use of force, arrest and detention and judicial harassment)

- Local residents and resident's associations were complaining about rubbish being transferred to an illegal rubbish tip
- Due to these complaints and protests, heavy-handed police tactics and criminal proceedings have been initiated against the residents by the local prosecutor's office
- It is believed that many were legitimately charged but some proceedings were spurious and the residents acquitted
- Most of the cases are still pending and many of the freed activists are still persisting in their complaints
- Proceedings against the rubbish project have been initiated in Greek Courts.

Case 2 (direct action by a State Actor – excessive use of force, arrest and detention and judicial harassment)

- Local residents and resident's associations were protesting against the extraction of gold without respecting the relevant environmental legislation
- Due to these complaints and protests, heavy-handed police tactics and criminal proceedings have been initiated against the residents by the local prosecutor's office
- More than 500 criminal proceedings have been initiated
- It is believed that many were legitimately charged but some proceedings were spurious and the residents acquitted
- Many were found not guilty in 2018 and many of the activists are still campaigning against this project and supporting those still under trial
- Proceedings against the rubbish project have been initiated in Greek Courts

Hungary

(lack of action by State Actors – lack of due diligence (when investigating retribution by State or Non-State Actors) + direct action by Non-State Actors – violence)

- Environmental activist fight with security guards (tree felling and building large public buildings in the City Park of Budapest)
- Security guards used force – one hit woman so hard she fell on the ground
- Police did not intervene
- Activists sentenced to public duty for breaching the peace

Romania

(lack of action by Non-State Actors – lack of business ethics + direct action by Non-State Actors – judicial harassment in the form of civil lawsuits)

- Two wood processing companies filed suits against NGO for reimbursement of lawyer expenditures of the companies
- Argued that the NGO had filed suits to financially damage the companies through lawyer honoraria
- Nobody can be held accountable for damages caused by legitimate use of a right
- The companies however did abuse their rights to cause damage to the NGO = bad faith and intention of harassment – companies emailed and called NGO day after law suits filed offering meetings and talks for the NGO to give up its ongoing lawsuits = offered negotiations + building up financial and judicial pressure (against the law) = form of blackmail and harassment
- Court cases still ongoing

Slovakia

Case 1 (direct action by a Non-State Actor – judicial harassment in the form of civil lawsuit)

- Mining company threatened elderly activist with a court action
- Attorney for activist provided written declaration presented at court and representation at the court hearing
- Mining company took their action back = just a threat
- Harassment ended – company took its lawsuit back

Case 2 (direct action by State Actors – excessive use of force, arrest and detention)

- District Court prosecuted 12 Greenpeace activists in connection with a protest at a mining tower
- Facing charges of harming and endangering operation of a generally beneficial device
- Preventive custody used to prevent them continuing their 'crimes'
- Activists filed complaints against the detention decision
- General Prosecutor reviewed decision and decided reasons for preventive custody did not exist = too harsh a measure = ordered liberation of activists
- + nothing happened to the miners/activists due to the action
- Activists still prosecuted at liberty

Case 3 (direct action by Non-State Actors – verbal and physical violence)

- Verbal aggression (get out because I'm going to 'tear off his teeth') physically assaulted (hitting) of a scientist conducting field research for an EIA for the construction of a high-way
- Had to defend himself and devolve the hit
- Told him that he brought the conflict to the village and everybody curses him + 'we know who pays you'
- Informed mayor of the village and law enforcement authorities but asking for no action – but in the future he will file a criminal complaint

Slovenia

(direct action by Non-State Actors – direct harassment (cyber harassment) + hostile environment and restrictions by Non-State Actors – media harassment + hostile environment and restrictions by State Actors – media harassment/stigmatization (+ speech by minister) + lack of action by State Actors – lack of due diligence)

- NGOs opposing construction and applied as parties for an administrative procedure against the EIA procedure + opposed the Act for the development as the project had already begun before the act was adopted – discredited NGOs that intentionally act against economic progress
- social media and cyber harassment through hate speech and individual threats made (FB, mail and mobile phone) due to media actions
- Media harassment – stigmatization
- Preparations made in favour of the project without informed the NGOs
- Protests by individuals outside NGO's offices
- Minister for economic development and technology – hostile speech ('eco-terrorists' = environmental NGOs) - Gov. did not look into minister's hostile speech
- Reported to police and requested protection due to individual threats
- Police acted in accordance with their duties for protection
- Agreement signed for actions further in the EIA procedure = NGOs will not appeal EIA decision

Spain

None in 2018

+ other cases prior to 2018

1 case in 2017 with Court issuing judgement in September 2018 (direct action by Non-State Actors (although arguably it was by State-Actors – direct harassment)

- Mayor and member of town council clicked the wheel of the car of a member of the Friends of the Earth la Rioja when he was checking for potential illegal waste discharge in a gypsum quarry

- Reported to the police – mayor and member of town council found guilty in a first instance criminal court of having committed a crime of non-serious damage = pay 10 EURO a day for 3 months

Annex 2 – Case Studies

Austria

Monitoring national situation re harassment of environmental defenders

REPORT TEMPLATE

I. Data

Name of country: Austria

Name of reporter: Katharina Scharfetter

Organization of reporter: J&E Austria

Period covered by reporting: January-November, 2018

Date of reporting: 10 December 2018

II. Incidents of harassment of environmental defenders

Have there been any cases of harassment of environmental defenders?

Yes

If yes, how many within the reported period?

2 (the following questions will be answered for each case separately)

Case 1:

Who was affected by the harassment (individual, group of individuals, NGO(s))?

NGO employee

What was the role of the harassed person or organization in the antecedents of the harassment?

The affected employee of an environmental organisation is working on a species protection case and had previously inspected files with the responsible authority.

Who committed the harassment?

An employee of an authority (the head of the nature conservation department)

When did the harassment happen?

2018/11/09

Where did the harassment happen?

At the office

How did the harassment happen?

Via telephone call

Please describe shortly the harassment!

About a month after the NGO employee had inspected the relevant files and made some copies, the authority realized that one of them contained some sensitive personal data, which should not have been visible in the context of the observation of files, and therefore a data breach in terms of the GDPR had been committed. They called the NGO employee and accused her of having committed a data breach as well by using the files for a complaint. The NGO employee was told that the files therefore cannot be used. The NGO employee argued that the affected files were only used for the complaint, therefore only submitted to the court, which would have access to the whole files anyway. The head of the department got very rude then and in the end threatened her with legal consequences.

Was it a one-time action or a series of actions?

One-time action

What was the form of harassment (please choose one or more from the following list)?

Retribution	By Non-State Actors (business)	By State Actors
Hostile environment and restrictions	- Media Harassment	- Media harassment (or stigmatization) - Hostile legislation
Lack of action	- Lack of Business Ethics	- Lack of due diligence (when investigating retribution by State or Non-State Actors)
Direct action	- Harassment (direct; cyber; judicial [criminal charges, civil lawsuits, administrative proceedings], criminalisation, penalisation, imprisonment as a result) - Violence - Killing	- Excessive use of force - Arrest and detention - Judicial harassment

Was the harassment reported to the authorities?

No

Was there any reaction to the report on harassment?

N/A

How was the case resolved?

The NGO employee explained to the official that she would blacken the sensitive data and delete all the non-blackened, but would still use that file for the trial because it clearly showed that the requirements of a nature conservation exception have not been met. The

official then indicated to file a complaint to the data protection authority against her/her organisation, since then there have been no more reactions.

What was the impact of the harassment?

The employees of that organization have become extremely cautious towards this authority and only communicate with it in writing in order to be able to document all activities.

Does the individual/organization continue its work as an environmental defender?

Yes

Case 2:

Who was affected by the harassment (individual, group of individuals, NGO(s))?

NGO

What was the role of the harassed person or organization in the antecedents of the harassment?

The organisation concerned is primarily an animal welfare organisation, but is also committed to environmental protection, particularly in Natura 2000 areas. For some time now, this organisation has been campaigning for a ban on hunting within closed compounds. Therefore, they regularly film in the vicinity to show the conditions in these hunting compounds and the manner in which this form of hunting is practised.

Who committed the harassment?

An authority

When did the harassment happen?

2018/11/29

Where did the harassment happen?

The act of harassment was adopted by the authority and executed by the police (allegedly by the hunters themselves) on the public roads around these compounds.

How did the harassment happen?

See next question

Please describe shortly the harassment!

In order to prevent the filming of such a hunt, the responsible authorities imposed roadblocks around such a compound on the day of the hunt and therefore made it impossible for the activists to get close to it.

Was it a one-time action or a series of actions?

So far it was a one-time action, but the NGO concerned is afraid that this may now become routine. The NGO concerned also expressed the fear that the current government plans to criminalize the secret filming in animal farms.

What was the form of harassment (please choose one or more from the following list)?

Retribution	By Non-State Actors (business)	By State Actors
Hostile environment and restrictions	- Media Harassment	- Media harassment (or stigmatization) - Hostile legislation
Lack of action	- Lack of Business Ethics	- Lack of due diligence (when investigating retribution by State or Non-State Actors)
Direct action	- Harassment (direct; cyber; judicial [criminal charges, civil lawsuits, administrative proceedings], criminalisation, penalisation, imprisonment as a result) - Violence - Killing	- Excessive use of force - Arrest and detention - Judicial harassment

Was the harassment reported to the authorities?

No

Was there any reaction to the report on harassment?

N/A

How was the case resolved?

The NGO issued a press release on this subject, other consequences are currently not known.

What was the impact of the harassment?

This cannot be estimated at present. The NGO concerned does not intend to be deterred from its activities by this.

Does the individual/organization continue its work as an environmental defender?

Yes.

III. Evaluation

How would you describe your country in terms of legislation re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal

- ignorant

How would you describe your country in terms of practice re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country for environmental defenders in terms of harassments?

- very safe
- relatively safe
- neutral
- dangerous
- very dangerous

Additional comments:

During the monitoring activities, I have also become aware of cases from the longer past and, since I do not know whether they have been reported previously, I would like to mention them at least briefly in this report.

2014:

The extension of a motorway had been delayed as a result of a complaint due to concerns regarding water protection. Local residents who suffered from the enormous volume of traffic then demonstrated in favour of the extension. A member of the regional government then called for a demonstration where the delays would come from. As a result protests were organized in front of the house of the spokeswoman of the citizens' initiative who engaged against the extension. She regarded herself as well as her family threatened and filed charges.

2017

After the Federal Administrative Court had not approved the expansion of Vienna Airport, the responsible judges were severely criticised by several stakeholders for having "attached too much importance to climate protection". In the media they were accused of "activist justice" and even investigations were initiated against them for abuse of office. (The decision was subsequently overturned by the Constitutional Court because a refusal for reasons of climate protection was not within the Austrian legal system and the expansion has now been approved.)

In connection with the above-mentioned animal welfare organisation, an incident occurred during such a compound hunt in November 2017. The chairman of the hunting association together with two other persons kept two activists held for several hours. One of the

activists was physically attacked as well and a camera was taken from them. In this regard, several proceedings have been or are being conducted.

Finally, it should also be mentioned that a major demonstration against the current government took place in Vienna on 15 December 2018. This caused Vice Chancellor *Strache* to strongly criticise the demonstrators and accuse them of endangering the business of local shops and spoiling Christmas spirit.

Although this is not harassment against environmental organisations, it is part of a worryingly long list of attacks on civil society and clearly shows the government's attitude towards any engagement of civil society.

Bulgaria

Monitoring national situation re harassment of environmental defenders

REPORT TEMPLATE

I. Data

Name of country: Bulgaria

Name of reporter: Bulgarian environmental activist and NGO leader

Organization of reporter: J&E Bulgaria

Period covered by reporting: January-December, 2018

Date of reporting: 8 January 2019

II. Incidents of harassment of environmental defenders

Has there been any cases of harassment of environmental defender?

Yes

If yes, how many within the reported period?

5

Who was affected by the harassment (individual, group of individuals, NGO(s))?

Group of individuals and NGOs

What was the role of the harassed person or organization in the antecedents of the harassment?

The "Save Kresna Gorge" coalition is campaigning for saving the Kresna NATURA 2000 site against Struma motorway construction in Kresna Gorge. Coalition was formed in 1997, uniting almost all active environmental NGOs. In 2014 after serious lobbying of the Construction Chamber of Bulgaria the Government decided to not implement NATURA 2000 rules and to go ahead with constructions which will impact significantly the ecosystems and habitats in the Kresna Gorge.

Who committed the harassment?

The executive director of a business organization in Bulgaria speaking on behalf of big private (but former state communist) construction companies, with interests in constructing the motorway project financed by the EC.

When did the harassment happen?

01-05/08/2016 and afterwards as a series of actions

Where did the harassment happen?

The building of a business organization, in the official office of its executive director. Followed by actions of the Ministry of Environment, adopted laws and number of media publications.

How did the harassment happen?

Please describe shortly the harassment!

On 1-5 August 2016, a meeting two representatives of the "Save Kresna Gorge" NGO's coalition and the executive director of business organization. The latter said approximately the following: "I transmit a message from the bosses. If you continue to deal with Kresna and the highway, we will not kill or hurt you, but you will not have any financing and future in Bulgaria". In October-November 2016, previously agreed projects for financing by the Bulgarian Ministry of Environment and the Balkani Wildlife society were denied by the ministry. In 2017, the Bulgarian Ministry of Environment adopted Operational Programme Environment for the next financial period and excluded NGOs from the list of beneficiaries and recipients of funds under this European program, and in December 2018, the Minister for Environment and Water has instructed all state agencies not to employ active environmental NGOs as subcontractors. In July 2017, amendments of the Administrative Code were adopted by the parliament, which particularly limited citizen and NGO right to appeal the EIA and AA decisions in second instance in the court and which was particularly applied for Kresna Gorge and Struma motorway EIA decision. After 2016, a systematic black PR campaign was started against Kresna Gorge campaigners supported by the government officials – vice-premiers, ministers, and heads of agencies. After media accusations in 2016 several environmental NGOs were subject of the prosecution inspection appointed by the Chief Prosecutor. The inspection didn't find any crime and violation, but was actively used for black PR campaign.

Was it a one-time action or a series of actions?

Series of actions

What was the form of harassment (please choose one or more from the following list)?

Retribution	By Non-State Actors (business)	By State Actors
Hostile environment and restrictions	- Media Harassment	- Media harassment (or stigmatization) - Hostile legislation
Lack of action	- Lack of Business Ethics	- Lack of due diligence (when investigating retribution by State or Non-State Actors)
Direct action	- Harassment (direct; cyber; judicial [criminal charges, civil lawsuits, administrative proceedings], criminalisation, penalisation, imprisonment as a result) - Violence - Killing	- Excessive use of force - Arrest and detention - Judicial harassment

Was the harassment reported to the authorities?

No. It was implemented by authorities (Government, Chief Prosecutor).

Was there any reaction to the report on harassment?

No.

How was the case resolved?

It was not resolved.

What was the impact of the harassment?

Significant financial crises in all active environmental NGOs, closing of some of the NGOs, strong negative public opinion against NGO actions and campaigns.

Does the individual/organization continue its work as an environmental defender?

Yes, but with very limited capacity.

III. Evaluation

How would you describe your country in terms of legislation re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country in terms of practice re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country for environmental defenders in terms of harassments?

- very safe
- relatively safe
- neutral
- dangerous
- very dangerous

Czech Republic

Monitoring national situation re harassment of environmental defenders

REPORT TEMPLATE

I. Data

Name of country: Czech Republic

Name of reporter: Petra Marie Andrášik

Organization of reporter: J&E Czech Republic

Period covered by reporting: January – November, 2018

Date of reporting: 22 March 2019

II. Incidents of harassment of environmental defenders

Have there been any cases of harassment of environmental defenders?

In the reporting period there was several harassment incidents towards environmental defenders in the Czech Republic.

Case 1:

Continuing targeting of individual NGO representatives on social media

Certain individuals have been continuously defamed online, especially on social media, by other individuals. These individuals have been professionally linked to a Czech environmental NGO as environmental experts. Specifically their expertise has been downplayed and there were attempts to link them to financial frauds or cooperation with former State Security, secret police from the Communist era. The defaming pamphlets have been circulated through emails and social media in the past and keep resurfacing with the NGOs activities which are considered as sensitive. The form of harassment can be classified as media harassment by non-State Actor. The incidents have never been reported. The individual targeted by the defamation is still working for the NGO as environmental expert.

Case 2:

Imposing conditions on funding restricting NGO's independence and impartiality

An NGO received funding from a grant program of the Czech Ministry of Environment, however the funds were granted based on many conditions restricting freedom and independence of the NGO's activities, imposing Ministry's control on significant number of communications and project outputs (such as approving of all texts related to the project by the Ministry's PR department, banning all activities which could be used by the public to demand better conditions for waste prevention and recycling, banning the topic of adverse effects of waste incineration in the project's PR). The NGO refused the grant and was shamed in the online media by the Ministry later on.

This incident which took place in October and November 2018 affected the NGO as a whole. The Ministry's press release which aggressively disagreed with the NGO's grant refusal was then published in dubious online media known for spreading wrong or fake news. The form of harassment can be classified as media harassment by State Actor. The incident has never

been reported and instead a line of positive communication has been launched. The NGO is still working in environmental protection.

If yes, how many within the reported period?

This report identified 2 incidents.

Who was affected by the harassment (individual, group of individuals, NGO(s))?

Individuals, NGO

What was the role of the harassed person or organization in the antecedents of the harassment?

N/A

Who committed the harassment?

In the first case, it is various individuals demonstrably or supposedly connected to business or industry-related pressure groups. In the second case, it was Ministry of Environment.

When did the harassment happen?

In the first case – continuously, in the second case, in October and November 2018.

Where did the harassment happen?

Both predominantly online.

How did the harassment happen?

See the description above.

Please describe shortly the harassment!

See the description above.

Was it a one-time action or a series of actions?

In the first case, it was a series of actions performed by various actors in a very loosely or not at all coordinated manner. In the second case, it was a single incident.

What was the form of harassment (please choose one or more from the following list)?

Retribution	By Non-State Actors (business)	By State Actors
Hostile environment and restrictions	- Media Harassment	- Media harassment (or stigmatization) - Hostile legislation
Lack of action	- Lack of Business Ethics	- Lack of due diligence (when investigating retribution by State or Non-State Actors)
Direct action	- Harassment (direct; cyber; judicial [criminal charges, civil lawsuits,	- Excessive use of force - Arrest and detention - Judicial harassment

	administrative proceedings], criminalisation, penalisation, imprisonment as a result) - Violence - Killing	
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In the first case, it was cyber harassment.

In the second case, it was a case of hostile environment linked to funding.

Was the harassment reported to the authorities?

No in any of the cases.

Was there any reaction to the report on harassment?

N/A

How was the case resolved?

In the first case, the harassment keeps happening at occasions.

In the second case, the NGO did not seek any more funding from the Ministry.

What was the impact of the harassment?

In the second case, we do not have any information on whether the grant refusal affected the NGOs activities.

Does the individual/organization continue its work as an environmental defender?

Yes in both cases.

III. Evaluation

How would you describe your country in terms of legislation re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country in terms of practice re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country for environmental defenders in terms of harassments?

- very safe
- relatively safe
- neutral
- dangerous
- very dangerous

Estonia

Monitoring national situation re harassment of environmental defenders

REPORT TEMPLATE

I. Data

Name of country: Estonia

Name of reporter: Siim Vahtrus

Organization of reporter: J&E Estonia

Period covered by reporting: January-December, 2018

Date of reporting: 28 December 2018

II. Incidents of harassment of environmental defenders

Have there been any cases of harassment of environmental defenders?

To our knowledge, there have been a few cases of harassment of environmental defenders in the past years, however, we are not aware of any significant incidents in 2018.

If yes, how many within the reported period?

See above – no cases known or publicly reported within 2018

Previous years

Within previous years, there have been at least two cases worth highlighting. Below are short descriptions of these.

Kalaranna “SLAPP”-case

In 2015, a community activist in the city of Tallinn published an article in the English-language newspaper Baltic Times (5.7.2015), where she publicly criticized the planned real estate development at Kalaranna (seaside area in the center of Tallinn). The developer took the view that some claims in the article were defamatory, and brought a civil court case against the activist (Teele Pehk), essentially asking the activist to publicly denounce her statements. The real estate developer had some of the most prominent lawyers in Estonian (including previous chancellor of justice) to represent it in the case. This is considered to be the first “SLAPP”-case (Strategic Litigation Against Public Participation) as it has been argued that the real aim of the court case was to silence opposition to the real estate development that had been very controversial and met community opposition already since 2008.

Retribution	By Non-State Actors (business)	By State Actors
Hostile environment and restrictions	- Media Harassment	- Media harassment (or stigmatization) - Hostile legislation
Lack of action	- Lack of Business Ethics	- Lack of due diligence (when investigating retribution by State or Non-State Actors)

Direct action	<ul style="list-style-type: none"> - Harassment (direct; cyber; judicial [criminal charges, civil lawsuits, administrative proceedings], criminalisation, penalisation, imprisonment as a result) - Violence - Killing 	<ul style="list-style-type: none"> - Excessive use of force - Arrest and detention - Judicial harassment
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The court case ended about half a year after the case was brought with a compromise between the activist and the developer. The compromise agreement contained an agreement on a development solution that was acceptable for both sides (and which was essentially already agreed on before the case was started) and the developer also obliged to pay for the activist's legal fees. Impacts of the harassment on the specific case were therefore minor. Wider impacts were mixed. On one hand, as the case was widely publicized, it created awareness of SLAPP-lawsuits among both environmental defenders as well as potential litigants (trying to restrict public participation) in the future.

Claim for "damages" for fighting against an illegal enduro racing track

In September 2014, local landowners and activists that had been opposing an illegally built and operated racing track for endure bikes and ATVs were presented by the operator of the track with a letter asking them to refrain from further action and payment of damages allegedly illegally caused to the operator. According to the letter, the local landowners had acted "in bad faith" by asking the local municipality to take action against the illegally built track. The (quite prominent) law office argued that the track and its operation were legal and did not affect the rights of the neighboring landowners in any way. The letter asked for ceasing any activity against the track and payment of "damages" of ca EUR 40 000 which the track operator had supposedly paid to its lawyers.

According to applicable laws, such a claim was unfounded and in fact made in bad faith with the aim of scaring the local people and forcing them to stop their opposition.

Retribution	By Non-State Actors (business)	By State Actors
Hostile environment and restrictions	<ul style="list-style-type: none"> - Media Harassment 	<ul style="list-style-type: none"> - Media harassment (or stigmatization) - Hostile legislation
Lack of action	<ul style="list-style-type: none"> - Lack of Business Ethics 	<ul style="list-style-type: none"> - Lack of due diligence (when investigating retribution by State or Non-State Actors)
Direct action	<ul style="list-style-type: none"> - Harassment (direct; cyber; judicial [criminal charges, civil lawsuits, administrative proceedings], criminalisation, penalisation, 	<ul style="list-style-type: none"> - Excessive use of force - Arrest and detention - Judicial harassment

	imprisonment as a result) - Violence - Killing	
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As representatives of the local people, EELC lawyers suggested to simply ignore this blatantly unfounded claim and continue its activities. The ensuing court case against lack of decisive activity of the municipality was won by the local landowners, with the court essentially agreeing that the race track was illegally built and operated. The operator of the track never followed up on its letter, confirming the evaluation that it was a bluff move.

III. Evaluation

How would you describe your country in terms of legislation re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country in terms of practice re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country for environmental defenders in terms of harassments?

- very safe
- relatively safe
- neutral
- dangerous
- very dangerous

Greece

Monitoring national situation re harassment of environmental defenders

REPORT TEMPLATE

I. Data

Name of country: Greece

Name of reporter: Theodoros Alexandridis

Organization of reporter: J&E Greece

Period covered by reporting: January-December, 2018

Date of reporting: 27 March 2019

II. Incidents of harassment of environmental defenders

Have there been any cases of harassment of environmental defenders?

Yes

If yes, how many within the reported period?

2

Who was affected by the harassment (individual, group of individuals, NGO(s))?

Individuals / members of residents' associations.

What was the role of the harassed person or organization in the antecedents of the harassment?

Mostly members of residents' associations. As these associations are often not officially formed / registered, it is difficult to know the exact capacity of the persons allegedly harassed (e.g. if they were the spokespersons of said associations).

Who committed the harassment?

State authorities (police / prosecutors office)

When did the harassment happen?

It is difficult to provide precise dates as criminal proceedings were launched on different dates and mostly before 2018 (e.g. some of the criminal proceedings against residents of Skouries in Chalkidiki were launched in 2013).

Where did the harassment happen?

Leukimmi, Island of Corfu and Skouries, Chalkidiki (close to Thessaloniki)

How did the harassment happen?

Local residents were complaining about the transfer of rubbish to an illegal rubbish tip (in the former case)⁶ or the extraction of gold without respecting the relevant environmental legislation (in the latter case).⁷

Please describe shortly the harassment!

There have been allegations of heavy-handed police tactics and spurious criminal proceedings initiated by the local prosecutor's offices against members of the associations / local residents. On the other hand, it should be noted that most of the locals have been charged with serious offences (e.g. resisting arrest, destruction of property) that did in fact take place.⁸ A close study of the acquittals is necessary in order to be able to ascertain whether the proceedings against these particular individuals were indeed spurious or not. Was it a one-time action or a series of actions? Series of actions / multiple criminal proceedings (e.g. in the case of Skouries, and according to a local activist / coordinator of Mining Watch Greece, criminal proceedings have been preferred against more than 500 local residents, with many proceedings pending and many acquittals⁹ on different grounds and depending on the charges preferred). What was the form of harassment (please choose one or more from the following list)?

Retribution	By Non-State Actors (business)	By State Actors
Hostile environment and restrictions	- Media Harassment	- Media harassment (or stigmatization) - Hostile legislation
Lack of action	- Lack of Business Ethics	- Lack of due diligence (when investigating retribution by State or Non-State Actors)
Direct action	- Harassment (direct; cyber; judicial [criminal charges, civil lawsuits, administrative proceedings], criminalisation, penalisation, imprisonment as a result) - Violence - Killing	- Excessive use of force - Arrest and detention - Judicial harassment

Was the harassment reported to the authorities?

No

⁶ For some background information (in English) visit:

<https://www.telegraph.co.uk/travel/destinations/europe/greece/corfu/articles/corfu-rubbish-problems-protests/>

⁷ For some background information (in English) visit: <https://www.greeneuropeanjournal.eu/stopping-eldorado-gold-mining-struggle-in-greece/>

⁸ Thus for example unknown perpetrators broke into the offices of the company at the mine, tied up the security guards and torched company vehicles: see news article (in English) at:

<http://www.ekathimerini.com/148598/article/ekathimerini/news/man-arrested-following-arson-attack-at-skouries-gold-mine-in-halkidiki>

⁹ The interview is available at <https://www.youtube.com/watch?v=sPNlcwnZDao> at 2:12

Was there any reaction to the report on harassment?

N/A

How was the case resolved?

It would appear that most of the criminal proceedings against residents of Leukimmi are pending; regarding Skouries, at least some of the defendants were found not guilty recently (thus in November 2018 21 defendants / residents of Skouries were found not guilty; another 23 were found not guilty in January 2019, see also the interview with local activist / coordinator of Mining Watch Greece, referred to above). There is no evidence that any of the acquitted brought fresh proceedings against the state alleging e.g. unlawful arrest.

What was the impact of the harassment?

In both cases, local residents have declared their willingness to persist in their demands and support those who are still under trial (thus there have been drives to collect funds to cover their legal expenses); regarding both cases, proceedings against the relevant projects / activities are pending before Greek courts. It should be noted that in both cases, local residents have been very active in pursuing their demands, as the numerous documents available on their websites attest to.¹⁰

Does the individual/organization continue its work as an environmental defender?

Yes

III. Evaluation

How would you describe your country in terms of legislation re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

There is no legislation regarding harassment of human rights defenders per se. It should be noted that Greece was one of the UN Member States that sponsored the 2017 UN Consensus Resolution on Human Rights Defenders.

How would you describe your country in terms of practice re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal

¹⁰ The Leukimmi residents' website is available at: <https://lefkimmi.wordpress.com>; the Skouries' one is available at: <https://en.antigoldgr.org>. Both sites contain extensive news coverage of the residents' activities in English. Both sites contain a wealth of official documents such as reports by the Greek state's Environmental Inspectors, correspondence with the competent authorities and so forth.

- ignorant

How would you describe your country for environmental defenders in terms of harassments?

- very safe
- relatively safe
- neutral
- dangerous
- very dangerous

Whereas numerous cases of harassment (mostly from non-state actors) of human rights defenders have been reported in Greece, only a few such cases against environmental defenders have been made known. Another complicating factor in ascertaining whether actions by state actors (e.g. police / prosecutor's office) amount to harassment is that in many of the cases referred to above regarding the events in Leukimmi and Skouries, criminal acts had in fact committed and as a result, the environmental defenders' arrest / detention might have been lawful (provided of course there was enough evidence linking them to these acts; nevertheless, the reportedly very high number of acquittals raises concerns as to impartial and objective the investigation in these cases was). There is no evidence that environmental defenders are singled out for harassment in cases where no criminal acts have taken place.

Hungary

Monitoring national situation re harassment of environmental defenders

REPORT TEMPLATE

I. Data

Name of country: Hungary

Name of reporter: Csaba Kiss

Organization of reporter: J&E Hungary

Period covered by reporting: January-November, 2018

Date of reporting: 6 December 2018

II. Incidents of harassment of environmental defenders

Have there been any cases of harassment of environmental defenders?

Yes

If yes, how many within the reported period?

1

Who was affected by the harassment (individual, group of individuals, NGO(s))?

Group of individuals

What was the role of the harassed person or organization in the antecedents of the harassment?

A group of individuals intended to block the felling of trees and construction works in the City Park of Budapest.

Who committed the harassment?

Security guards of the construction company involved

When did the harassment happen?

10/04/2018

Where did the harassment happen?

In the City Park of Budapest

How did the harassment happen?

Please describe shortly the harassment!

Environmental activists have long been demonstrating against the plans of the government to fell a number of trees and build large public buildings (mostly museums) in the so-called City Park of Budapest. Demonstrations involved mostly picketing, but also breaking through fences built around the location of tree felling and attempts to block the tree felling. At one such occasion, environmental activists were involved in a fight with security guards. Many security guards used force against the activists and one of them even hit an activist woman

so hard that she fell on the ground. Police was present but was unable or unwilling to interfere.

Was it a one-time action or a series of actions?

One-time action

What was the form of harassment (please choose one or more from the following list)?

Retribution	By Non-State Actors (business)	By State Actors
Hostile environment and restrictions	- Media Harassment	- Media harassment (or stigmatization) - Hostile legislation
Lack of action	- Lack of Business Ethics	- Lack of due diligence (when investigating retribution by State or Non-State Actors)
Direct action	- Harassment (direct; cyber; judicial [criminal charges, civil lawsuits, administrative proceedings], criminalisation, penalisation, imprisonment as a result) - Violence - Killing	- Excessive use of force - Arrest and detention - Judicial harassment

Was the harassment reported to the authorities?

Yes

Was there any reaction to the report on harassment?

Activists were taken to court

How was the case resolved?

Activists were sentenced by the court in a summary procedure to public duty ranging between 200 and 250 hours per person for breach of peace.

What was the impact of the harassment?

Not directly of the harassment, but the activists discontinued demonstrations and abandoned their picketing camps.

Does the individual/organization continue its work as an environmental defender?

Yes but not in that particular case.

III. Evaluation

How would you describe your country in terms of legislation re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country in terms of practice re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country for environmental defenders in terms of harassments?

- very safe
- relatively safe
- neutral
- dangerous
- very dangerous

Romania

Monitoring national situation re harassment of environmental defenders

REPORT TEMPLATE

I. Data

Name of country: Romania

Name of reporter: Hans Hedrich

Organization of reporter: Neuer Weg Association

Period covered by reporting: from end of 2018 onwards

Date of reporting: 19 January 2019

II. Incidents of harassment of environmental defenders

Have there been any cases of harassment of environmental defenders?

Yes

If yes, how many within the reported period?

Three

Who was affected by the harassment (individual, group of individuals, NGO(s))?

Individuals, NGO

What was the role of the harassed person or organization in the antecedents of the harassment?

The harassed persons are the chair (Johannes Klein) and deputy chair (Hans Hedrich) of the environmental NGO Neuer Weg Association, located in the town of Fagaras, Brasov County, Romania. During the last 5 years the NGO Neuer Weg Association had filed approx. 6 administrative law suits against the two wood processing companies Holzindustrie Schweighofer SRL and its subsidiary company Bioelectrica Transilvania SRL, in order to stop the construction and functioning of a big scale saw mill and a co-generation power plant in the village of Reci, Covasna county. The chair and deputy chair were the persons signing the law suit documents filed at the administrative courts in Romania (Bucharest and Cluj-Napoca).

Who committed the harassment?

The companies Holzindustrie Schweighofer SRL, headquartered in Bucharest, strada Grigore Alexandrescu nr. 59 and its subsidiary company Bioelectrica Transilvania, headquartered in Radauti, Suceava county, Strada Austriei nr. 1.

When did the harassment happen?

In late 2018, when the two companies filed the law suits No. 5633/226/2018 and No. 6313/226/2018 with the court Judecatoria Fagaras, Brasov county.

Where did the harassment happen?

Court of Fagaras, Judecatoria Fagaras, Brasov county

How did the harassment happen?

Through filing of three law suits against the NGO Neuer Weg Association, Mr. Johannes Klein and Hans Hedrich, the chair and deputy chair of the NGO.

Please describe shortly the harassment!

After the NGO Neuer Weg Association having filed and later lost three of the several law suits started against the two companies, the two companies have filed themselves at the end of 2018 three law suits against the NGO, the chair and deputy chair asking for very high amounts of money as reimbursement of lawyer expenditures of the companies. The two companies argue that the NGO and the two leading members had filed the law suits in order to financially damage the two companies through lawyer honoraries although the NGO and its leading members were aware that the deadline for filing the law suits already expired. As a result, the two companies have suffered a financial loss (mainly lawyers' honoraries, court fees etc.) that must be paid for by the NGO and the two leading members, considered guilty(!) by the two companies for the above mentioned deeds.

The requested payments amount to approx. 80.000 Lei = approx. 17.000 Euro.

However, according to Romanian Civil Code articles 14, 15, 1353 – based on the Roman law principle “neminem laedit qui suo jure utitur” (One who enjoys his own right injures no one.) - Nobody can be held accountable for damages caused by the (legitimate) use of his/her right. As a consequence, the NGO and its leading members cannot be deemed responsible for its actions at court. To the contrary, it is the two companies who abuse their rights, according to art. 15 of the Civil Code (Cod Civil) and art. 723 Code of Civil Procedure (Cod de Procedura Civila) in order to cause a damage to the NGO and its two leading members.

The bad faith and intention of harassment of the two companies becomes even more clear since an official of the two companies called and emailed the chair of the NGO Neuer Weg Association the day after the NGO and its leading members receiving two of the three law suit files (approx. January 10th, 2019), offering a meeting and talks (presumably for the purpose of negotiations and extrajudicial settling of or disputes at the administrative and civil courts). The main interest of the two companies must be that the NGO Neuer Weg Association gives up its still ongoing administrative lawsuits against the two companies. Therefore, offering negotiations right after/while building up a huge financial and judicial pressure – which in itself is against the law – on the NGO and its leading members must be considered a form of blackmailing and harassment.

Was it a one-time action or a series of actions?

A series of three actions/court cases so far

What was the form of harassment (please choose one or more from the following list)?

Retribution	By Non-State Actors (business)	By State Actors
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Hostile environment and restrictions	- Media Harassment	- Media harassment (or stigmatization) - Hostile legislation
Lack of action	- Lack of Business Ethics	- Lack of due diligence (when investigating retribution by State or Non-State Actors)
Direct action	- Harassment (direct; cyber; judicial [criminal charges, civil lawsuits, administrative proceedings], criminalisation, penalisation, imprisonment as a result) - Violence - Killing	- Excessive use of force - Arrest and detention - Judicial harassment

Was the harassment reported to the authorities?

Will be addressed during the court cases.

Was there any reaction to the report on harassment?

The harassment happened recently, therefore now report to the harassment yet.

How was the case resolved?

See above. The court cases have just been filed – rulings expected during 2019.

What was the impact of the harassment?

The NGO Neuer Weg Association and its two leading members Johannes Klein and Hans Hedrich are being forced to dedicate time, energy and money to the three court cases, which negatively impacts their everyday life and other professional activities.

Does the individual/organization continue its work as an environmental defender?

Yes

III. Evaluation

How would you describe your country in terms of legislation re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country in terms of practice re sanctioning harassment?

- tough
- relatively tough

- neutral
- liberal
- ignorant

How would you describe your country for environmental defenders in terms of harassments?

- very safe
- relatively safe
- neutral
- dangerous
- very dangerous

Slovakia

Monitoring national situation re harassment of environmental defenders

REPORT TEMPLATE

I. Data

Name of country: Slovakia

Name of reporter: Ivana Figuli

Organization of reporter: J&E Slovakia

Period covered by reporting: January-December, 2018

Date of reporting: 30 december 2018

II. Incidents of harassment of environmental defenders

Have there been any cases of harassment of environmental defenders?

Yes

If yes, how many within the reported period?

We evidenced three cases of harassment of environmental activists in Slovakia during the period covered by the report.

Who was affected by the harassment (individual, group of individuals, NGO(s))?

Two cases concerned individuals and the third one a NGO.

What was the role of the harassed person or organization in the antecedents of the harassment?

Case 1:

Case of an activist defending environment around his village against increasing mining activities

First case concerns the activist, older man from Bartošova Lehôtka (village in the region of Central Slovakia) who was worried about the intensification of the mining activity in the surroundings of his village. He was pointing out to the destruction of local species, habitats and environment in general, being consequences of mining activities. He was complaining before competent authorities and publically commenting the situation and informing the public, mainly through social media.

Case 2:

Case of Greenpeace activists concerning anti-coal campaign

Second case concerns Greenpeace Slovakia. One of the areas of their action in Slovakia is energy policy in Slovakia. In this respect Greenpeace Slovakia has lately focused mainly on problems of extraction and combustion of coal.

In the framework of their anti-coal campaign they focused mainly on the region of upper Nitra (western Slovakia) which has a strong coal mining tradition. Currently the debates have been led in respect to the future development of this region and its further development. Mining company Hornonitrianske bane refuses to stop the extraction of the coal.

Greenpeace campaigns for stopping the extractive activities in the region in order to stop even worse degradation of already degraded environment.

On 28 November 2018, 15 Greenpeace activists entered the mining area in the town of Nováky where they wanted to hang a 15 meter long banner on the mining tower of the mining company. It was a non-violent protest, pointing to the environmental problem which coal extraction brings. They called for the end of the coal period in the upper Nitra region and the whole Slovakia.

Case 3:

Case of scientist active in defending the environment

This third case concerns a scientist who has been on a long-term basis as independent researcher participating in numerous administrative proceedings with possible impact on the environment. His goal has always been to influence decision-making with his scientific knowledge and so preserve the good state of the environment.

Since 2016 he has participated as party to the proceedings in the environmental impact assessment procedure in relation to the construction of a highway Turany- Hubová in region of Žilina (northern Slovakia). Since then the harassment of his person has started.

Who committed the harassment?

1. Mining company
2. Law enforcement authorities
3. Habitants from village Krpeľany

When did the harassment happen?

1. Yet on 1st June 2016 when the case was brought before court.
2. On 30th November 2018 activists were taken to police station to be heard in the case and they were put into custody during the investigation and prosecution procedure.
3. On 17th November 2018.

Where did the harassment happen?

1. Irrelevant - harassment happened through the lawsuit undertaken by the mining company before the court.
2. Town of Prievidza (region of Trenčín, western Slovakia) where the law enforcement authorities decided on detention of the activists.
3. Village of Krpeľany (region of Žilina, northern Slovakia)

How did the harassment happen?

1. The mining company sued activist and took the action for the protection of the good reputation and required payment of moral damage of 40 000 euros.
2. The 12 activists who climbed the mining tower in Nováky were taken to the preventive custody while prosecution would be carried out. Prosecution in custody was decided by the district court in Prievidza on the motion of the prosecutor.
3. While making his research of birds and other species in the surrounding of the village Krpeľany the scientist was verbally and physically attacked by local men.

Please describe shortly the harassment!

1. The mining company took action before court in order to threaten the activist who was an older village person. Apart from requiring the court to order the activist to prevent from damaging the reputation of the company, it also asked 40 000 euros from the activist. Until 2018 activist was defending himself alone at court and in 2018 asked for help civil association VIA IURIS. The attorney cooperating with VIA IURIS provided him legal aid consisting in one written declaration presented at court and representation at the court hearing. The mining company feeling they would not be successful at lawsuit they took their action back. This step confirmed that it was just a mean of threat of the activist.
2. The District Court in Prievidza decided on December 2, 2018 to prosecute 12 activists of Greenpeace Slovakia in custody, in connection with the protest on the tower at the mining complex in Nováky which took place on 28 November 2018. Activists face charges of harming and endangering the operation of a generally beneficial devices. The reason for so-called preventive custody was according to the judge that they would continue to commit crimes. Activists filed complaints against the detention decision. It was completely inappropriate measure and activists were treated like criminals. According to General Prosecutor who later reviewed the decision the reasons for preventive custody did not exist and they should have been put into custody and it was a too harsh measure. Moreover in consequence of the action of activists nothing happened either to the miners present in the area or them.
3. Two men aggressed the scientist during his field research close to village Krpeľany. First one started with verbal aggression asking him to get out because he would "tear off his teeth". The second man already hit him and so the scientist had to defend himself and devolve the aggressor the hit. They were saying him that he brought the conflict to their village and everybody curse him. They also said "we know who pays you".

Was it a one-time action or a series of actions?

1. One-time action.
2. One-time action.
3. Since 2016 there were several incidents but this was the first one involving physical violence.

What was the form of harassment (please choose one or more from the following list)?

1. By Non-State Actor, mining company Regos, civil lawsuit
2. By State Actors, prosecutor together with district court, detention
3. By Non-State Actor, inhabitants of village Krpeľany, verbal and physical violence

Retribution	By Non-State Actors (business)	By State Actors
Hostile environment and restrictions	- Media Harassment	- Media harassment (or stigmatization) - Hostile legislation
Lack of action	- Lack of Business Ethics	- Lack of due diligence (when investigating retribution by State or Non-State Actors)
Direct action	- Harassment (direct; cyber; judicial [criminal charges, civil lawsuits, administrative proceedings], criminalisation, penalisation, imprisonment as a result) - Violence - Killing	- Excessive use of force - Arrest and detention - Judicial harassment

Was the harassment reported to the authorities?

1. Harassment ended because the mining company took its lawsuit back so court did not decide in the case.
2. Case of Greenpeace became immediately of interest of all media and public. General Prosecution Services got interested in and intervened in the case and reviewed the proceedings by the prosecutor who suggested preventive custody.
3. The scientist reported the case to the mayor of the village and he also informed law enforcement authorities.

Was there any reaction to the report on harassment?

1. Mining company took its action back.
2. General Prosecutor stated that the reasons for the preventive custody did not exist at the moment when prosecutor suggested it and so he ordered the liberation of activists.
3. The scientist reported it only with purpose of informing authorities without asking them to take some action. Scientist stated in his letter to authorities that this time he is not depositing a criminal complaint but in case of future attack he will do so.

How was the case resolved?

1. Since the action of the mining company was taken back harassment did not repeat.
2. Activists are currently prosecuted at liberty.
3. For the moment no other aggressions have occurred.

What was the impact of the harassment?

In any of described cases activists did not change their conviction about the necessity to defend the environment.

Does the individual/organization continue its work as an environmental defender?

Yes

III. Evaluation

How would you describe your country in terms of legislation re sanctioning harassment?

Legislation, especially criminal code and criminal procedure code contain a standard, rather strong regulation.

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country in terms of practice re sanctioning harassment?

In general the problem in enforcement of the criminal legislation may appear in the phase of investigation and prosecution where political influence may play an important role. But as we have examined only three above described cases, we do not possess enough data to make a conclusion in respect of harassment cases.

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country for environmental defenders in terms of harassments?

Before the case of Greenpeace occurred we would respond to this question that Slovakia is very safe environment for the environmental activists. However this case was an important precedent where not private persons but State authorities harassed activists and so it changed the previous very safe panorama. We have to see this case also in the context of the increasing hostility and mistrust towards NGOs in Slovakia and so be very vigilant what will be happening onwards.

- very safe
- relatively safe
- neutral
- dangerous
- very dangerous

Slovenia

Monitoring national situation re harassment of environmental defenders

REPORT TEMPLATE

I. Data

Name of country: Slovenia

Name of reporter: Senka Šifkovič Vrbica

Organization of reporter: J&E Slovenia

Period covered by reporting: January 2017-December 2018

Date of reporting: 31 December 2018

II. Incidents of harassment of environmental defenders

Have there been any cases of harassment of environmental defenders?

Yes

If yes, how many within the reported period?

One major, the other are more usual "hate speeches" through social media or media.

Who was affected by the harassment (individual, group of individuals, NGO(s))?

NGOs and their employees

What was the role of the harassed person or organization in the antecedents of the harassment?

Management and other employed persons

Who committed the harassment?

Individuals, minister for economic development and technology, media, they all were inspired by a multinational corporation Magna Steyr investing in a certain project¹¹ in the municipality Hoče-slivnica near Maribor. The support of the project was in the interest of the Slovenian government, especially the ministry for economic development – so much that they adopted (through the Parliament) a special Act/Law only for this project ([Act Determining Conditions for Implementing Strategic Investments in the Hoče-Slivnica Development Area](#)).

When did the harassment happen?

In 2017, September

Where did the harassment happen?

In Ljubljana

¹¹ link1 <http://www.sloveniatimes.com/magna-obtains-environmental-approval-for-hoce-operation>,
link2 <http://www.sloveniatimes.com/pocivalsek-convinced-magna-paint-shop-environmentally-sound>,
link3 <http://www.sloveniatimes.com/environmental-ngos-sceptical-magna-optimistic>,
link4 <http://www.sloveniatimes.com/magna-promises-ind-rail-track-to-assuage-environmental-concerns>

How did the harassment happen?

The group of NGOs (Focus, Umanotera, IPoP, PIC, Slovenski E-forum) were firstly opposing the Act Determining Conditions for Implementing Strategic Investments in the Hoče-Slivnica Development Area. But the project began already before the adoption by changing the municipality spatial plan and providing SEA (the Act was adopted on 28.12.2016, the end of public discussion on spatial plan changes and environmental report was closed at the end of January 2017). Then the procedure for environmental consent (EIA) has begun. Some of the mentioned organizations applied as parties in the administrative procedure. This was the core of the problem or reason for harassment. The investor and government wanted to avoid any delaying in procedures (appeal or further administrative court procedures).

Please describe shortly the harassment!

The harassment was in the way of discrediting of NGOs that intentionally acted against economic progress. Because of the fact that the NGOs were from Ljubljana, the Maribor area (also the public) was of the opinion that Ljubljana NGOs has no business in Maribor, which needs new employment urgently. In the daily newspaper there were news in favour of the project, and the news from the NGOs side were blocked. A high level of hate speech was present and individual threats were ongoing as a result of media actions.

Was it a one-time action or a series of actions?

There were a series of actions.

What was the form of harassment (please choose one or more from the following list)?

The harassment agents hired the best media house in Slovenia for managing the situation through media ([Pristop](#)). NGOs were not prepared for such action, which happened for the first time.

Non-State Actors:

- protest of individuals from Maribor in front of NGOs' offices (environmental center) <http://www.delo.si/novice/slovenija/stajerci-s-protestom-v-podporo-magni.html>
- social media and cyber harassment (threats via FB, mail, mobile phones)

State Actors:

- Media harassment - stigmatization
- Minister for economic development and technology's hostile speech <http://www.delo.si/gospodarstvo/podjetja/omejiti-ekoteroriste-in-drzavne-bedarije.html>
- Minister naming environmental NGOs "eco-terrorists"
- Lack of due diligence from the side of government regarding the minister's hostile speech

Retribution	By Non-State Actors (business)	By State Actors
Hostile environment and restrictions	- Media Harassment	- Media harassment (or stigmatization) - Hostile legislation

Lack of action	- Lack of Business Ethics	- Lack of due diligence (when investigating retribution by State or Non-State Actors)
Direct action	- Harassment (direct; cyber; judicial [criminal charges, civil lawsuits, administrative proceedings], criminalisation, penalisation, imprisonment as a result) - Violence - Killing	- Excessive use of force - Arrest and detention - Judicial harassment

Was the harassment reported to the authorities?

Individuals/management from organizations (Umanotera and Slovenski E-forum) reported the harassment to police and requested protection (<<https://www.dnevnik.si/1042783031>>, NGO member asked for police protection because of threats from individuals)

Was there any reaction to the report on harassment?

Police acted correctly in accordance with their duties for protection.

How was the case resolved?

The investor Magna Steyr with the assistance of the ministry for infrastructure signed an agreement that Magna Steyr will do some actions in further process that they were demanded by NGOs in the EIA procedure, and NGOs. Therefore the NGOs will not appeal against the EIA decision.

What was the impact of the harassment?

Discrediting and bad image of environmental NGOs in Slovenia.

Does the individual/organization continue its work as an environmental defender?

All involved organisations and individuals continued to work in the field.

III. Evaluation

How would you describe your country in terms of legislation re sanctioning harassment?

In Slovenia there are certain actions criminalized under the Criminal Code, some rules has media regulation.

- tough
- relatively tough
- neutral
- liberal

- ignorant

How would you describe your country in terms of practice re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country for environmental defenders in terms of harassments?

- very safe
- relatively safe
- neutral
- dangerous
- very dangerous

Spain

Monitoring national situation re harassment of environmental defenders

REPORT

I. Data

Name of country: Spain

Name of reporter: Ana Barreira

Organization of reporter: J&E Spain

Period covered by reporting: January- December 2018

Date of reporting: 20 December 2018

II. Incidents of harassment of environmental defenders

Has there been any cases of harassment of environmental defender?

We are not aware of any case in Spain for the reported period. However we know that a mayor and a member of the town council from a small municipality Viguera in La Rioja were sentenced for a misdemeanor. They kicked the wheel of a member of Friends of the Earth la Rioja.

<https://www.europapress.es/la-rioja/noticia-amigos-tierra-reclama-responsabilidades-condena-alcalde-viguera-pinchar-rueda-ecologista-20180928170856.html>

This happened in 2017 but the Court judgment was issued in September 2018.

If yes, how many within the reported period?

1

Who was affected by the harassment (individual, group of individuals, NGO(s))?

It was a member of Friends of the Earth la Rioja.

What was the role of the harassed person or organization in the antecedents of the harassment?

He is the coordinator of FoE la Rioja.

Who committed the harassment?

The mayor and a member of the council town of Viguera

When did the harassment happen?

In 2017 but the court judgment was issued in 2018

Where did the harassment happen?

In Viguera, Autonomous Community of La Rioja

How did the harassment happen?

The mayor and a member of the council town clicked the wheel of the car of the environmental activist when he was checking a potential illegal waste discharge in a gypsum quarry.

Please describe shortly the harassment!

Was it a one-time action or a series of actions?

Just one action as the result of a campaign of FoE La Rioja when the environmental activist was checking a potential illegal waste discharge in a gypsum quarry.

What was the form of harassment (please choose one or more from the following list)?

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Lack of action	- Lack of Business Ethics	- Lack of due diligence (when investigating retribution by State or Non-State Actors)
Direct action	- Harassment (direct; cyber; judicial [criminal charges, civil lawsuits, administrative proceedings], criminalisation, penalisation, imprisonment as a result) - Violence - Killing	- Excessive use of force - Arrest and detention - Judicial harassment

Was the harassment reported to the authorities?

Yes, the organization reported to police.

Was there any reaction to the report on harassment?

Not known

How was the case resolved?

Through a judgment by a first instance criminal court which found guilty both the mayor and the member of the town council for having committed a crime of non-serious damage. The sentence is to pay during 3 months a penalty of 10 euros per day each.

What was the impact of the harassment?

The car was damaged putting under risk the environmental defender.

Does the individual/organization continue its work as an environmental defender?

Yes, it does.

III. Evaluation

How would you describe your country in terms of legislation re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country in terms of practice re sanctioning harassment?

- tough
- relatively tough
- neutral
- liberal
- ignorant

How would you describe your country for environmental defenders in terms of harassments?

- very safe (until now)
- relatively safe
- neutral
- dangerous
- very dangerous