https://doi.org/10.15388/TMP.2025.3

CROSS-BORDER LITIGATION IN ENVIRONMENTAL AND HUMAN RIGHTS CASES IN THE EU: LEGAL STRATEGIES FOR VICTIMS

Augustė Jurjonaitė, Simona Rėklaitytė

Vilniaus universiteto Teisės fakulteto
1-o kurso Teisės studentės
Saulėtekio al. 9, I rūmai, LT-10222 Vilnius
El. paštas: simona.reklaityte@tf.stud.vu.lt; auguste.jurjonaite@tf.stud.vu.lt

Mokslinio straipsnio akademinis kuratorius doc. dr. ll. m. Donatas Murauskas
El. paštas: donatas.murauskas@tf.vu.lt

Abstract. *This paper examines the legal barriers that impede individuals from pursuing environmental and human rights litigation in various European courts. The first section analyzes restrictions on access to justice, including systemic, legal, and political obstacles. Additionally, it explores challenges inherent to individual legal action, such as limited legal expertise and insufficient resources, and financial constraints. The second section examines the use of reprisal tactics by transnational corporations (TNCs) as a legal barrier to litigation. It highlights how reprisals can occur at various stages of the legal process, beginning with intimidation to discourage legal action and later manifesting in Strategic Lawsuits Against Public Participation (SLAPPs) or procedural delays designed to burden plaintiffs and compel them to withdraw their claims. The paper argues that significant deficiencies remain within the EU judicial system, which must be addressed to ensure access to justice and the protection of human rights for all citizens.*

Key words: *Cross-border litigation; Environmental justice; Transnational corporations (TNCs); Access to justice; Strategic lawsuits against public participation (SLAPPs).*

Introduction

The right to fair trial is a fundamental right enshrined in the European Convention on Human Rights[1] and the EU Charter of Fundamental Rights[2]. Nevertheless,

[1] Council of Europe. (1950, November 4). European convention for the protection of human rights and fundamental freedoms, as amended by protocols nos. 11 and 14. Refworld. https://www.refworld.org/legal/agreements/coe/1950/en/18688

[2] European Union. (2010). *Charter of Fundamental Rights of the European Union*. Official Journal of the European Union, C 83/389. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12010P

numerous cases of human rights abuse are not brought before national or international courts. In practice, when individual citizens want to act against international privately-owned corporations, the legal safeguards prove to be not only inapplicable, but inaccessible. Therefore, there are various cases, where individuals are not able to exercise their fundamental rights, as was promised by the legal frameworks. Furthermore, negative indirect social phenomena are developed: lack of access to legal trials nurtures social inequality, dismantles cultural identity in various European societies, and greatly contributes to the economic inequalities[3] (Schwartz, 1993). Therefore, apart from direct human rights abuses, lack of legal tools for European citizens opens a diaspora of indirect societal issues, which could be solved through various legal accessibility mechanisms.

The paper problematizes corporate accountability and the relation between various societal institutions – citizens, private corporations, legal systems, political actors. For instance, various authors perceives the issue of legal combat as a political one – an ineffective phenomena occurs, when individuals believe that political or legal authorities should deal with environmental issues, while political actors are waiting for the political participation by their citizens leading to inaction[4]. Therefore, in order to ensure stronger legal protections and tools for the citizens, the legal processes should be socially established as a checks and balances system against possible violations of TNCs to establish an efficient and accountability-nurturing system[5]. Nevertheless, the paper delves into systematic and legal implications for citizen combat – or inactiveness – against the TNCs, not analyzing social or moral prerogatives. Throughout the paper we will analyse the research question: What are some legal barriers for citizens to combat against the impact of TNCs on the environmental crisis in the EU?

TNCs are known as businesses that cross over borders, armed with capital as well as products, processes, marketing methods, trade names, skills, technology, and most importantly management[6]. For the environmental crisis in the scope of the research, the archeological definition will be used, defining environmental crisis as "*a crises in the relationship between the society and its environment*"[7]. As a consequence, the environmental crisis prevents citizens from maintaining the same habits in relation to the environment they live in, resulting in a change of habitat.

---

[3] Schwartz, M. L. (1993). International legal protection for victims of environmental abuse. *Yale Journal of International Law, 18*(1), 355–388. https://heinonline.org/HOL/Page?handle=hein.journals/yjil18&div=20&g_sent=1&casa_token=&collection=journals

[4] Murdie, A. (2013). Environmental Law and Citizen Action. In Routledge eBooks.

[5] Newell, P. (2001). Access to Environmental Justice?Litigation against TNCs in the South. IDS Bulletin, 32(1), 83–93. https://doi.org/10.1111/j.1759-5436.2001.mp32001010.x

[6] Finger, M., & Svarin, D. (2010). Transnational Corporations and the Global Environment. Oxford Research Encyclopedia of International Studies. https://doi.org/10.1093/acrefore/9780190846626.013.489

[7] T. Fisher, C., Hill, J. B., & Feinman, G. M. (2022). The Archaeology of Environmental Change. In Biodiversity Heritage Library (Smithsonian Institution). Smithsonian Institution. https://doi.org/10.2307/j.ctv2k88sk5

The research paper will focus on the legal mechanisms accessible for citizens in combat against privately-owned corporations. The cases will be limited to the scope of environmental violations, deteriorating the life of private citizens. Furthermore, the paper will solely focus on the European Union, analysing the most prominent cases, legal tools, and the causes for legal inaction by the citizens.

Literature review

The existing literature briefly covers various aspects of international litigation against environmental violations, in particular between individual citizens and TNCs. However, each paper often portrays the issue through different perspectives – either geographically or politically widening the discussed topic. To illustrate, various research publications expand the question to various regions, analyzing US or Asia continents. Schwartz[8]focuses her research on international litigation and on environmental violations, but expands the analysis through various jurisdictions. Another paper by Hans van Loon[9] analyzes several tools for individuals to act in environmental matters, analysing the US jurisdiction, addressing the issues of law translation between the states, not applying the content to European jurisdictions[10].

Additionally, there is an academical tendency to choose a specific branch of law and analyze the mechanisms to improve civil litigation. For example, Michael Anderson[11] analyzes the environmental cases in relation to tort law, analyzing how tort law may improve the options and accessibility for litigation. However, this paper takes a wider approach, including political systems and societal perspectives towards individual litigation.

Finally - various scholars analyze the issue from the human rights perspective. This allows the authors to expand their analysis to various human rights abuses, as well as different jurisdictions. However, it often does not concern the specific issues of environmental misconduct. For example, Jonas Grimheden[12] analyzes the relation between civil rights and corporate actions. Such analysis is expanded to geographically wide human-rights abuses, letting the author conduct a legal and political analysis, but it does not delve into specific environmental cases.

---

8 Schwartz, M. L. (1993). International legal protection for victims of environmental abuse. *Yale Journal of International Law, 18*(1), 355–388. https://heinonline.org/HOL/Page?handle=hein.journals/yjil18&div=20&g_sent=1&casa_token=&collection=journals

9 van Loon, H. (2018). Principles and building blocks for a global legal framework for transnational civil litigation in environmental matters. Uniform Law Review, 23(2).

10 van Loon, H. (2018). Principles and building blocks for a global legal framework for transnational civil litigation in environmental matters. Uniform Law Review, 23(2).

11 Anderson, M. R. (2002). *International environmental law in Indian courts* [Abstract]. *Journal of the Royal Asiatic Society of Great Britain & Ireland*,12(2). https://doi.org/10.1111/1467-9388.00123

12 Grimheden, J. (2018). *Civil litigation in response to corporate human rights abuses: The European Union and its Member States*. Case Western Reserve Journal of International Law, 50(1), 235-276.

Nevertheless, the paper will contribute to academia by providing analysis of case examples with environmental violations with regards to the European Union. Such analysis will present legal tools and barriers available and their practical applications, reaching both into the legal and political scope of the question.

Methodology

The paper aims to analyze the issue from the legal perspective, discussing past various legal disputes. This will include a thorough content analysis of EU HR directives. Therefore, the paper will not provide findings on how many people were not able to utilize the available legal resources after suffering human rights abuses. The paper's limitation lies in the limit of cases discussed – where only the biggest instances, requiring significant funding and reaching a wider European population will be analyzed, overlooking the social groups with no access to legal remedies. Nevertheless, the paper will go as far as examining the causes for such inactions from individuals.

Overall, the paper takes a legal perspective towards established precedents of human rights abuses by TNCs and possible legal remedies, taking into account the most remarkable European case studies.

How is limited access to justice a legal barrier to citizen action against TNC impact on climate change?

A. Systemic barriers as a cause of limited access to justice

In the context of this paper, it is important to establish not only the definition of TNCs, but also legal characteristics of the corporations. According to Finger, M., & Svarin, D.[13] TNCs have a tendency to operate in a "*legal vacuum*", which allows them to bypass certain humanitarian legal safeguards and legislation[14]. Therefore, TNCs not only appear intimidating through "*corporate violence*" towards individuals or NGOs[15], but they are also difficult to regulate through complex establishments through numerous jurisdictions[16] (Hedley, 1999). Nevertheless, additional substantial challenges persist – such as political influence, differing corporate legal personal-

---

[13] Finger, M., & Svarin, D. (2010). Transnational Corporations and the Global Environment. Oxford Research Encyclopedia of International Studies. https://doi.org/10.1093/acrefore/9780190846626.013.489

[14] Finger, M., & Svarin, D. (2010). Transnational Corporations and the Global Environment. Oxford Research Encyclopedia of International Studies. https://doi.org/10.1093/acrefore/9780190846626.013.489

[15] Pegg, S. (1999). The Cost of Doing Business: Transnational Corporations and Violence in Nigeria. Security Dialogue, 30(4), 473–484. JSTOR. https://doi.org/10.2307/44472469

[16] Hedley, R. a. (1999). Transnational Corporations and Their Regulation: Issues and Strategies1. International Journal of Comparative Sociology, 40(2), 215–230. https://doi.org/10.1177/002071529904000202

ities, burden of proof, time and procedural constraints – further obstructing citizens' ability to seek redress for the environmental harm they have suffered.

The causes of inaction ought to be addressed. Firstly, in common law systems, there is a strong established tradition of scientific evidence, which puts the pressure on the plaintiff, who has to possess not only time and financial resources, but have the necessary expertise and technical competency to show the exact effects on one's habitat[17]. Especially in the case of an unsuccessful lawsuit, the financial investment required for legal action presents a significant risk. This not only hinders the litigation process by the plaintiffs, but also does not provide a strong background to present a case in European or national court.

Another prominent issue is legal representation and the legal standpoint of the plaintiff. The Trafigura lawsuit is a prominent example of such limitation. In 2006, Trafigura Ltd – a company registered in the United Kingdom – was sued by the Côte d'Ivoire citizens[18]. Apart from financial and moral hazards, the case could not proceed to the British Court, since the court proved to "*lack resources*"[19] to investigate the region. In practice, the issue arose through failure to assemble the victims of toxic waste – even though more than 100,000 people were severely affected, lack of legal representation and solidarity resulted in a prolonged trial and unfair recompensation for many. In other words, even though the violations are visible and understandable, it is difficult to present them in court without specific legal expertise and data collection abilities. Therefore, the process of starting the case proves to be extremely complex through assembling the significant data, presenting evidence and searching for victims.

Additionally, there are systemic barriers towards holding TNCs accountable due to national and international law intersections and different legal status of the TNCs. Firstly, as established in various international Conventions – such as The International Covenant on Civil and Political Rights, in Article 2(1) stating that "*Everyone's right to life shall be protected by law*" the states must take responsibility in ensuring justice by the actors operating within the state[20]. Therefore, a significant political issue

---

[17] Newell, P. (2001). Access to Environmental Justice?Litigation against TNCs in the South. IDS Bulletin, 32(1), 83–93. https://doi.org/10.1111/j.1759-5436.2001.mp32001010.x

[18] Business and Human Rights Resource Centre. (2023). Trafigura lawsuit (re hazardous waste disposal in Côte d'Ivoire, filed in UK) - Business & Human Rights Resource Centre. Business & Human Rights Resource Centre. https://www.business-humanrights.org/en/latest-news/trafigura-lawsuit-re-hazardous-waste-disposal-in-c%C3%B4te-divoire-filed-in-uk/

[19] Business and Human Rights Resource Centre. (2025). UK authorities "lack resources" to investigate Trafigura over toxic waste - Business & Human Rights Resource Centre. Business & Human Rights Resource Centre. https://www.business-humanrights.org/en/latest-news/uk-authorities-lack-resources-to-investigate-trafigura-over-toxic-waste/

[20] Kuijer, M. (2001). The International Covenant on Civil and Political Rights – Cases, Materials, and Commentary, by S. Joseph, J. Schultz and M. Castan, Oxford University Press, Oxford, 2000, ISBN 0-19-

is posed – do all states have the ability to ensure fundamental rights for its citizens? That becomes extremely problematic in states with differing political regimes, such as authoritarian states, where the state itself does not grant fundamental rights to its citizens, so the trust between the citizens and the political or judicial system is rigged.

Secondly, TNCs are made up of multiple units – parent company, subsidiaries, affiliates – that are often legally separate from one another. Each unit is only accountable to the laws of the country where it operates. This makes it difficult to hold the entire corporation responsible for environmental or human rights abuses committed by one part of the business[21] – this was also showcased in the 2006 Trafigura lawsuit discussed earlier.

Therefore, apart from financial and legal obstacles, there are also systemic-legal challenges in not only commencing the legal process, but also receiving proper compensation for the damages done. Due to these obstacles, individual power becomes null – when there must be an intervention by international entities or NGOs, who could provide specific assistance.

B. Legal complexity as a cause of limited access to justice

The second barrier that discourages action from being taken is legal complexity in European directives and conventions. Legal complexity can be seen through two perspectives: the increasing interconnectedness between precedents and the use of complex legal language not understandable to an everyday individual. This section will look at the extent to which both of these issues are prevalent in EU law.

Ruhl et al.[22] have noticed a pattern of continuously increasing interconnectedness between legal precedents in the US. Complex network analyses, such as the one used in the research of Sadl and Hink[23] are necessary to find the connections and patterns between the myriad of different cases. To illustrate the complexity of this issue, it is useful to examine a relevant example. As of the time of this research, the most recent case before the European Court of Human Rights is Italgomme Pneumatici S.r.l. v. Italy[24]. In the judgement of this case we can find 53 different citations and references to other

826774-6, xxxvi and 745 pp., UK£75. Leiden Journal of International Law, 14(2), 491–493. https://doi.org/10.1017/s0922156501240254

[21] Dezalay, S. (2019). 5.2 Trafigura Lawsuits (re-Côte d'Ivoire). Building an environmental and human disaster into a transnational case: a socio political perspective. Academia.edu, 978 1 78811 922 1. https://doi.org/104293376/thumbnails/1

[22] Ruhl, J. B., Katz, D. M., & Bommarito, M. J. (2017). Harnessing legal complexity. Science, 355(6332), 1377–1378. https://doi.org/10.1126/science.aag3013

[23] Sadl, U., & Hink, S. (2013). Precedent in theSui GenerisLegal Order:A Mine Run Approach. European Law Journal, 20(4), 544–567. https://doi.org/10.1111/eulj.12075

[24] Italgomme Pneumatici S.r.l. v. Italy, (2025).

connected cases. In other recent cases the range varies from 17[25] different citations to a staggering 134[26]. This vast network of connections makes research before the initiation of litigation much more complex. If a person is aiming to find out if they are likely to win the case that they are initiating on their own, it can take them from weeks to months to go through similar cases and the massive network of citations that are connected to them. Moreover, people are more likely to get lost and confused in the complicated rulings, the differences between them in similar cases and thus avoid litigation.

Secondly, the use of complex language in legal writing and precedents dissinuates people from doing their own legal research. The complexity of legal language is a particularly central issue as law is a discipline where the outcome depends on the specific words that were used and their particular meanings[27]. Yet, lawyers commonly use terms that are not a part of everyday vocabulary or specialise the meanings of everyday words – such as "*cause*"[28] . The sentence structure used in legal cases and research tends to be dense, with overly lengthy sentences full of jargon and citations[29]. This makes legal research and communication more difficult for people without a legal education; the fear of being unable to understand a legal case that one is a part of or being misrepresented through over analyzing the wording discourages possible plaintiffs from bringing action into court.

The far reaching extent of both types of legal complexity boils down into one main issue; in order to initiate human right's cases individuals must hire professional lawyers through all steps of the process making it costly. A particular issue was found in the study by Michelson[30], which states that lawyers tend to refuse cases with low potential earnings. This is particularly problematic due to the disproportionate effect of human right abuses on disadvantaged communities[31]. As the socio-economic state of members of disadvantaged communities tends to be on the lower side, it takes away their ability to hire a lawyer and represent their interests. This hinders not only the assurance of civil rights implementation but also social change – according to Van Schaack[32], civil rights cases are necessary to speed up social change and create a stronger general negative sentiment against human rights violators.

---

25 M.B. v. Spain, (2025).

26 Cannavacciuolo and Others v. Italy, (2025).

27 Danet, B. (1980). Language in the Legal Process. Law & Society Review, 14(3), 445. https://doi.org/10.2307/3053192

28 Gibbons, J. (1999). LANGUAGE AND THE LAW. Annual Review of Applied Linguistics, 19, 156–173. https://doi.org/10.1017/s0267190599190081. p. 158.

29 Stygall, G. (2020). Legal writing: complexity. Routledge EBooks, 32–47. https://doi.org/10.4324/9780429030581-5

30 Michelson, E. (2006). The Practice of Law as an Obstacle to Justice: Chinese Lawyers at Work. Law Society Review, 40(1), 1–38. https://doi.org/10.1111/j.1540-5893.2006.00257.x

31 Braveman, P. (2010). Social conditions, health equity, and human rights. PubMed, 12(2), 31–48.

32 Van Schaack, B. (2004). With All Deliberate Speed: Civil Human Rights Litigation as a Tool for Social Change. Vanderbilt Law Review, 57(6).

How is reprisal a legal barrier to citizen action against TNC impact on climate change?

A. Intimidation as a method of reprisal

Even before the legal process against the human right violations of TNCs begins, potential plaintiffs run into the issue of intimidation. Intimidation can be effectively arranged through multiple procedures. Instances of threats can be found posted online on social media platforms or communicated to the plaintiff through written media[33]. In the examples given by Edwards[34], the threats contain violent messages ranging from indirect suggestions of the plaintiff getting assaulted to explicit threats of murder. Intimidation can escalate from threats to real life actions; cases of the plaintiff's house getting burned down or family harassed have been recorded in recent history[35]. Such violent means easily discourage current plaintiffs from furthering their case, easing TNCs of accountability. Even worse so, it deters possible future defendants from bringing their cases into action in the fear of violent consequences.

Intimidation can also come in more inconspicuous ways through SLAPPs or Economic and legal pressure. While these are generally known better as forms of retaliation they can also be used to intimidate plaintiffs from going on with a case. A continuously increasing legal fee shows the plaintiff that they may soon be stuck in life-long debt and may force them to end the case. Moreover, by making the cases unnecessarily complicated, TNCs manage to avoid accountability long term and push forward with their inhumane practices.

There are a couple of manners in which courts have been trying to curb intimidation tactics. Firstly, in some legal cases the plaintiff is given anonymity through a pseudonym. Anonymity is also allowed by section 1 of the Directive on The Admissibility of an Application by the ECHR[36]. This, by covering the plaintiff's identity, allows them to avoid direct attacks from TNCs and their representatives. However, a

---

[33] Edwards, B. P. (2013). When Fear Rules in Law's Place: Pseudonymous Litigation as a Response to Systematic Intimidation. Virginia Journal of Social Policy & the Law, 20(3). https://heinonline.org/HOL/P?h=hein.journals/vajsplw20&i=448

[34] Edwards, B. P. (2013). When Fear Rules in Law's Place: Pseudonymous Litigation as a Response to Systematic Intimidation. Virginia Journal of Social Policy & the Law, 20(3). https://heinonline.org/HOL/P?h=hein.journals/vajsplw20&i=448

[35] Edwards, B. P. (2013). When Fear Rules in Law's Place: Pseudonymous Litigation as a Response to Systematic Intimidation. Virginia Journal of Social Policy & the Law, 20(3). https://heinonline.org/HOL/P?h=hein.journals/vajsplw20&i=448

[36] ECHR. (n.d.). The admissibility of an application. ECHR. https://www.echr.coe.int/documents/d/echr/COURtalks_Inad_Talk_ENG#:~:text=Your%20application%20must%20not%20be,so%20you%20can%20be%20identifiable.&text=The%20contents%20of%20this%20text%20do%20not%20bind%20the%20Court.&text=If%20you%20do%20not%20wish,as%20soon%20as%20possible%20afterwards.

pseudonym does not guarantee full privacy for the defendant who can still aim to find the real identity of the plaintiff as happened in School District v. Doe[37]. Therefore, it is not a full-proof method of protection and additional measures are taken. Some possible other measures could concern deterrence through tort law punishments[38], fast-track procedures or the continuous development of anti-SLAPP regulations.

B. Retaliation as a method of reprisal

If intimidation fails to stop the lawsuit, TNCs may turn to retaliation to "*punish*" the plaintiff and obscure the legal process, avoiding accountability. Lawsuits may be started not only by the victimized citizens, but also by the employees of the TNCs – also referred to as "*whistleblowers*" – who, due to the moral standards or principle[39] expose illegal activities or advertised false information of the company, regardless of personal repercussions[40]. According to Lennane[41], there are structural recurring sociological, economic issues that do not accept the act of "*whistle-blowing*", which includes the cooperatively-organized harsh plough for the whistleblower. However, there is a developing political necessity - and hesitance - to safeguard the whistleblowers, filling an important legislative gap[42] .

After increasing necessity and numerous recommendations, the EU implemented an "*EU Whistleblower Directive*", ensuring various legal safeguards for the whistleblowers: "*All forms of retaliation against whistleblowers are prohibited and, in the case of an alleged retaliation, the burden of proof falls on the employer.*"[43]

It is possible to draw two conclusions from the development of the "*EU Whistleblower directive*". Firstly, the connection between politics and international law is crucial in such instances, so the role of international politics must not be undermined. In the case of the "*EU Whistleblower Directive*" – it was established through citizen efforts, translating into political actions, resulting in stronger human rights protections

---

37 Edwards, B. P. (2013). When Fear Rules in Law's Place: Pseudonymous Litigation as a Response to Systematic Intimidation. Virginia Journal of Social Policy & the Law, 20(3). https://heinonline.org/HOL/P?h=hein.journals/vajsplw20&i=448

38 Eekelaar, J. M. (1964). The tort of intimidation. Zimbabwe Law Journal, 4(2), 119–132.

39 Lennane, J. (2012). What Happens to Whistleblowers, and Why. Social Medicine - Health for All, 6(4). https://www.bmartin.cc/dissent/documents/Lennane_what2.pdf

40 Near, J. P., & Miceli, M. P. (1986). Retaliation against whistle blowers: Predictors and effects. Journal of Applied Psychology, 71(1), 137–145. https://doi.org/10.1037/0021-9010.71.1.137

41 Lennane, J. (2012). What Happens to Whistleblowers, and Why. Social Medicine - Health for All, 6(4). https://www.bmartin.cc/dissent/documents/Lennane_what2.pdf

42 Abazi, V. (2020). The European Union Whistleblower Directive: A "Game Changer" for Whistleblowing Protection?. Industrial Law Journal, 49(4). https://doi.org/10.1093/indlaw/dwaa023

43 Abazi, V. (2020). The European Union Whistleblower Directive: A "Game Changer" for Whistleblowing Protection?. Industrial Law Journal, 49(4). https://doi.org/10.1093/indlaw/dwaa023

as legal safeguards. Therefore, a conclusion can be drawn that the most efficient way to establish legal protection and legal tools for individuals is through international politics and political participation. Secondly, politically-initiated legal safeguards for individuals create a higher tendency for individuals to initiate legal proceedings in case of violation. Therefore, *"EU Whistleblower Directive*" can be interpreted as another legal tool for citizens' combat against environmental violations by the TNCs.

Another significant example of individual action against TNCs is between an NGO "*Greenpeace International*" and TNC "*Energy Transfer Partners*". The case started in 2014, when the TNC applied for permission to build a Dakota Access Pipeline, carrying crude oil[44] . A Report by Chief Edward John underlined that apart from violations by drilling on "*sacred sites*" and imposing "*insecurity*" for indigenous Indian Standing Rock Sioux Tribal, the pipeline intrudes with the water quality and land rights without the Tribal's consent[45]. The protesters in-person faced an extensive use of force and received various Strategic Lawsuits Against Public Participation – SLAPP – in the US District Court[46] . In 2017, "*Energy Transfer Partners*" sued "*Greenpeace International*" in the case *Energy Transfer Equity, LP et al. v. Greenpeace International et al.*, filing for the spread of misinformation, inciting protests, and causing financial harm[47]. However, "*Greenpeace International*" filed a lawsuit against "Energy *Transfer Partners*" in February 2025 in Dutch Court, initiating the first application of the EU anti-SLAPP Directive[48] (European Union, 2024). Therefore, the filed lawsuit is another example of how political action allowed citizens to combat the environmental violations of the TNCs, since it provided the legal background for an NGO to continue the combat against illegal actions by Energy Transfer.

Overall, TNCs have a tendency to retaliate on activists – both individually and through NGOs, regardless of their relation or dependence on the company. It is important to recognize that TNCs employ retaliation tactics, including legal action and

---

[44] Johnson, T. N. (2019). The Dakota Access Pipeline and the Breakdown of Participatory Processes in Environmental Decision-Making. Environmental Communication, 13(3), 335–352. https://doi.org/10.1080/17524032.2019.1569544

[45] Office of the High Commissioner for Human Rights (OHCHR). (2016, November). Native Americans facing excessive force in North Dakota pipeline protests – UN expert. United Nations. Https://Www.ohchr.org/En/News/2016/11/Native-Americans-Facing-Excessive-Force-North-Dakota-Pipeline-Protests-Un-Expert.

[46] Water Protector Legal Collective. (2017, June 17). DAPL SLAPP suit against water protectors dismissed. https://www.waterprotectorlegal.org/post/dapl-slapp-suit-against-water-protectors-dismissed

[47] The Global Climate Change Litigation database . (2017). Energy Transfer Equity, L.P. v. Greenpeace International. Climate Change Litigation. https://climatecasechart.com/case/energy-transfer-equity-lp-v-greenpeace-international/

[48] European Union. (2024a). DIRECTIVE (EU) 2024/1069 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 april 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings ("strategic lawsuits against public participation").

direct force, not only to prevail in legal disputes but also to deter potential lawsuits and safeguard their reputations. Even though it has significant effects on the existence of the activists – the filed lawsuit against Greenpeace by Energy Transfer could bankrupt the NGO – the political Directives play a crucial role as legal tools for citizen combat against TNCs.

Conclusion

This paper has analysed four main types of legal barriers that hinder the access to legal justice and protection of human rights for European Citizens in Environmental law cases. Firstly, the systemic barriers present in the EU and have found that lack of resources is a massive barrier to legal action due to the need of a legal background to pursue litigation. Moreover, systemic issues arise as TNCs are formed out of many different subsections, thus being less prone to accountability in environmental cases.

The second major barrier to pursue legal action is the complexity of systems. We have found legal complexity to be best represented by two main phenomena: very large networks and connections of citations between cases and the use of legal jargon and complicated sentence structure in legal writings. Both of these elements were found to impact disadvantaged communities disproportionately causing a disbalance of justice.

The paper also examines the reprisal tactics employed by transnational corporations (TNCs) to evade legal accountability or obstruct the initiation of legal proceedings. Initially, companies tend to intimidate the plaintiffs through both violent and economic means. Even though methods of protection through anonymity and tort law are used, they do not always manage to stop TNCs from causing harm. If intimidation does not work and the case still goes through to court, the companies may turn to retaliation as a method. Retaliation may take place both on the individual and organisational levels in the case of an NGO and is commonly done through the means of SLAPPs. Therefore, we can see that despite the high levels of development in human rights and environmental protection in the EU, there are still elements that hinder the practical application for fundamental rights.

References

1. Abazi, V. (2020). The European Union Whistleblower Directive: A "Game Changer" for Whistleblowing Protection?. Industrial Law Journal, 49(4). https://doi.org/10.1093/indlaw/dwaa023
2. Anderson, M. R. (2002). *International environmental law in Indian courts* [Abstract]. *Journal of the Royal Asiatic Society of Great Britain & Ireland*, 12(2). https://doi.org/10.1111/1467-9388.00123

3. Braveman, P. (2010). Social conditions, health equity, and human rights. PubMed, 12(2), 31–48.
4. Business and Human Rights Resource Centre. (2023). Trafigura lawsuit (re hazardous waste disposal in Côte d'Ivoire, filed in UK) - Business & Human Rights Resource Centre. Business & Human Rights Resource Centre. https://www.business-humanrights.org/en/latest-news/trafigura-lawsuit-re-hazardous-waste-disposal-in-c%C3%B4te-divoire-filed-in-uk/
5. Business and Human Rights Resource Centre. (2025). UK authorities "lack resources" to investigate Trafigura over toxic waste - Business & Human Rights Resource Centre. Business & Human Rights Resource Centre. https://www.business-humanrights.org/en/latest-news/uk-authorities-lack-resources-to-investigate-trafigura-over-toxic-waste/
6. Council of Europe. (1950, November 4). European convention for the protection of human rights and fundamental freedoms, as amended by protocols nos. 11 and 14. Refworld. https://www.refworld.org/legal/agreements/coe/1950/en/18688
7. Danet, B. (1980). Language in the Legal Process. Law & Society Review, 14(3), 445. https://doi.org/10.2307/3053192
8. Dezalay, S. (2019). 5.2 Trafigura Lawsuits (re-Côte d'Ivoire). Building an environmental and human disaster into a transnational case: a socio political perspective. Academia.edu, 978 1 78811 922 1. https://doi.org/104293376/thumbnails/1
9. ECHR. (n.d.). The admissibility of an application. ECHR. https://www.echr.coe.int/documents/d/echr/COURtalks_Inad_Talk_ENG#:~:text=Your%20application%20must%20not%20be,so%20you%20can%20be%20identifiable.&text=The%20contents%20of%20this%20text%20do%20not%20bind%20the%20Court.&text=If%20you%20do%20not%20wish,as%20soon%20as%20possible%20afterwards.
10. Edwards, B. P. (2013). When Fear Rules in Law's Place: Pseudonymous Litigation as a Response to Systematic Intimidation. Virginia Journal of Social Policy & the Law, 20(3). https://heinonline.org/HOL/P?h=hein.journals/vajsplw20&i=448
11. Eekelaar, J. M. (1964). The tort of intimidation. Zimbabwe Law Journal, 4(2), 119–132.
12. Cannavacciuolo and Others v. Italy, (2025).
13. Italgomme Pneumatici S.r.l. v. Italy, (2025).
14. M.B. v. Spain, (2025).
15. European Parliament. (2013). The US surveillance programmes and their impact on EU citizens' fundamental rights. Directorate-General for Internal Policies, Policy Department C: Citizens' Rights and Constitutional Affairs. https://www.europarl.europa.eu/studies
16. European Union. (2019). Directive - 2019/1937 - EN - eu whistleblowing directive - EUR-Lex. Europa.eu. https://eur-lex.europa.eu/eli/dir/2019/1937/oj/eng
17. European Union. (2023). Charter of Fundamental Rights of the European Union | refworld. Refworld. https://www.refworld.org/legal/agreements/eu/2007/en/13901
18. European Union. (2024a). DIRECTIVE (EU) 2024/1069 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 april 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings ("strategic lawsuits against public participation").

19. European Union. (2024b). Directive - EU - 2024/1069 - EN - EUR-Lex. Europa.eu. https://eur-lex.europa.eu/eli/dir/2024/1069/oj/eng
20. Finger, M., & Svarin, D. (2010). Transnational Corporations and the Global Environment. Oxford Research Encyclopedia of International Studies. https://doi.org/10.1093/acrefore/9780190846626.013.489
21. Gibbons, J. (1999). LANGUAGE AND THE LAW. Annual Review of Applied Linguistics, 19, 156–173. https://doi.org/10.1017/s0267190599190081
22. Hedley, R. a. (1999). Transnational Corporations and Their Regulation: Issues and Strategies1. International Journal of Comparative Sociology, 40(2), 215–230. https://doi.org/10.1177/002071529904000202
23. Johnson, T. N. (2019). The Dakota Access Pipeline and the Breakdown of Participatory Processes in Environmental Decision-Making. Environmental Communication, 13(3), 335–352. https://doi.org/10.1080/17524032.2019.1569544
24. Kuijer, M. (2001). The International Covenant on Civil and Political Rights – Cases, Materials, and Commentary, by S. Joseph, J. Schultz and M. Castan, Oxford University Press, Oxford, 2000, ISBN 0-19-826774-6, xxxvi and 745 pp., UK£75. Leiden Journal of International Law, 14(2), 491–493. https://doi.org/10.1017/s0922156501240254
25. Lennane, J. (2012). What Happens to Whistleblowers, and Why. Social Medicine - Health for All, 6(4). https://www.bmartin.cc/dissent/documents/Lennane_what2.pdf
26. Michelson, E. (2006). The Practice of Law as an Obstacle to Justice: Chinese Lawyers at Work. Law Society Review, 40(1), 1–38. https://doi.org/10.1111/j.1540-5893.2006.00257.x
27. Murdie, A. (2013). Environmental Law and Citizen Action. In Routledge eBooks. Informa. https://doi.org/10.4324/9781315066707
28. Near, J. P., & Miceli, M. P. (1986). Retaliation against whistle blowers: Predictors and effects. Journal of Applied Psychology, 71(1), 137–145. https://doi.org/10.1037/0021-9010.71.1.137
29. Newell, P. (2001). Access to Environmental Justice?Litigation against TNCs in the South. IDS Bulletin, 32(1), 83–93. https://doi.org/10.1111/j.1759-5436.2001.mp32001010.x
30. Office of the High Commissioner for Human Rights (OHCHR). (2016, November). Native Americans facing excessive force in North Dakota pipeline protests – UN expert. United Nations. Https://Www.ohchr.org/En/News/2016/11/Native-Americans-Facing-Excessive-Force-North-Dakota-Pipeline-Protests-Un-Expert.
31. Pegg, S. (1999). The Cost of Doing Business: Transnational Corporations and Violence in Nigeria. Security Dialogue, 30(4), 473–484. JSTOR. https://doi.org/10.2307/44472469
32. Ruhl, J. B., Katz, D. M., & Bommarito, M. J. (2017). Harnessing legal complexity. Science, 355(6332), 1377–1378. https://doi.org/10.1126/science.aag3013
33. Sadl, U., & Hink, S. (2013). Precedent in theSui GenerisLegal Order:A Mine Run Approach. European Law Journal, 20(4), 544–567. https://doi.org/10.1111/eulj.12075
34. Schwartz, M. (2021). International Legal Protection for Victims of Environmental Abuse. Yale.edu, 18, 15. https://doi.org/yjil/vol18/iss1/15

35. Schwartz, M. L. (1993). International legal protection for victims of environmental abuse. *Yale Journal of International Law, 18*(1), 355–388. https://heinonline.org/HOL/Page?handle=hein.journals/yjil18&div=20&g_sent=1&casa_token=&collection=journals
36. Stygall, G. (2020). Legal writing: complexity. Routledge EBooks, 32–47. https://doi.org/10.4324/9780429030581-5
37. T. Fisher, C., Hill, J. B., & Feinman, G. M. (2022). The Archaeology of Environmental Change. In Biodiversity Heritage Library (Smithsonian Institution). Smithsonian Institution. https://doi.org/10.2307/j.ctv2k88sk5
38. The Global Climate Change Litigation database . (2017). Energy Transfer Equity, L.P. v. Greenpeace International. Climate Change Litigation. https://climatecasechart.com/case/energy-transfer-equity-lp-v-greenpeace-international/
39. van Loon, H. (2018). Principles and building blocks for a global legal framework for transnational civil litigation in environmental matters. Uniform Law Review, 23(2), 298–318. https://doi.org/10.1093/ulr/uny020
40. Van Schaack, B. (2004). With All Deliberate Speed: Civil Human Rights Litigation as a Tool for Social Change. Vanderbilt Law Review, 57(6).
41. Water Protector Legal Collective. (2017, June 17). DAPL SLAPP suit against water protectors dismissed. https://www.waterprotectorlegal.org/post/dapl-slapp-suit-against-water-protectors-dismissed
42. Wells, E. (2010). The Archaeology of Environmental Change: Socionatural Legacies of Degradation and Resilience. Journal of Ecological Anthropology, 14(1), 99–100. https://doi.org/10.5038/2162-4593.14.1.9
43. Yilmaz, C. (2024). Should the European Court of Human Rights Treat the Anonymous and the Absent Witness Equally? The Application of the Same Three-Step Test. Groningen Journal of International Law, 10(2), 31–50. https://doi.org/10.21827/grojil.10.2.31-50