

EnviRights

Training Module

European Legal Framework on Environmental Activism

D3.1 - EU Legal Module

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INTRODUCTION

This training module is part of the capacity-building programme developed within the EnviRights project, funded under the European Union's Citizens, Equality, Rights and Values (CERV) Programme.

EnviRights brings together partner organisations from France, Germany, Greece, Hungary and Italy with the common objective of strengthening the protection of environmental activists and promoting the effective implementation of the EU Charter of Fundamental Rights, with particular attention to the rights to freedom of expression and freedom of peaceful assembly (Articles 11 and 12).

Environmental activism plays a fundamental role in promoting environmental protection, democratic participation and public accountability. However, environmental defenders across Europe increasingly face challenges such as restrictions on civic space, criminalisation, strategic lawsuits, intimidation and other forms of interference with the exercise of their fundamental rights.

Understanding the legal framework that protects environmental activism is therefore an essential step towards exercising these rights effectively. This module provides an introductory overview of the European legal framework relevant to environmental defenders, explaining how fundamental rights are protected within the European Union and how international legal instruments complement this protection.

The module is primarily intended for environmental activists, environmental human rights defenders, civil society organisations and community groups operating across Europe. It may also be useful for public authorities, legal practitioners, researchers and anyone interested in understanding the legal foundations of environmental participation and civic engagement.

Objectives of the Module

By the end of this module, participants will be able to:

- ➔ understand the structure of the European legal framework relevant to environmental activism;
- ➔ distinguish between EU Primary Law and Secondary Legislation and understand how they interact with national legal systems;
- ➔ identify the main legal instruments protecting environmental defenders, including the EU Charter of Fundamental Rights, the European Convention on Human Rights and the Aarhus Convention;
- ➔ understand the scope and practical relevance of Articles 11 and 12 of the EU Charter of Fundamental Rights for environmental activism;
- ➔ recognise how courts have interpreted these rights through selected case law.
- ➔ understand the main legal remedies available when the rights of environmental defenders are violated;
- ➔ identify reliable legal resources for further learning and practical application.

How to use this Manual

This module is organised into thematic sections that progressively introduce the legal framework protecting environmental activism in Europe.

It begins with an overview of environmental activism as a form of democratic participation and introduces the structure of the European legal system, including the relationship between EU law and national legal systems. The following sections explain the main sources of protection, including EU Primary Law, EU Secondary Legislation, the European Convention on Human Rights, the EU Charter of Fundamental Rights and the Aarhus Convention.

Particular attention is given to Articles 11 and 12 of the EU Charter, which protect freedom of expression and freedom of peaceful assembly and association, as these rights are central to the EnviRights project. The module also includes selected examples of Court of Justice of the European Union (CJEU) case law illustrating how these rights have been interpreted and applied in practice, together with an overview of the main legal remedies available to environmental defenders.

Each section combines explanatory text with practical examples, references to relevant legal instruments and judicial decisions, and additional resources for participants wishing to explore specific topics in greater depth.

1. INTRODUCTION

Environmental activism refers to the collective and individual actions undertaken to protect the environment, promote sustainability, and influence environmental decision-making. It can take many different forms, ranging from awareness-raising campaigns and advocacy to participation in public consultations, demonstrations, petitions, climate litigation, and other forms of non-violent collective action. Environmental activism may also include peaceful civil disobedience, which, according to the 2025 Guidelines on the Right to Peaceful Environmental Protest and Civil Disobedience[1], is characterised by deliberate and public non-violent lawbreaking in pursuit of a matter of public interest.

Public participation in environmental decision-making is not only an essential element of democracy but also a recognised legal right in Europe. This principle was firmly established through the Aarhus Convention[2], which recognises that access to information, public participation and access to justice are fundamental components of effective environmental governance. Today, participation is increasingly recognised not only as a matter of democratic accountability, but also as a practical requirement for achieving sustainable development.

Within the European Union, environmental activism is protected as a legitimate expression of democratic participation. The rights that enable people to advocate for environmental protection, such as freedom of expression, freedom of peaceful assembly and association, and access to justice, are safeguarded through a combination of European and international legal instruments. These include the EU Charter of Fundamental Rights, the European Convention on Human Rights (ECHR), the Aarhus Convention, and, more recently, legislation aimed at protecting individuals from Strategic Lawsuits Against Public Participation (SLAPPs).

The United Nations defines *environmental human rights defenders* as "individuals and groups who, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights relating to the environment, including water, air, land, flora and fauna."[3] Despite the growing recognition of their role, environmental defenders continue to face significant challenges worldwide. According to the United Nations Environment Programme (UNEP), they are frequently exposed to intimidation, harassment, criminalisation and violence because of their environmental advocacy.[4]

The Council of Europe Commissioner for Human Rights has also stressed that freedom of expression and freedom of peaceful assembly are cornerstones of democratic societies and

[1] Council of Europe, *Guidelines on the Right to Peaceful Environmental Protest and Civil Disobedience*, 2025.
[2] United Nations Economic Commission for Europe (UNECE), *Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)*, 1998.
[3] United Nations, *Situation of human rights defenders*; UN Report of the Special Rapporteur on the situation of human rights defenders, 2016, p.4.
[4] United Nations Environment Programme (UNEP), *Environmental Rule of Law: First Global Report,* 2019.

are essential for enabling environmental activism.[5] Peaceful protest, including demonstrations that may temporarily disrupt everyday life, remains protected under human rights law, provided that it does not involve or incite violence. At the same time, the Commissioner has highlighted growing concerns about the increasing criminalisation and stigmatisation of peaceful environmental protest across Europe, which may discourage individuals from exercising their fundamental rights.

Against this background, understanding the legal framework that protects environmental activism has become increasingly important. The following sections introduce the main European legal instruments that safeguard the rights of environmental defenders and explain how these rights operate in practice.

2. UNDERSTANDING EU LEGAL FRAMEWORK

The protection of environmental defenders within the European Union is based on different layers of legal instruments, including EU law, international human rights law and environmental agreements.

To understand how these protections work, it is important to first understand the structure of the European Union legal system and the relationship between Primary Law and Secondary Legislation. EU law is based on a hierarchy of legal sources. Primary Law establishes the fundamental principles, values and competences of the European Union, while Secondary Legislation translates these principles into concrete rules and mechanisms applicable in specific policy areas.[6]

2.1 EU Primary Law

EU Primary Law refers to the fundamental legal framework of the European Union, mainly established through the EU Treaties and the Charter of Fundamental Rights of the European Union.

The main sources of EU Primary Law are:

- Treaty on European Union (TEU);[7]
- Treaty on the Functioning of the European Union (TFEU);[8]
- Charter of Fundamental Rights of the European Union.[9]

The Treaties define the objectives of the European Union, the competences of EU institutions and the relationship between the EU and Member States. According to the principle of conferral, the EU can only act in areas where Member States have granted it competences through the Treaties.[10]

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[5] https://www.coe.int/en/web/commissioner/-/crackdowns-on-peaceful-environmental-protests-should-stop-and-give-way-to-more-social-dialogue

[6] https://commission.europa.eu/law/law-making-process/types-eu-law_en

[7] European Union, *Treaty on European Union (TEU)*.

[8] European Union, *Treaty on the Functioning of the European Union (TFEU)*.

[9] European Union, *Charter of Fundamental Rights of the European Union*.

[10] https://commission.europa.eu/law/law-making-process/types-eu-law_en

The Treaty on European Union (TEU) establishes the fundamental values of the Union, including democracy, the rule of law and respect for fundamental rights. It also recognises the importance of citizens' participation in democratic life. In particular, Articles 10 and 11 TEU highlight the principles of representative democracy and dialogue between EU institutions, citizens and civil society.[11]

Environmental protection is also recognised as a fundamental objective of the European Union. Article 3 TEU states that the EU shall work towards sustainable development and a high level of protection and improvement of the quality of the environment.

The Treaty on the Functioning of the European Union (TFEU) provides the legal basis for EU environmental action. Environmental policy is an area of shared competence between the EU and Member States. According to Articles 11 and 191-193 TFEU, EU environmental policy is based on key principles, including:

- the precautionary principle;
- the prevention principle;
- the principle of rectifying pollution at source;
- the "polluter pays" principle.[12]

2.2 EU Secondary Legislation

EU Secondary Legislation consists of legal acts adopted by EU institutions on the basis of the principles and competences established by Primary Law.

The main types of secondary legislation are:

- Regulations, which are directly applicable and binding in all Member States;
- Directives, which establish objectives to be achieved while allowing Member States to choose how to implement them;
- Decisions, which are binding for those to whom they are addressed;
- Recommendations and opinions, which are non-binding.

In the environmental field, secondary legislation gives practical effect to the principles established in EU Primary Law. It creates mechanisms that allow citizens, organisations and public authorities to access information, participate in decision-making and monitor environmental protection.[13]

The following EU legal instruments are particularly relevant for environmental defenders:

Directive 2003/4/EC – Access to environmental information[14]

This Directive guarantees the public's right to access environmental information held by public authorities. Access to information is a fundamental condition for meaningful environmental participation because it allows citizens and organisations to monitor decisions, engage in public debate and hold authorities accountable.

[11] Official Journal of the European Union, *Consolidated version of the Treaty on European Union*, 2012.
[12] European Parliament, *Environmental policy: general principles and policy framework*, 2026.
[13] https://commission.europa.eu/law/law-making-process/types-eu-law_en
[14] https://eur-lex.europa.eu/eli/dir/2003/4/oj/eng

Directive 2011/92/EU – Environmental Impact Assessment (EIA)[15]

The EIA Directive requires public participation in decisions concerning projects that may have significant environmental impacts. It ensures that citizens and organisations can provide input before certain environmental decisions are taken.

Directive 2010/75/EU – Industrial Emissions Directive[16]

This Directive establishes rules for preventing and controlling industrial pollution. Through transparency requirements, monitoring obligations and public participation procedures, it allows civil society to scrutinise industrial activities.

Regulation (EC) No 1367/2006 – Aarhus Regulation[17]

The Aarhus Regulation applies the principles of the Aarhus Convention to EU institutions. It provides mechanisms for access to environmental information, participation in environmental decision-making and review of certain administrative acts by EU bodies.

Further relevant EU environmental legislation

Other legal instruments that contribute to environmental protection and public participation include:

- ➔ Directive 2003/35/EC – public participation in environmental plans and programmes;
- ➔ Directive 2001/42/EC – environmental assessment of plans and programmes;
- ➔ Directive 2008/50/EC – ambient air quality;
- ➔ Directive 2000/60/EC – Water Framework Directive;
- ➔ Directive 92/43/EEC – Habitats Directive;
- ➔ Directive 2007/2/EC – INSPIRE Directive;
- ➔ Directive (EU) 2024/1203 – protection of the environment through criminal law.

2.3 How EU Law Works in Practice

EU law interacts with national legal systems through a multi-level system of protection.

In practice:

EU Law → National Implementation → National Authorities and Courts → Court of Justice of the European Union (when applicable)

EU legislation is generally implemented and applied by Member States. National courts play a key role in ensuring compliance with EU law and may request guidance from the Court of Justice of the European Union (CJEU) when questions arise concerning the interpretation of

[15] https://eur-lex.europa.eu/eli/dir/2011/92/oj/eng
[16] https://eur-lex.europa.eu/eli/dir/2010/75/oj/eng
[17] https://eur-lex.europa.eu/eli/reg/2006/1367/oj/eng

EU rules.

For environmental defenders, this means that rights and protections established at EU level often need to be invoked through national procedures and legal systems.

3. HUMAN RIGHTS FRAMEWORK PROTECTING ENVIRONMENTAL DEFENDERS

3.1 European Convention on Human Rights (ECHR)

The European Convention on Human Rights (ECHR) is one of the main human rights instruments protecting individuals across Europe. Although it does not explicitly recognise a right to a healthy environment, the European Court of Human Rights (ECtHR) has progressively interpreted several Convention rights to address environmental harm and climate-related issues.[18]

Through its case law, the Court has recognised that severe environmental degradation may interfere with fundamental rights such as the right to life, respect for private and family life, freedom of expression, and freedom of peaceful assembly. The Convention therefore provides an important legal framework for protecting environmental defenders and ensuring that States fulfil their positive obligations to safeguard these rights.

Over the years, the ECtHR has examined hundreds of environmental cases concerning pollution, industrial activities, environmental risks, access to information, access to justice and, more recently, climate change.[19]

Two examples illustrate this evolving approach:

- KlimaSeniorinnen Schweiz and Others v. Switzerland (2024),[20] where the Court found that Switzerland had failed to take adequate action to address climate change, violating Article 8 (right to respect for private and family life).
- A.A. and Others v. Italy (2022),[21] concerning pollution caused by the ILVA steel plant in Taranto, where the Court found violations of Articles 8 and 13 because the authorities had failed to adequately protect residents from environmental harm and provide an effective remedy.

These judgments demonstrate that environmental protection increasingly falls within the scope of existing human rights guarantees, even without an explicit environmental right in the Convention.

3.2 Charter of Fundamental Rights of the European Union

Within the European Union, fundamental rights are protected by the Charter of Fundamental

[18] Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms*, 1950.
[19] https://www.coe.int/en/web/impact-convention-human-rights/human-rights-and-the-environment
[20] ECtHR, *KlimaSeniorinnen Schweiz and Others v. Switzerland*, Grand Chamber, 9 April 2024.
[21] ECtHR, *A.A. and Others v. Italy*, 5 May 2022.

Rights of the European Union, which has the same legal value as the EU Treaties.[22]

Unlike the ECHR, the Charter contains an explicit reference to environmental protection. Article 37 states that a high level of environmental protection and the improvement of the quality of the environment must be integrated into EU policies, reflecting the Union's commitment to sustainable development.[23]

Although Article 37 is formulated as a guiding principle rather than an individually enforceable right, it reinforces the environmental objectives underpinning EU legislation and supports the interpretation of other Charter rights.

The Charter also guarantees the right to an effective remedy and to a fair trial (Article 47), ensuring that individuals whose rights under EU law have been violated can seek judicial protection before national courts and, where appropriate, before the Court of Justice of the European Union (CJEU).[24]

The Charter applies only when Member States are implementing or applying EU law, making it particularly relevant in environmental matters governed by EU legislation.

3.3 ECHR and EU Charter: Complementary Systems

Although they operate within different legal systems, the European Convention on Human Rights and the EU Charter of Fundamental Rights complement each other in protecting the rights of environmental defenders.

The ECHR applies across the 46 Member States of the Council of Europe and is interpreted by the **European Court of Human Rights (ECtHR)** in Strasbourg. It primarily protects individuals by interpreting traditional human rights, such as the right to life, private life, freedom of expression and freedom of assembly, in light of environmental challenges.

The EU Charter, by contrast, applies only within the scope of EU law and is interpreted by the **Court of Justice of the European Union (CJEU)** in Luxembourg. The CJEU often relies on EU environmental legislation together with the Charter when deciding cases concerning environmental governance, participation and access to justice.

In practice, the two systems reinforce one another. While the ECtHR develops environmental protection through human rights interpretation, the CJEU strengthens these protections through the application of EU legislation and the Charter. Together, they provide an increasingly coherent framework for safeguarding environmental rights and civic participation.

4. KEY CHARTER RIGHTS FOR ENVIRONMENTAL DEFENDERS

4.1 Article 11 – Freedom of Expression and Information

Article 11 of the Charter guarantees everyone's right to hold opinions and to receive and

[22] *Consolidated Version of the Treaty on European Union*, 2008, Art. 6.
[23] European Union, *Charter of Fundamental Rights of the European Union*, 2000, Art. 37.
[24] European Union, *Charter of Fundamental Rights of the European Union*, 2000, Art. 47.

impart information and ideas without interference by public authorities.[25] It also protects media freedom and pluralism.

For environmental defenders, this right forms the legal basis for many advocacy activities, including raising public awareness, communicating scientific evidence, engaging in public debate, campaigning, and criticising environmental policies or projects. It also protects access to environmental information, which is essential for informed participation in environmental decision-making.

Freedom of expression is not absolute. Restrictions may be imposed only when provided by law, pursue a legitimate aim, and are necessary and proportionate in a democratic society.

4.2 Article 12 – Freedom of Peaceful Assembly and Association

Article 12 guarantees the right to peaceful assembly and the freedom to establish or join associations, including environmental organisations and civil society groups.[26]

This right enables individuals to organise demonstrations, public campaigns, peaceful protests and advocacy initiatives, and to work collectively through environmental organisations and grassroots movements. It therefore constitutes one of the main legal foundations for civic participation in environmental matters.

Like freedom of expression, this right may be subject only to lawful, necessary and proportionate restrictions. Peaceful protests remain protected even when they cause a certain degree of disruption, provided they do not involve violence.

Together, Articles 11 and 12 constitute the core legal guarantees supporting environmental activism within the European Union and represent the fundamental rights at the centre of the EnviRights project.

4.3 Selected Case Law

The rights discussed in this chapter have been progressively interpreted and strengthened through the case law of both the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR). Although these courts operate within different legal frameworks, their judgments have contributed to defining the scope of freedom of expression and peaceful assembly in contexts that are highly relevant to environmental activism.

Schmidberger v Austria (C-112/00, CJEU)[27]

This landmark case concerned a peaceful environmental demonstration organised by civil society organisations, which temporarily blocked the Brenner motorway between Austria and Italy. A transport company claimed that Austria had failed to guarantee the free movement of goods under EU law.

The Court of Justice held that Austria had struck a fair balance between the economic

[25] European Union, *Charter of Fundamental Rights of the European Union*, 2000, Art. 11.
[26] European Union, *Charter of Fundamental Rights of the European Union*, 2000, Art. 12.
[27] Schmidberger, Case C-112/00, *Schmidberger Internationale Transporte und Planzüge v Austria*, Judgment of 12 June 2003.

freedom of free movement and the fundamental rights of the demonstrators. Although the judgment was delivered before the EU Charter of Fundamental Rights became legally binding, it is now widely regarded as an important precedent illustrating the protection of the rights that are currently enshrined in Articles 11 (Freedom of Expression and Information) and 12 (Freedom of Assembly and Association) of the Charter.

Why it matters: The case confirms that peaceful public protest, even when it causes temporary disruption, forms part of democratic society and deserves protection under EU law.

Frumkin v Russia (ECtHR, Application No. 74568/12)[28]

The case concerned the dispersal of a peaceful protest camp and the arrest of one of its organisers by the Russian authorities. The applicant argued that the authorities had unlawfully interfered with the exercise of his fundamental freedoms.

The European Court of Human Rights found that Russia had violated Article 11 of the European Convention on Human Rights (Freedom of Peaceful Assembly). The Court also reaffirmed the close relationship between Article 11 and Article 10 (Freedom of Expression), recognising that public demonstrations are an essential means through which individuals express opinions on matters of public interest.

Why it matters: The judgment confirms that peaceful protest enjoys strong protection under the European Convention on Human Rights and that restrictions imposed by public authorities must be necessary, proportionate and justified.

Key takeaway

Together, these judgments illustrate how both the EU Charter of Fundamental Rights and the European Convention on Human Rights protect the rights that enable environmental activism. While the CJEU and the ECtHR operate under different legal frameworks, their case law increasingly reinforces common standards for safeguarding freedom of expression, peaceful assembly and democratic participation across Europe.

5. AARHUS CONVENTION AND ENVIRONMENTAL DEMOCRACY

5.1 Introduction to the Aarhus Convention

The Aarhus Convention, formally known as the *UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*, is an international environmental agreement. It grants the public rights and imposes on Parties and public authorities obligations regarding access to information, public participation, and access to justice.
The Aarhus Convention was adopted on **25 June 1998 in the Danish city of Aarhus** at the Fourth Ministerial Conference in the "Environment for Europe" process. Together with its Protocol on Pollutant Release and Transfer Registers, it puts principle 10 of the Rio

[28] *Frumkin v. Russia*, ECtHR, Application No. 74568/12, Judgment of 5 January 2016.

Declaration on Environment and Development into practice and protects every person's right to live in an environment adequate to his or her health and well-being.[29]

The Convention is considered an instrument of environmental democracy. It establishes that sustainable development can only be achieved through the involvement of all stakeholders and links government accountability with environmental protection. Additionally, it also links environmental rights with human rights.[30] In its basic meaning, the Aarhus Convention regulates the right of every person to participate in environmental protection.[31] It focuses on transparency, responsiveness, and public participation by granting the public rights regarding access to information, participation in decision-making, and access to justice in environmental matters.[32] The Aarhus Convention ensures the protection of procedural rights that are crucial for environmental governance and democracy, including access to environmental information, participation in decision-making and access to justice in environmental matters.[33]

It is described as a key instrument for people seeking to protect the environment and make their voices heard. The Convention also calls for the protection of environmental defenders, such as lawyers, journalists and community activists.[34]
To this end, the Parties created a Rapid Response Mechanism and a Special Rapporteur on Environmental Defenders to help safeguard defenders and prevent harassment and persecution.[35]

5.2 Protection of Environmental Defenders under the Aarhus Convention

The Aarhus Convention not only guarantees rights relating to access to information, public participation and access to justice, but also protects those exercising these rights. Article 3(8) requires Parties to ensure that persons exercising their rights under the Convention are not penalised, persecuted or harassed in any way for their involvement.[36]

In October 2021, the Meeting of the Parties established a Rapid Response Mechanism for the protection of environmental defenders through a Special Rapporteur on Environmental Defenders. According to UNECE, this is the first mechanism specifically safeguarding environmental defenders established within a legally binding international framework.[37] The creation of the mechanism reflects concerns regarding threats faced by environmental defenders. Parties, NGOs and other stakeholders have reported cases involving surveillance, threats, intimidation, criminalisation, detention, violence and other forms of harassment linked to environmental activities. The mechanism therefore represents an additional safeguard intended to ensure that individuals can exercise their Aarhus Convention rights without fear of retaliation.[38]

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[29] Principle 10 | UNEP - UN Environment Programme
[30] Introduction | UNECE
[31] Kurzfilme – Aarhus Konvention
[32] https://unece.org/environment-policy/public-participation/aarhus-convention/introduction
[33] Access to information, public participation and access to justice in environmental matters (Aarhus Convention) | EUR-Lex
[34] ibid.
[35] https://eeb.org/en/work-areas/environmental-law-and-justice/environmental-democracy/
[36] EUR-Lex - 22005A0517(01) - EN - EUR-Lex
[37] Mandate and functions of the Special Rapporteur | UNECE
[38] https://unece.org/climate-change/press/rapid-response-mechanism-protect-environmental-defenders-established-under

5.3 The Three Pillars of the Aarhus Convention

The table explains the foundations of the Aarhus Convention in more detail.

Access to Information	Public Participation in Decision-Making	Access to Justice
Access to information refers to the public's right to receive environmental information held by public authorities, including information concerning the state of the environment, environmental policies, and public health and safety.	Public participation refers to the public's right to participate in environmental decision-making, including participation by environmental NGOs in projects, plans, and programmes affecting the environment.	Access to justice refers to the right to review by a court or another independent body to ensure that public authorities respect environmental law and procedural rights.
	Democracy and the Rule of Law	

5.4 Aarhus Convention Compliance Committee (ACCC)

The Aarhus Convention Compliance Committee is one of the few mechanisms in international environmental law that enables members of the public to bring cases concerning a Party's compliance directly before a body of independent experts mandated to examine the merits of such cases.[39]
For a comprehensive overview of communications submitted to the Aarhus Convention Compliance Committee and the Committee's findings, see the UNECE database of communications from the public.[40]

5.4.1 ACCC Case Law

The following selected examples illustrate enforcement and interpretation of Aarhus rights, cases on access to information, public participation and access to justice. Access to justice in environmental matters is one of the three pillars of the Aarhus Convention, to which both the European Union and its Member States are bound. Article 9(3) of the Aarhus Convention contains a general obligation of access to review procedures concerning environmental law.[41] The Aarhus Convention Compliance Committee has further clarified that standing requirements should not be so strict as to effectively bar members of the public from challenging environmental acts and omissions. The Convention's objective is to ensure "wide access to justice" in environmental matters.[42]

1. In ACCC/C/2014/102 concerning Belarus, the environmental non-governmental organization Ecohome submitted a communication alleging that Belarus had failed to comply with Article 3(8) of the Aarhus Convention in relation to the alleged harassment of environmental activists. Unlike many Aarhus cases focusing on access

[39] Guide_to_the_Aarhus_Convention_Compliance_Committee__2019.pdf
[40] https://unece.org/env/pp/cc/communications-from-the-public
[41] cep43e.pdf
[42] ibid.

to information, public participation or access to justice, this communication directly concerned the protection of environmental defenders. In its findings adopted on 18 June 2017, the Aarhus Convention Compliance Committee found Belarus to be in non-compliance with Article 3(8).[43] The case is particularly significant for environmental defenders because it confirms the importance of protecting individuals and organizations from harassment when exercising their rights under the Convention.

2. In ACCC/C/2008/32 concerning the European Union, the Aarhus Convention Compliance Committee examined access to justice before the Court of Justice of the European Union and the General Court. The communication alleged that the standing criteria applied before the EU Courts restricted the ability of private individuals and environmental NGOs to challenge environmental decisions. The Compliance Committee later found non-compliance with Articles 9(3) and 9(4) of the Aarhus Convention.
3. In ACCC/C/2008/24 concerning Spain, the Association for Environmental Justice, acting on behalf of itself and the Association of Senda de Granada Oeste Neighbours, submitted a communication alleging non-compliance with the Aarhus Convention in relation to decision-making on a residential development project in Murcia. The communication raised issues concerning all three pillars of the Convention, namely access to environmental information, public participation and access to justice. In its findings adopted on 8 February 2011, the Compliance Committee found Spain in non-compliance with Articles 4(1)(b), 4(2), 4(8), 6(3) and 9(4) of the Convention.[44]

[43] https://unece.org/env/pp/cc/accc.c.2014.102_belarus
[44] https://unece.org/acccc200824-spain

6. SLAPPs in Europe

A Strategic Lawsuit Against Public Participation (SLAPP) is the purposeful misuse of legal instruments for the intimidation of activists and media by private actors and companies. SLAPPs are primarily characterized by private actors leveraging legal mechanisms to silence or pressure individuals and organisations that raise public criticism or engage in direct action against them.[45] They happen in the form of smear campaigns, cease and desists and civil lawsuits, meaning that legal measures are instrumentalised to silence criticism. SLAPPs are not aimed at winning a lawsuit, they rather want to intimidate.

6.1 Impact of SLAPPs on Environmental Defenders and Civic Space

SLAPPs can harm environmental defenders in different ways, the most prominent are legal, monetary and psychological intimidations. An unexpected lawsuit requires fast and experienced legal support, this is often costly both in the preparation as well as the lawsuit itself. Therefore, SLAPPs have a major impact on psychological aspects of the accused people or organizations. For example, in February 2023, Shell filed a SLAPP lawsuit against Greenpeace UK, Greenpeace International, and several activists following protests against a Shell oil platform in the North Sea. Shell sought damages and broad restrictions on future protests at Shell infrastructure. The Greenpeace defendants faced substantial legal and financial pressure as a result of the proceedings.[46]

Any form of interventions that impact the freedom of speech and freedom of assembly can be considered "Chilling effects". It refers to the consequences of state measures, such as the enactment of laws, conventional administrative action, or court decisions, on the exercise of fundamental rights by groups and individuals. Synonymously, one also speaks of "intimidation effects," "deterrent effects," or "cooling effects".[47]

Recent reports by Human Rights Watch (2026) highlight a growing trend of restrictions on protest in Europe, particularly in the United Kingdom. Legislative developments such as the Police, Crime, Sentencing and Courts Act 2022 and the Public Order Act 2023 have expanded police powers, criminalised certain forms of peaceful protest, and introduced vague thresholds such as “serious disruption.”[48] These measures have led to increased arrests, harsher penalties, and what is described as a “chilling effect” on civic participation, discouraging individuals from engaging in environmental and social activism. This illustrates that, despite existing legal protections, activists may still face significant constraints in practice.

A report in 2024 by Amnesty International highlights increasing restrictions on the right to peaceful protest across Europe.[49] According to Amnesty International, authorities in multiple European countries have introduced measures that limit or discourage public demonstrations, including restrictive laws, administrative barriers, and the use of surveillance technologies.

These restrictions include requirements for prior notification or authorization of protests, limitations on locations and timing, and the imposition of penalties for non-compliance. In

[45] briefer-the-impact-slapps-hr-how-resond.pdf
[46] Shell v. Greenpeace - The Climate Litigation Database
[47] Green Legal Spaces – Studie 2025 – GLI Green Legal Impact Germany e.V.
[48] Public Order Act 2023
[49] Amnesty Report 2023/24 | Amnesty International

some cases, authorities have used public order or national security justifications to restrict protests, while also engaging in practices such as excessive use of force, arbitrary arrests, and intrusive surveillance.

The report also identifies a trend of stigmatisation of protesters, with activists being labelled as “extremists” or “criminals,” particularly in the context of climate activism. Such measures contribute to a “chilling effect,” discouraging individuals from participating in protests due to fear of legal consequences, surveillance, or discrimination.[50]

6.2 The EU Anti-SLAPP Directive

A major recent development at EU level is the EU Anti-SLAPP Directive, which entered into force in May 2024. The Directive addresses strategic lawsuits against public participation (SLAPPs), understood as abusive legal actions aimed at silencing individuals acting in the public interest, including environmental activists.[51] The Directive applies to civil proceedings with cross-border implications and requires Member States to refuse recognition of abusive third-country judgments. In addition, Member States must ensure access to information on available safeguards and allow organisations and associations to support defendants during proceedings.[52]
The Anti-SLAPP Directive acknowledges that SLAPPs may create a chilling effect on public participation by exhausting the financial and personal resources of defendants, discouraging public debate and contributing to self-censorship.[53]

The recommendation recognises that SLAPPs create a chilling effect on public participation by harassing, intimidating, or silencing individuals and organisations acting as public watchdogs, thereby discouraging public debate and contributing to self-censorship. It adopts a broad understanding of public participation, explicitly including environmental organisations and activists, human rights defenders, journalists, whistleblowers, academics, and civil society organisations.

According to the European Commission, these rules address the growing use of strategic lawsuits against public participation, defined as unfounded or abusive legal actions aimed at silencing individuals acting in public interest, including environmental activists. The Directive introduces a system of procedural safeguards, particularly in cross-border cases, enabling courts to dismiss manifestly unfounded claims at an early stage. It also provides that claimants who initiate abusive proceedings may be required to bear the full costs of litigation and may face additional penalties.[54]

The EU Anti-SLAPP framework forms part of the broader European Democracy Action Plan, which aims to protect public participation and ensure a pluralistic democratic debate. In addition to legislative safeguards, the European Commission has recommended that Member States establish national focal points to provide guidance and support to individuals targeted by SLAPPs, including access to legal advice and support organisations.[55]

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[50] [look at the Green Legal Spaces Study 2025 to get a more detailed insight into the situation in Germany.]
[51] Directive - EU - 2024/1069 - EN - EUR-Lex
[52] New EU rules to protect against strategic lawsuits against public participation enter into force - European Commission
[53] The EU’s Anti-SLAPP Directive: A Partial Victory for Rule of Law Advocacy in Europe | German Law Journal | Cambridge Core
[54] The Anti-SLAPP Directive creates a promising minimum standard for Member States – CASE
[55] Carriages preview | Legislative Train Schedule

In practice, environmental activists should be aware that EU law provides tools to challenge abusive legal actions. If faced with a SLAPP, they may benefit from early legal advice, support from civil society organisations, and available national support structures.[56] Awareness of these protections can help reduce the chilling effect of litigation and enable continued participation in environmental advocacy.

Despite these protections, several limitations remain. The Directive applies primarily to civil matters with cross-border implications, meaning that purely domestic SLAPP cases may fall outside its scope. In addition, legal uncertainty may arise from the absence of a precise definition of "manifestly unfounded claims," potentially leading to different interpretations among Member States. Scholars have also noted that SLAPP targets may still face abusive proceedings in multiple jurisdictions, particularly in cases involving online content and defamation.[57]

6.3 Useful Resources and Participatory Tools

The Anti-SLAPP Monitor gives you an overview of the different countries' efforts and progress in implementing the Directive (EU) 2024/1069.

The CASE Report gives you an overview of SLAPPs happening in Europe in 2025.

In October 2025, Michel Forst, UN Special Rapporteur under the Aarhus Convention, issued new guidelines on environmental protest and civil disobedience.

The Aarhus Convention regulates access to all sorts of environmental information. The Climate Helpdesk helps you to request specific information from German authorities.

7. AVAILABLE TOOLS AND RESOURCES

7.1 Useful Resources and Support Mechanisms

Environmental defenders can rely on different tools and resources to better understand their rights, participate in environmental decision-making processes and respond to threats or restrictions affecting their activities.

Several organisations and institutions provide guidance, monitoring reports and practical resources on environmental rights, civic space and the protection of activists. Among the most relevant resources are:

- Guidelines on environmental protest and civil disobedience, developed by the UN Special Rapporteur on Environmental Defenders under the Aarhus Convention,[58] which clarify that peaceful environmental protest is a legitimate exercise of fundamental rights, including freedom of expression and peaceful assembly. The guidelines underline that disruption alone does not make a protest unlawful and highlight states' responsibility to protect civic space and environmental defenders.
- Reports and monitoring tools on civic space and SLAPPs[59] (Strategic Lawsuits Against Public Participation), which document the increasing use of legal actions

[56] CASE Guidebook – How to prevent SLAPPs or get help if it's too late – CASE
[57] The Anti-SLAPP Directive creates a promising minimum standard for Member States – CASE
[58] UN Special Rapporteur on Environmental Defenders under the Aarhus Convention, *Guidelines on the Right to Peaceful Environmental Protest and Civil Disobedience* (2025).
[59] CASE Coalition, *SLAPPs in Europe: Mapping Trends and Cases*.

aimed at discouraging public participation and targeting journalists, activists and civil society organisations involved in matters of public interest, including environmental protection.

- Environmental participation mechanisms, allowing citizens and organisations to engage in EU decision-making processes. These include:
    - the European Citizens' Initiative,[60] through which citizens can invite the European Commission to propose new legislation;
    - the *Have Your Say* portal,[61] where citizens and stakeholders can provide feedback on EU policies and legislative proposals;
    - public consultations and other participatory mechanisms supporting dialogue between institutions, citizens and civil society.
- Legal and procedural tools, such as access to environmental information, public participation procedures and access to justice mechanisms provided by EU law and the Aarhus Convention.[62] These tools allow individuals and organisations to monitor environmental decisions, request information and challenge decisions affecting environmental interests.

Environmental defenders can also seek support from networks and organisations working on human rights, environmental law and civic space, which provide legal guidance, advocacy support and monitoring activities.

7.2 The EnviRights Platform

The EnviRights Platform has been developed within the EnviRights project to strengthen the protection of environmental defenders and promote respect for their fundamental rights across Europe. The platform supports activists, civil society organisations and stakeholders by providing tools to:

- Report violations and threats affecting environmental defenders through a secure and confidential reporting mechanism;
- Monitor cases and trends concerning restrictions, intimidation or other violations affecting environmental activism;
- Access information and resources on environmental defenders' rights, EU legal frameworks and project activities;
- Support awareness raising and advocacy actions aimed at strengthening the protection of freedom of expression, freedom of assembly and freedom of association.

By collecting information on challenges faced by environmental defenders, the platform contributes to a better understanding of the risks affecting environmental activism and supports the development of recommendations for improving protection mechanisms.

The platform is available for environmental activists, civil society organisations and other actors interested in monitoring and promoting the rights of environmental defenders and accessible here: EnviRights Whistleblowing Platform.

[60] European Commission, *European Citizens' Initiative*.
[61] European Commission, *Have Your Say – Public consultations and feedback on EU policies*.
[62] Aarhus Convention, *Rapid Response Mechanism for Environmental Defenders* available at: link.