

SLAPP:
Strategic
Lawsuit
Against Public
Participation
in Environmental
Disputes

SLAPP: STRATEGIC LAWSUIT AGAINST PUBLIC PARTICIPATION IN ENVIRONMENTAL DISPUTES

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Abbreviations

BHRRCBusiness and Human Rights Resource Center
BPPBiomass Power Plant
CSO	.....Civil Society Organization
EIA	.....Environmental Impact Assessment (<i>Çevresel Etki Değerlendirme</i>)
GPP	.....Geothermal Power Plant
GYO	.....Real Estate Investment Trust (<i>Gayrimenkul Yatırım Ortaklığı</i>)
HAGB	.....Postponement of the Announcement of the Verdict (<i>Hükmün Açıklanmasının Geri Bırakılması</i>)
HPP	.....Hydroelectric Power Plant
IMM	.....Istanbul Metropolitan Municipality
ITU	.....Istanbul Technical University
KYOK	.....Decision of Non-Prosecution (<i>Kovuşturmaya Yer Olmadığına Dair Karar</i>)
MEUCC	.....Ministry of Environment, Urbanization and Climate Change (<i>Çevre, Şehircilik ve İklim Değişikliği Bakanlığı</i>)
MUÇEP	.....Muğla Environment Platform (<i>Muğla Çevre Platformu</i>)
SLAPP	.....Strategic Lawsuits Against Public Participation
TCDD	.....Turkish State Railways (<i>Türkiye Cumhuriyeti Devlet Demiryolları</i>)
TEMA	.....Turkish Foundation for Combating Soil Erosion, for Reforestation and the Protection of Natural Habitats (<i>Türkiye Erozyonla Mücadele Ağaçlandırma ve Doğal Varlıkları Koruma Vakfı</i>)
TMMOB	.....Union of Chambers of Turkish Engineers and Architects (<i>Türk Mühendis ve Mimar Odaları Birliği</i>)
UN	.....United Nations
USA	.....United States of America
WPP	.....Wind Power Plant
YÖK	.....Council of Higher Education (<i>Yükseköğretim Kurulu</i>)

Dictionary

Decision of non-prosecution (Kovuşturmaya yer olmadığına dair karar, KYOK):

A “decision of non-prosecution” indicates that there is no possibility for the suspect to be prosecuted at the end of the investigation conducted by the prosecutor or that the prosecutor’s office, having evaluated the collected evidence, has decided to cease the investigative proceedings and dismiss the investigation file.

Deferment of the Announcement of the Verdict (Hükmün açıklanmasının geri bırakılması, HAGB):

The Code on Criminal Procedure stipulates that a court may defer the announcement of the verdict (HAGB) in cases where the defendant is given a prison sentence or a judicial fine of two years or less at the end of the proceedings. The HAGB decision means that the given sentence will not take effect during the probationary period. In this case, the defendant is subject to probation for five years, and if no intentional crime is committed and all obligations are fulfilled during this period, the sentence is revoked and the case is dismissed.

Environmental dispute:

Within the scope of this study, environmental disputes refer to the totality of environmental movements emerging against environmental degradations and destructions caused by economic activities/projects, such as mining, energy, or infrastructure, which are carried out by the public or private sector and do not uphold the public interest. These environmental movements refer to themselves as a “struggle”, a “resistance” or an “action”. While some manifest themselves as protest actions at a local scale (rural/urban), some attain a mass appeal by forming national/international cooperations and organizations.

Freedom of assembly:

Freedom of assembly refers to the right to organize and join, individually and in association with others, rallies, strikes, sit-ins, vigils, demonstrations, etc. In other words, it is the collective expression of an opinion within the scope of freedom of expression. All peaceful protests which do not involve violence or call for violence fall under the protection of this freedom.

Freedom of expression:

Freedom of expression refers to the individual's right to, freely and without fear of sanction, express, bring up, and criticize any matter that affects one's life, using any communication method of one's choice. Freedom of expression protects all kinds of expressions. No distinction is made between expressions as valuable-valueless, or useful-useless. However, expressions containing hate and violence are not considered within the scope of freedom of expression.

Human rights due diligence:

Human rights due diligence is understood as a *process* whereby companies effectively identify, prevent, and mitigate, as well as explain how they address and manage their actual and potential adverse human rights and environmental impacts. In this sense, as initial conditions may change over time in a way that bears an adverse impact on human rights and the environment, human rights due diligence must be conducted throughout a company's operations. That is, human rights due diligence is not a one-time effort. The aim in human rights due diligence is not to assess risks for the company but rather to understand the risks posed by the company's activities to *the rights holders*, including the supply chain and all other business relations. Rights holders include all individuals who are or may be negatively affected by the company's activities, hence include rights defenders as well.

Insult:

The "offense of insult" is defined under the Penal Code as attacking one's honor and dignity by cursing or attributing concrete actions or facts capable of undermining one's honor and dignity.

Interim measure:

An interim measure is a temporary legal protection provided during the litigation process (i.e. in the period between the filing of the lawsuit and the verdict) in order to prevent the possible outcome of the lawsuit from becoming ineffective. For example, placing an annotation on the title deed, prohibiting an action (such as the sale of a movable or immovable property). The aim of an interim measure is not to punish or suppress the other party but to serve the protection of the right.

Judicial control:

It refers to criminal measures imposed on the suspect or defendant instead of a detention warrant, whereby the suspect or defendant is put under supervision through measures such as staying in/not going to a particular place of residence, giving signatures on certain days, ban from leaving the country, paying a bail (security deposit) or not leaving the house (house arrest).

Request for a stay of execution:

In an administrative case filed against an administrative action (e.g. a decision that the EIA is favourable/not required), it refers to the request for the stay of the implementation (execution) of the litigated administrative action until the end of the case and the request for the suspension of all its legal effects. The "decision for the stay of execution", which is delivered if this request is granted, is an interim measure and prevents the administrative action in question from being implemented without waiting for the outcome of the trial.

Right to the city:

Coined by philosopher Henri Lefebvre, “the right to the city” refers to the planning of the city by its residents in line with their own wants and needs, and the residents’ having a say in the design, production, and use of the city. The right to the city as a concept must be considered together with the concepts of space, spatial relations, the quest for rights, social justice, and injustice.

Rights defender:

It describes persons acting individually and in association with others, who strive for the promotion, protection, and realization of universally recognized human rights and fundamental freedoms in a peaceful manner. This definition does not include individuals or groups which use or spread violence. In their report focusing on ecological struggles, the UN Special Rapporteur on the Situation of Human Rights Defenders refers to rights defenders in a broad sense 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.*

SLAPP (Strategic lawsuit against public participation):

Within the scope of this study, strategic lawsuit against public participation (in short, SLAPP) refers to legal actions initiated by a company or its executives/employees with an aim to silence, intimidate and deter rights defenders who voice their objections or criticisms about corporate activities and who use their right to participate in decision-making processes, their freedom of expression or freedom of assembly.

Threat:

A threat is an act of telling a person that they or their loved ones will be subjected to unjust harm or malice against their life, body, or sexual inviolability.

Tort:

In the general sense, a “tort” is an action which, in violation of legal rules, causes a person to incur pecuniary or non-pecuniary damages.

Unfair competition:

Under the Commercial Code, “unfair competition” is defined as actions and commercial practices which are deceptive or are against the principle of integrity and which affect relations between competitors or between suppliers and customers.

Well-being:

It refers to the co-existence of social, economic, ecological, and cultural factors that positively impact one’s physical and mental health and that enable a good quality of living in the short and long term.

Introduction

As the Center for Spatial Justice (*Mekanda Adalet Derneği*, MAD), we work for fairer, democratic, ecological urban and rural spaces, and aim to produce and promote public knowledge. In MAD's Environmental Justice Program, we document environmental disputes, which are becoming increasingly widespread. We try to show the interconnectedness of environmental and social problems, amplify the voices of local actors pursuing environmental struggles, and produce concepts and methods useful for such struggles.

While amplifying the voices of local actors, we value the use of different legal tools, benefiting from global experiences and international solidarity. Initiated in 2021, our work in the field of Business and Human Rights was shaped by this approach. While examining river basins and the effects of projects more specifically on basins as part of our river basin studies¹, which form the backbone of our Environmental Justice Program, we observed that companies were an important actor emerging as an addressee for environmental justice issues. Our findings from the field prompted us to think about corporate responsibility and accountability for human rights violations and adverse environmental impacts. In January 2022, we published our research report² in which we used the framework of “the corporate responsibility to respect human rights” from the Guiding Principles on Business and Human Rights (the Guiding Principles) adopted by the UN in 2011.³ Our research allowed us to better understand the situation in Turkey and to identify problem areas. Some of the notable findings of our research was that public objections to the projects were not heard and that rights defenders were being discredited and obstructed. In 2022, we continued our work in Business and Human Rights with a focus on rights defenders.

Rights defenders play a highly important role when it comes to monitoring and reporting on the adverse impacts of corporate activities on human rights and the environment. However, the space to do so safely and without pressure is shrinking. Rights defenders in Turkey and across the world face risks of threats, physical assault, judicial harassment, and even death.

Data-based reports by CSOs and rights-based international organizations reveal that rights defenders in Turkey are increasingly subjected to judicial harassment. In recent years, when environmental disputes are in question, we observe that companies emerge as an important actor in the judicial harassment directed against rights defenders.

Legal actions initiated by companies or their executives/employees with an aim to silence, intimidate and deter rights defenders who voice their objections or criticisms and use their right to participate in decision-making processes, freedom of expression, or freedom of assembly are known as *SLAPPs* (Strategic Lawsuits Against Public Participation).

When naming such legal actions, sociologist Penelope Canan and legal scholar George W. Pring were inspired by the English word “slap” (Canan and Pring, 1988). The acronym *SLAPP* draws attention to the real intention behind such legal actions. If we follow the same method as Canan and Pring, we can call these types of legal actions *TOKAT* (*Tehdit Odaklı Katılım Aksatan Talepler*, Threat-focused requests that hinder participation) in Turkish.

In environmental disputes, rights defenders voicing the adverse impacts of corporate activities on human rights and the environment and who strive to prevent these adverse impacts are increasingly subjected to *SLAPPs* in recent years. Often faced by journalists covering environmental issues, criminal complaints, and compensation lawsuits are used as strategic counter-tactics against rights defenders in the field of ecology. In our second study in Business and Human Rights, we aimed to document these strategic counter-tactics (legal actions) used by companies against rights defenders in environmental disputes.

During the research phase of our year-long study, we categorized the legal actions employed by companies as strategic counter-tactics in environmental disputes over our chosen time frame. At the same time, we conducted interviews with rights defenders subjected to *SLAPPs* that we considered to have a representative value. We share some of these interviews as video news and some as podcasts on MAD's website. We would like to thank all rights defenders who contributed to our study for their time and effort. We hope that this report as the outcome of our research raises awareness on legal actions initiated against rights defenders and becomes a reference document for struggles against these legal actions.

Research Subject and Methodology

In many fields related to the press, environment, and freedom of expression in general, *SLAPPs* are used as a strategic counter-tactic aiming to prevent the emergence of matters of public interest and to delegitimize the public's right to participate and to object. However, this report specifically examines legal actions initiated by private sector actors such as companies, executive board members, employees, and third parties whom they are in a contractual relation with (such as private security companies) in order to deter, intimidate, and silence rights defenders in ecological struggles. To make this assessment possible, the research team first identified environmental disputes, as well as tools and methods of struggle used by environmental movements between 2013 and 2022. Then, the pressures against the identified struggles in environmental disputes were examined, and legal actions initiated by private sector actors against rights defenders were identified and analyzed.

It is possible to come up with different periodizations to mark the beginnings of environmental struggles emerging to protect living spaces against projects such as mining, HPPs, thermal power plants, or GPPs in different parts of Turkey. As it would be beyond the time constraints of this study to address all environmental struggles that can be dated back to the 1970s, we had to make a temporal choice (Aksu, Erensü, and Evren, 2016). In this regard, we took the Gezi Park protests⁴ as a significant threshold whereby demands for participation and recognition in relation to environmental justice and the right to the city were increasingly discussed in Turkey, and relations and solidarity between struggles in different locales expanded. Hence, we started our research period with the year 2013.

In our research, we focus on all kinds of local reactions and protests which essentially defend living spaces, human rights, and democratic processes as well as participation

in decision-making processes and demands for recognition and objections from groups which emerge from the local level and can establish relations at the national level. We consider each of these as an “environmental dispute”. Through our desk-based research, we kept a record of environmental disputes in Turkey from early 2013 to June 2022. We saw that there were different fields of activities, mega infrastructure, and development projects threatening the environment. We gathered these under the following headings: urban destruction, HPP, thermal power plant, nuclear power plant, GPP, WPP, BPP, environmental and industrial pollution, and deforestation.

We also deem it necessary to make note of our preferred conceptualization in this study, which focuses on the private sector actors’ legal actions initiated with an aim to intimidate and silence those who fight for ecological rights and strive to stop the destruction of nature. The Declaration on Human Rights Defenders, adopted by the UN General Assembly in 1998, recognizes the right to defend rights and freedoms (human rights) protected by international documents as a right in itself and imposes an obligation on states to protect and support rights defenders. The term “human rights defender” emerging from this declaration is used to define persons acting in a peaceful manner, individually and in association with others, for the promotion, protection, and realization of universally recognized human rights and fundamental freedoms. Currently, the concept “human rights defender” found in international documents on fundamental rights and freedoms is replaced by the expression “rights defender”.⁵ One of the reasons for such a replacement is that the “human” subject in “human rights” disregards the violations that women and LGBTI+ are subjected to and excludes ecological rights and animal rights.

In his 2016 report focusing on ecological struggles, Michel Frost, the UN Special Rapporteur on the Situation of Human Rights Defenders between 2014-2020, uses the term “human rights defender” to refer to *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*.⁶ This definition focusing on “what [rights defenders] do” also covers professionals such as journalists, activists, or lawyers who expose and oppose environmental degradation, destruction, or land grabbing, as well as residents, native populations, or local communities who live in rural or urban areas and who may not even be aware that they are acting as environmental rights defenders.⁷

In this study, we adopt the Special Rapporteur’s definition with the intention of setting aside the anthropocentric approach to rights which excludes ecological rights and animal rights. Although we adopt the Special Rapporteur’s definition, we prefer to use the term “rights defenders” instead of the term “environmental human rights defenders” used in his report. The reason why we make such a preference is that while the term “*environmental human rights defenders*” may point at ecological struggles, there is no definition commonly agreed upon by actors who engage in advocacy in ecological struggles in Turkey. Different terms such as “environmentalist”, “activist,” “environmental activist”, “conservationist”, and “life defender” point at actors who essentially defend rights. For this reason, we use the term “rights defender” in this study.

The first section of the report provides a general overview of environmental disputes emerging from 2013 to the first half of 2022, as well as tools and methods of struggle. The second section addresses *SLAPPs* as a tactic of oppression and interference, both conceptually and in terms of their application in Turkey. This section also looks at the conduct of the judiciary. The final section includes stories of rights defenders who have been subjected to *SLAPPs*. In selecting the rights defenders profiled in this section, we tried to make sure that the reader could have a perspective on the diversity of legal actions that constitute *SLAPPs* in Turkey.

The data underlying the study focusing on the period between 2013-2022 was collected through desk-based research reviewing reports prepared by rights-based CSOs, press statements, and news articles featured on online news outlets and digital media platforms. For this reason, we must emphasize that this study does not claim to encompass all cases that occurred within the time frame in focus. The report’s assessment aims to offer a general overview of common trends that can be identified in the cases documented during the desk-based research.

Environmental Disputes and Methods Of Struggle

Before addressing legal actions initiated by private sector actors with an aim to deter, intimidate, and silence rights defenders in the ecological field, which is the main focus of this study, we aim to present in this section the methods of struggle used by environmental movements and the pressures directed at their struggles.

Legal means come at the forefront of methods used by environmental movements in Turkey. For many years, citizens, professional organizations, and CSOs have been filing administrative lawsuits of urban and environmental nature for “the cancellation of the project”, “the cancellation of permit”, “the revocation of the decision that EIA is favourable/not required” requesting “the stay of execution” in these lawsuits. The struggle through legal avenues is, at times, accompanied by the use of rights and freedoms such as the right to information, right to petition, freedom of expression, and freedom of assembly: Vigils are held, signatures are sought for petitions, press statements are delivered, protests are organized. In this section of the report, we will try to describe which environmental disputes arose in different parts of Turkey between 2013-2022 and which methods were employed in environmental struggles against these disputes. Within this context, we will touch upon the green space resistances in urban areas, the right to water struggles, mining resistances in rural areas as well as environmental disputes emerging against thermal power plants, nuclear power plants, GPP, WPP, and BPP projects, industrial pollution and deforestation in this section of the report.

Istanbul is an important city for struggles to defend the right to the city and protect natural areas in the city. In the aftermath of the Gezi Park protests, urban struggles were waged against investments aiming to open Istanbul’s public spaces to private capital through mega projects. In 2014, local residents waged a legal struggle and at the same time organized petitions, press statements, and vigils against the mosque that was planned to be built at the entrance of the Validebağ Grove, a first-degree natural and historical site in the Üsküdar district of Istanbul. Although lawsuits filed for the cancellation of the mosque project were ongoing, the mosque was built at the entrance of the grove and was opened in 2015. Never-

theless, the struggle to protect Validebağ Grove did not come to an end there. In 2018, the MEUCC⁸ commissioned the IMM a “Project for a People’s Garden” (*Millet Bahçesi Projesi*) and the District Council for the Protection of Cultural Assets approved the project. Following this approval, the Validebağ Volunteers (*Validebağ Gönüllüleri*) filed a lawsuit before an administrative court. As a result, a decision for the stay of execution was delivered for the project. In 2020, the Validebağ Grove was allocated to the Üsküdar Municipality for maintenance and repair works. The Validebağ Volunteers started a petition campaign and handed in 25.000 signatures that were collected to the MEUCC. In 2021, it was intended that construction work would begin to implement the “Validebağ Grove Arrangement and Rehabilitation Project”. Local residents who wanted to stop the project began to hold a vigil at the grove in June 2021. In addition to the vigil, the Validebağ Volunteers also filed a lawsuit for the cancellation of the project. The Administrative Court first delivered a decision for the stay of execution on the grounds that the grove is a first-degree protected site and then canceled the project. The importance of the Validebağ Volunteers, established by local residents in 1998, must not be overlooked for the emergence of a struggle against projects that would harm the Validebağ Grove.⁹

Also, in the aftermath of the Gezi Park protests, a legal struggle was waged and objections were raised through press statements and protests led by the Istanbul Urban Defence (*İstanbul Kent Savunması*)¹⁰ against the Project for the Filling of the Sea Terminal Piers and Revision of Surroundings (publicly known as the Kabataş Seagull Project, *Kabataş Martı Projesi*) planned by the IMM. Speaking of urban struggles, protests organized to protect Istanbul’s urban gardens (*bostan*) must be mentioned. Struggles to protect the Roman Garden in the Beyoğlu district of Istanbul and the Yedikule Gardens in the Fatih district further expand debates on the right to the city and the city’s commons. Alongside these struggles which are becoming more visible in the city, many struggles are ongoing in both Istanbul and other parts of Turkey to protect urban spaces. For instance, in June 2022, residents in Çekmeköy began to hold a vigil against the municipality cutting down trees in a park in the Mehmet Akif Neighborhood of the Çekmeköy district of Istanbul. As this report was under preparation, they continued their struggle with vigil.

Following the 2010s, there has been a significant increase in HPP projects planned to be built with private capital (Adaman, Akbulut, and Arsel, 2016). With this increase in HPP projects, environmental disputes arise in different provinces and struggles against such projects begin to spring up. When speaking of HPP projects, the Black Sea Region is the first region

that comes to mind. Villagers who will be adversely affected by the Kavaklı HPP Project, the construction of which began in 2013 in the Arhavi district of Artvin, initially protested the project through legal means and press statements. Upon the court giving the HPP construction its approval in 2016, the villagers began a vigil. Similarly, villagers fought against the Ardanuç 5 Regulator and HPP Project planned to be built in the Ardanuç district of Artvin, through both legal means and by holding vigils. In addition to HPP protests or anti-HPP vigils found across the Black Sea region, protests are also held to fight against HPP projects planned in Mersin, Antalya, Tokat, Van, and Tunceli.

With an amendment to the Law on Mining in 2004, Turkey in its entirety became a potential area for mining activities (gold, copper, zinc, limestone, lead, stone quarry, and marble quarry) (Erensü, 2020).¹¹ Mining projects, increasing with the expansion of potential areas for mining, also increase objections against them. Legal remedies and vigils are important tools for struggles against mining activities, as is evident both in urban struggles and struggles against HPP projects. While both tools of struggle are present in certain places, other places only resort to legal means for different reasons. The vigil against the Kirazlı Gold Mine project in the Mount Ida region in 2019 also found support from environmental struggles from across Turkey. Although the Kirazlı Gold Mine project is paused for the time being, struggles against mining threats in the Mount Ida region continue through legal means as well as press statements and protests. Similarly, villagers protested the stone quarry project planned to be built in between the villages of Cevizlik and Gürdere in the İkizdere district of Rize in May 2021 with vigils alongside a legal struggle.

That said, there are places where a struggle cannot be fought through protests and vigils. Local residents do not/cannot give a strong reaction against the expansion of the Çöpler Gold Mine in the İliç district of Erzincan. There are attempts to cancel the project through legal means. On the other hand, following the cyanide spill in the Çöpler Gold Mine in July 2022, objections were raised from all around Turkey and social media played an important role. This shows that environmental disputes in Turkey have expanded by establishing wider communication networks and support mechanisms. Besides regions related to mining that we have tried to exemplify here, the cities of Tekirdağ, Bolu, Artvin, Ordu, Aydın, Antalya, Samsun, Hatay, Giresun, Yozgat have also been under the threat of mining between 2013-2022 and local objections have also emerged there.

Environmental disputes around thermal power plant projects are also increasing in re-

cent years. While many countries around the world announce goals to shut down coal-fired thermal power plants in the face of the climate crisis, it is quite worrying that, as of 2022, there remain thermal power plants which are under construction and are planned to be expanded in Turkey. While the thermal power plant operating for many years in the Yatağan district of Muğla poses an important threat to local residents, a lignite mine is intended to be opened in the Akbelen Forest to obtain coal for the thermal power plant in the region. To prevent this from happening, local residents, together with the support of different environmental organizations/institutions, have been holding a vigil since July 2021. In the Amasra district of Bartın, through legal means, press statements, petitions, and protests, there is an important struggle that has been ongoing for many years against the thermal power plant planned to be built in the region. The struggle against the thermal power plant under construction in the Hunutlu district of Adana must also be highlighted. The reaction against the construction of the thermal power plant in Hunutlu, Adana brings together different actors by getting support from the local people as well as many national and international environmental organizations and CSOs. In the struggle against thermal power plants, one must not overlook the importance of the Right to Clean Air Platform (*Temiz Hava Hakkı Platformu*), established by different CSOs working in the fields of nature conservation and health.¹²

While the emergence of struggles against nuclear power plants in Turkey dates back to the 1990s, environmental disputes around nuclear power plant projects re-emerged when the project for a nuclear power plant intended to be built in Sinop came to the fore in 2013. At the same time, the struggle against the nuclear power plant under construction in Akkuyu, Mersin is also ongoing through legal means and protests.

In addition to the aforementioned areas of struggle, GPP, WPP, and BPP projects, environmental and industrial pollution and deforestation constitute important aspects of environmental struggles. With respect to GPPs, environmental disputes around the Aydın province and its vicinity must be mentioned. Local residents raise their opposition to the GPP project intended to be built in the Kızılcaköy neighborhood of Aydın's İncirliova district by holding a vigil. In addition to the vigil, they also try to stop the project through legal means. Struggles against WPPs and BPPs remain as objections at the local level. As examples of environmental disputes against environmental pollution, industrial pollution, and deforestation, the legal struggle, press statements, and protests by environmental organizations in the Mount Ida region to protect the Akçay Wetlands in the Akçay district of Balıkesir can be given as an example.

From 2013 to 2022, different environmental disputes against various fields of activity have emerged and they continue to do so. With increasing debates around the environment in the aftermath of the Gezi Park protests, movements that began at different localities before the Gezi Park protests became more visible and began to form relations with increased solidarity and communication. These connections established between different localities present a positive picture for the development of the environmental movement in Turkey. Holding vigils and resorting to legal means emerge as common strategies in many environmental struggles. Together with the legal struggle, the use of internationally acknowledged rights and freedoms become an important tool for struggle. For example, with the Gezi Park protests, vigils held in different localities in the 2010s become a more visible and widespread tool for struggle. On the other hand, environmental destruction grows with many projects in different fields of activity, and rights defenders who raise an objection often face interference and pressure from security forces and companies.

We observe that women are active actors in environmental struggles between 2013 and 2022. For different reasons and with different motivations, women actively join environmental disputes to protect their living spaces. In rural areas, women often subsist on activities such as agriculture and animal husbandry. One of the main motivations for women to join these struggles is the fact that their land on which they subsist will be taken away with projects such as mines, HPPs, thermal power plants, or GPPs. At the same time, women do not want a project to change their social and cultural relations where they live. While defending the spaces they live in, they also fight against the harassment from employees working at the project's construction, the destruction of the gardens where they go to socialize or the transportation problems that the project will cause (Aslan, 2016; Kadirbeyoğlu and Bakan, 2019). In short, women across different localities in Turkey actively resist by participating in the struggle with banners they display, vigils they hold, press statements they read out, and also contribute to the construction of a collective identity in the local struggle with their clothes, accents, and folk songs (Aslan, 2022). On the other hand, during this fight, they can be subjected to the harsh intervention of law enforcement authorities and security personnel from the company. In certain situations, interventions by state or corporate authorities may differ for men and women. For example, during anti-mine protests in the Kirazlıyayla village of Bursa's Yenişehir district, no legal action was taken against men who were taken into custody but criminal cases were filed against women. The testimonies in the examples we examine deem it necessary to underline the gender aspect of *SLAPPs*.

***SLAPP* As**
A Tactic of
Pressure and
Intervention

Having a look at environmental disputes that we have kept a record of from 2013 to the first half of 2022, we observe that companies as legal persons and their executive board members, company directors, employees, or third parties whom they are in a contractual relation with (such as security personnel, experts) increasingly resort to legal means against rights defenders in the ecological field. The use of legal means to intimidate and silence rights defenders is nothing new, nor is it unique to Turkey. The earliest research on this tactic dates back to as early as the mid-1970s.

In the 1970s in the USA, it was common to come across compensation lawsuits filed by public officials or elected representatives against citizens who expressed their discontent with public services or the inadequacy thereof, through different means such as submitting petitions, filing lawsuits, attending protests, or organizing campaigns. In an article they published in 1988, Canan and Pring termed these lawsuits as “strategic lawsuits against public participation” (*SLAPP*) (Canan and Pring, 1988). They were widespread at the time and claimed that individuals’ attempts to influence executives/public authorities or to change voters’ opinions on matters of public interest had caused pecuniary or non-pecuniary damages. Based on data from 100 cases of this kind, they identify the following patterns for cases they define as *SLAPPs*:

- What filers of such lawsuits claim to be “tort” is essentially the exercise of individuals’ freedom of political expression – for example, submitting petitions or attending protests on matters of public interest, such as the use of natural resources, construction plans, and the adequacy of state services.
- As filers cannot legally bring claims for merely disliking certain expressions, they rely on judicially recognizable accusations such as insult, defamation, nuisance, and judicial process abuse.
- Filers do not aim to win the case; it is sufficient that there is a deterrent or chilling effect on individuals exercising their freedom of expression.

SLAPPs get their name from lawsuits filed by elected representatives or public officials against individuals exercising their freedom of political expression in the USA in the 1970s. Yet today, in many parts of the world, *SLAPPs* are not only used by politicians and public officials but instead are more often brought by companies against rights defenders and journalists¹³.

The Guiding Principles, adopted by the UN Human Rights Council in June 2011, are recognized as a global standard that determines the roles of states and companies in preventing and addressing the adverse impacts caused by companies on human rights and the environment. The second pillar of the Guiding Principles focusing on companies stipulates that *independent of* the states' duty to protect and respect human rights or their willingness to fulfill this duty, business enterprises regardless of their size, sector, location, ownership, and structure also bear the responsibility to respect human rights and to avoid infringing on the human rights of others. Companies pressuring and silencing rights defenders with *SLAPPs* violate rights defenders' internationally recognized human rights such as freedom of expression and freedom of assembly.

In its 2021 report¹⁴, the UN Working Group on Business and Human Rights¹⁵, which has the mandate to promote the effective and comprehensive implementation of the Guiding Principles in UN Member States, reiterates the importance of rights defenders in rendering visible the human rights and environmental violations and states that the human rights due diligence must also include risks against rights defenders.

Looking at the data collected by the BHHRC, which has been keeping a record of *SLAPP* cases worldwide since 2015,¹⁶ *SLAPPs* are found as part of the wide spectrum of judicial harassment.¹⁷ The BHHRC data reveals that *SLAPPs* are criminal complaints or lawsuits (civil, criminal, or administrative) filed by companies, their executive board members, or employees against rights defenders who exercise their freedom of expression and/or freedom of assembly in relation to corporate activities or related matters with the aim of deterring, intimidating, and ultimately silencing them.

In this study, we consider *SLAPPs* to be legal actions initiated by companies or their executives/employees to silence, intimidate and deter *rights defenders* who voice their dissent or criticism on corporate actions, and who exercise their right to participate in decision-making processes, freedom of expression or freedom of assembly.

LEGAL ACTIONS THAT CONSTITUTE *SLAPPs* IN TURKEY

In environmental disputes that we could identify in the scope of this research, we observed that legal actions that constitute *SLAPPs* brought against rights defenders are initiated by companies, their executive board members, employees, and private securi-

ty personnel. Although limited in number, there are also legal actions initiated by professionals such as architects or engineers.

In the examined examples, criminal complaints filed to prosecutor's offices and compensation lawsuits brought before civil courts stand out as the most common legal actions that constitute *SLAPPs*. Where both a criminal complaint and a compensation lawsuit are filed against right defenders, we also come across complaints to non-judicial authorities simultaneous to, prior to, or after these legal actions.

Another aspect of these legal actions that constitute *SLAPPs* is "covert *SLAPPs*". We refer to them as "covert" because these legal actions -on the surface- are not initiated by companies, their executive board members, employees, or private security personnel but these actors nonetheless play an important or active role in prompting the legal action. In this context, we discuss in detail how criminal complaints, compensation lawsuits, administrative complaints, and applications to official authorities are used.

Filing a criminal complaint with the intention to prompt a criminal case

Companies and their executive board members, directors, employees, and third parties whom they are in a contractual relationship with, file criminal complaints against rights defenders due to their objections, criticism, or peaceful protests against corporate actions. In the examples we have examined, we observe that criminal complaints alleging acts such as insults, threats, or physical assault play an important role. The criminal complaints request the prosecutor's offices to prepare an indictment and file a criminal case against rights defenders.

Here are some representative examples we have identified in environmental struggles in Turkey between 2013 and 2022 which can provide a general overview of cases where a criminal complaint was filed with the intention to prompt a criminal case:

- Ahmet Öztürk, spokesperson for the Anti-HPP Platform; the local *muhtar* Tevfik Sarı and villagers Hakan Mert, Alper Mert, and Birkan Çiftçi, fighting against the HPP project planned to be built in the Boğazpınar village of Mersin's Tarsus district were subject to a criminal complaint filed by the HPP company Çamlıyayla Enerji Elektrik Üretim A.Ş. According to articles in the press, the criminal complaint alleged that the slogans

chanted during the Boğazpınar Karasu Culture and Arts Festival on 10-11 August 2013 which included statements like “It’s no use building an HPP, we will tear it down” (“*HES yapma boşuna, yıkacağız başına*”) and “Villagers are brothers and sisters; HPP supporters are traitors” (“*Köylüler kardeş, HES’çiler kalles*”) contained threats and insults. News articles further reported that the criminal complaint stated that “they made children chant slogans without them knowing the meaning and importance of what they were saying and there was a choir. Due to the reaction of a small group of villagers, company officials try to live with the concern as to where and how they may be attacked. They are concerned of their physical safety.”¹⁸ Among those against whom a criminal complaint was filed, only Ahmet Öztürk became the subject of an indictment. The indictment demanded 13.5 years of imprisonment on the grounds that the slogans chanted at the festival, “It’s no use building an HPP, we will tear it down” and “Villagers are brothers and sisters, HPP supporters are traitors”, contained threats and insults.¹⁹ At the hearing on 16 April 2014, the Tarsus Criminal Peace Court acquitted Ahmet Öztürk on the grounds that there was no intent or negligence for the commission of the crime.²⁰

- Tuğba Günal and Birhan Erkutlu settled in the Alakır Valley in Kumluca in 2004 and became known for their fight against HPPs which increased in number in the region after 2009. Tuğba Günal and Birhan Erkutlu state that they have been pressurized with threats, shots fired in the air in front of their home, their water supply cut off, and a camera installed in front of their home—all because of the struggle they have put up. Another aspect of these pressures is the criminal complaints filed against them. The project manager of the Dedegöl Enerji Yatırım A.Ş. in charge of the construction of the Kürce Regulator and HPP in the Alakır Valley, filed criminal complaints against Birhan Erkutlu in 2013 claiming that the statements of Erkutlu’s Facebook page contained insults and threats, and in 2014 on the grounds that the information that the statements on Erkutlu’s Facebook page were based on were illegally obtained from his computer. In 2018, the site manager at HPP construction filed a criminal complaint against Tuğba Günal on the grounds that a camera trap viewing his property was installed, images of his property were obtained without permission, and there were insulting comments about him under the photos shared on a Facebook page. The Antalya and Kumluca Prosecutor’s Offices gave a decision of non-prosecution (KYOK) regarding all three criminal complaints.

- Hakan Kıran, the architect of the Kabataş Seagull Project (*Kabataş Martı Projesi*) filed a criminal complaint against social scientist Cihan Uzunçarşılı Baysal for her arti-

cle “The Kabataş Seagull Project: The Dubaification of Istanbul and the Ethics of the Architect” (“Kabataş Martı Projesi: İstanbul’un Dubaileştirilmesi ve Mimarın Etiği”) featured in the Fall 2016 edition of the periodical *Mimar.ist Dergisi* published by the Istanbul branch of the TMMOB Chamber of Architects on the grounds that the article insulted him. The Istanbul Prosecutor’s Office gave a decision of non-prosecution (KYOK) regarding the complaint. Kıran also filed a criminal complaint against Ersin Kiriş, a member of the Association for the Solidarity of Politechnic Engineers Architects Urban Planners (*Politeknik Mühendis Mimar Şehir Plancıları Dayanışma Derneği*) on the grounds that a statement published on the association’s website insulted him. The Istanbul Prosecutor’s Office also gave a decision of non-prosecution (KYOK) regarding this complaint.

• The people of Kirazlıyayla are fighting against Meyra Mühendislik Proje ve Madencilik San. ve Tic. Şti which intends to build an enrichment facility and a waste pond for the mines extracted from the zinc-lead-copper mine that it operates in the Kirazlıyayla village in the Yenişehir district of Bursa. On World Environment Day on 5 June 2020, the villagers explained in a press statement that, on their way back home, they saw a concrete mixer truck pouring concrete on the road and around the lake, and that they reported it to the gendarmerie. Following arguments and scuffles with the company’s security guards, nine villagers were taken to the police station early in the morning because of a complaint filed by the security guards alleging that the villagers physically assaulted them. After their statements were taken at the police station, four men were released from custody, while five women were referred to the prosecutor’s office. The women referred to the prosecutor’s office were released under judicial control (regularly giving signatures at the police station).²¹ When this report was under preparation as of 2022, the criminal case initiated against nine people was ongoing.

Filing a compensation lawsuit

In recent years, we are able to observe an increase in compensation lawsuits, cited as the most typical example of *SLAPPs*. In environmental disputes that we have identified as part of our research, we learned that nine compensation lawsuits had been filed against eleven rights defenders in the last five years. The latest of these lawsuits was filed in September 2022, shortly before this report was finalized. In the examples we have examined, making press statements, giving interviews to the press, writing articles, or sending letters were made subject to compensation lawsuits.

Often in compensation lawsuits, criticisms expressed by rights defenders in their statements and their writings are described as “unfounded and baseless allegations” or as exceeding the limits of criticism. It is claimed that companies’ reputation and respectability have been damaged and that they have incurred non-pecuniary damages as a result of statements and writings by rights defenders. In two cases, differing from other examples that we have examined, it is claimed that statements by rights defenders constitute *unfair competition*.

Compensation lawsuits aim to frighten and intimidate rights defenders with compensation sums that they could hardly afford in most cases. Here are some examples that we have identified where rights defenders were facing compensation claims between 2013-2022:

- Engineers, architects, urban activists Cihan Uzunçarşılı Baysal, Ersin Kiriş, Zerrin Bayrakdar, Mücella Yapıcı, and Sami Yılmaztürk had been informing Istanbulites on the problems that the Kabataş Seagull Project intended to be built in Kabataş would create, had called on the IMM to abandon the project and had written an article criticizing the architectural project. They were each sued for 1000 Turkish liras by Hakan Kıran, the architect of the project, for “damaging the reputation of the project and his professional reputation”.

- Sedat Cezayirlioğlu, Eşref Demir, and Nuri Uyar from the İliç district of Erzincan have been opposing the pollution created by the Çöpler Gold Mine in İliç and fighting against the expansion of the project. They were sued for 45,000 Turkish liras in compensation for “damaging the reputation” of the company Anagold Madencilik San. ve Tic. A.Ş.

- The Mayor of the Amasra district of Bartın and also a member of the Bartın Platform, Recai Çakır has been fighting against the HEMA Thermal Power Plant Project intended to be built in Amasra. He was sued for 1 million Turkish liras by Hattat Holding A.Ş., Hattat Enerji ve Maden Tic. A.Ş. and Hema Elektrik Üretim A.Ş. for damaging the commercial reputation and prestige of the companies, smearing them, and making unfounded accusations by sending e-mails to Chinese companies. As this report is under preparation as of 2022, the case is ongoing.

- Seventeen rights defenders and an association formed by local villagers against the Dereköy Regulator and HPP project intended to be built on the Alakır River in Antalya

had filed a lawsuit against the EIA report and the Antalya Administrative Court had delivered a decision for the stay of execution. According to news reports, the association and seventeen rights defenders who filed the lawsuit were sent a warning letter by Der-eköy Elektrik Üretim San. ve Tic. A.Ş. claiming 20 million Turkish liras in damages.²²

- Halime Şaman, the Environmental Committee Spokesperson for the Marmaris City Council (*Marmaris Kent Konseyi Çevre Sözcüsü*), had opposed the continuation of the hotel and timeshare housing project intended to be built in the area situated between İçmeler and Turunç in the Marmaris district of Muğla and had objected to the decision that an EIA is not required. In 2021, Sinpaş GYO and Kızılıbük GYO filed a compensation lawsuit claiming 300,000 Turkish liras in damages against Halime Şaman, for “engaging in unfair competition with the company”. As this report is under preparation as of 2022, the case is ongoing. During this process, a compensation lawsuit was filed against Ufuk Beytekin, the Head of the Marmaris City Council, claiming 300,000 Turkish liras in non-pecuniary damages with the same allegations.

Filing a complaint to prompt an administrative action

As another example of *SLAPPs* -albeit a singular example- we have identified a case where the company has filed a complaint to prompt an administrative action against the rights defender. Although the data underlying this study was collected through desk-based research, this example was learned about during a field visit. Considering that this report is not a conclusive investigation of cases of environmental disputes in Turkey, it can be inferred that this singular example may as well have been repeated.

The Bartın Platform was established in 2010 when institutions and individuals, which considered that the thermal power plant planned to be built in the Amasra district of Bartın would be detrimental to the environment and human health, came together. The social and legal struggle against the thermal power plant is carried out under the umbrella of this platform. Prof. Erdoğan Atmış, a faculty member at the Faculty of Forestry at Bartın University and a member of the Scientific Council of the Foresters’ Association of Turkey, is also a member of the Bartın Platform. In 2018, Hattat Enerji ve Maden Ticaret A.Ş., intending to build a thermal power plant in the Gömü village of Amasra, filed a complaint to the Council of Higher Education (*Yükseköğretim Kurulu*, YÖK) alleging that Erdoğan Atmış had insulted the company and its executives with a statement he delivered at the site of



the thermal power plant. The complaint requested disciplinary action to be taken against Atmıř. Four days after the company's complaint, alleging that Atmıř had made humiliating statements and had targeted him, Prof. Orhan Kural, a retired faculty member from the Faculty of Mining at ITU filed a complaint to YÖK and requested that disciplinary action is taken against Atmıř. In his complaint, Kural -who had acted as an expert in the case between the company and the Turkish Hard Coal Enterprises (*Türkiye Tařkömürü Kurumu*)- alleged that Atmıř made claims that he had abused his expert duties and prepared an improper report. YÖK did not take any action against Erdoğan Atmıř regarding these two complaints. Nevertheless, the company and Kural both filed criminal complaints, parallel to the allegations mentioned in their complaints to YÖK. The Amasra Prosecutor's Office gave a decision of non-prosecution for both criminal complaints.

Due to the pattern involved (i.e. almost simultaneous complaints to YÖK by the company and the professional, also filing criminal complaints parallel to these complaints), we consider complaints aiming to prompt an administrative action to be *SLAPPs*.

Covert SLAPPs

In environmental disputes in Turkey, citizens and civil society actors are filing urban and environmental administrative lawsuits with the aim of highlighting, demanding,

and defending the rule of law and social benefits against projects, services, and applications (realized by the public or the private sector) that have an adverse impact on urban and rural living spaces. Peaceful protests such as rallies or demonstrations, sit-ins, and tent vigils are held—at times to broaden participation or to draw attention to these legal struggles and at times to prevent irreparable harm when projects effectively continue to operate while the legal struggle is ongoing (after administrative courts have delivered a decision to stay the execution).

In most of the examples examined, police and gendarmerie intervene in these peaceful protests, those attending the peaceful protests are forcefully dispersed – sometimes taken into custody – or the protests are not allowed to take place. Criminal investigations are initiated against those who have attended these protests which have been intervened in, dispersed, or have not been allowed. Often, the attendees are indicted for non-compliance with the Law on Meetings and Demonstrations and a criminal case is filed. The indictments also include accusations such as “resisting a public official to prevent them from performing their duty”, “violation of freedom to work and labor”, “resisting a police officer on duty”, “damage to property”, “engaging in threatening and insulting behavior”, “engaging in harmful actions”.

In certain situations, the police and gendarmerie do not permit, intervene in, or forcefully disperse peaceful protests following requests from the companies. Based on the permissions they have obtained from relevant authorities, companies declare that the protests disrupt their operations and request support from the gendarmerie and the police. In such cases, although those who initiate legal actions (criminal investigations and lawsuits) against peaceful protestors appear to be prosecutor’s offices at first sight, the companies indeed play an inciting role.

According to the Guiding Principles, in addition to the companies’ duty to respect freedom of assembly, companies must also use their leverage against states to ensure that peaceful protestors can exercise their right to peaceful protest and to protect these rights. However, in the examples examined, it is observed that the first step taken is towards preventing or restricting the use of the right, rather than fulfilling this duty and using this leverage. The prosecutor’s offices are the ones who take the first step in initiating legal action since it is within the public authorities’ discretion to prevent the exercise of or to restrict a right and initiate criminal lawsuits which are of public nature.

Nevertheless, in some cases, the companies are the ones who prompt the prosecutor's offices. For this reason, we call these legal actions "covert *SLAPPs*".

Since companies are not directly listed as a party (such as complainant or plaintiff) to such legal actions, it is difficult to detect them. However, cases, where accusations of the violation of the freedom of work and labor and the obstruction of occupational safety are found suggest covertness.

THE CONDUCT OF JUDICIAL AUTHORITIES

In the examined examples of legal actions that constitute *SLAPPs*, it can be observed that prosecutor's offices and courts in most cases deliver a decision of non-prosecution, or if an indictment has been prepared, criminal courts deliver acquittal decisions at the end of the proceedings. Parallel to this, civil courts reject cases in compensation lawsuits.

In the examples, we have examined of criminal complaints alleging acts such as insults, threats, or physical assault, in only one instance was the rights defender indicted and charged. In all other cases, a decision of non-prosecution was delivered at the end of the investigation. In the only incident where a criminal case was filed, the proceedings were concluded with an acquittal. In certain examples of decisions of non-prosecution and acquittal, judicial authorities examined whether the elements of crime set in the Penal Code were present and based their reasoning on the absence of the legal elements. In other examples, judicial authorities have made their assessment within the scope of freedom of expression and considered that the statements of rights defenders fell within the scope of Article 26 of the Constitution and Article 10 of the European Convention on Human Rights.²³

In the examples examined, we found that the majority of compensation lawsuits against rights defenders rely on the provisions of the Code of Obligations on the compensation of damages caused by a violation of personality rights. These lawsuits are heard before Civil Courts of First Instance. As of September 2022, when this report was finalized, the courts had already ruled in all cases, except for three. In their judgments, the Civil Courts of First Instance ruled that the statements of rights defenders fell within the scope of criticism and freedom of expression, hence rejected the compensation claims.

In the two examples we examined, the compensation lawsuits against rights defenders rely on unfair competition provisions in the Commercial Code. In both examples, it was claimed that the rights defenders' statements on the company's activity (the project) have tarnished the company's operations, commercial activities, and brand, thereby creating a negative perception among the company's clients and investors. In these two compensation lawsuits heard before commercial courts, the companies also requested interim measures against rights defenders. In both examples, the company's request is an interim measure "to prevent [the rights defender] from making statements, commenting on or giving interviews about the company and its project". The compensation lawsuits based on unfair competition were ongoing as of September 2022 when this report was finalized and the courts had rejected the companies' interim measure requests at the beginning of the cases.

In the majority of examples with serious indications of covert *SLAPPs*, rights defenders receive punishments. Legal actions that we call covert *SLAPPs* are based on companies' requests submitted to official authorities for actions and statements of rights defenders at peaceful demonstrations they attend. In these legal actions, often initiated under the Law on Meetings and Demonstrations, judicial authorities do not make an assessment under the scope of freedom of expression—unlike in other legal actions. An indictment is prepared against rights defenders and they often receive prison sentences at the end of the proceedings. In the press review we have conducted, we can observe that a decision of non-prosecution (HAGB) is delivered against the rights defender in such cases and their prison sentence is not executed.

Imposing a decision of non-prosecution (HAGB) on rights defenders who have been punished for the thoughts they have expressed in different ways or for their actions in peaceful protests they have attended, without applying international human rights standards, puts an indirect restriction on the exercise of their freedom of expression or freedom of assembly for five years. This is because in case right defenders are put on trial in a similar fashion within this five-year probationary period, they bear the risk of serving both the previous prison sentence and the new prison sentence.

**Targeted
Rights
Defenders**

“It is extremely concerning how *SLAPPs* have become a staple in the manipulation of the judicial system by business actors to stop legitimate human rights work, restrict civic space, and repress dissenting voices. *SLAPPs* drain the resources of defenders, take time away from human rights defense, and can intimidate others from engaging in legitimate human rights work.”²⁴

Mary Lawlor, UN Special Rapporteur on the situation of human rights defenders

In previous sections of our report, we categorized legal actions employed by private sector actors as a strategic counter-tactic. These legal actions that constitute *SLAPPs* are directed against rights defenders as individuals; rights defenders are targeted by them and bear the consequences. Therefore, we believe that it is important not only to categorize and understand these legal actions, but also to get acquainted with the rights defenders, understand the processes they have been through, and how they have been affected by these legal actions.

Our aim was to select the rights defenders introduced below in a way that would help understand the categories presented in the report—in other words the strategic counter-tactics used by private sector actors. We would also like to remind that rights defenders subjected to pressures are not limited to those whom we have featured in our report. There are many rights defenders who are threatened, physically assaulted, or judicially harassed, and these rights defenders lose *their well-being* and even their lives as a result of all these pressures and judicial processes.

HALİME ŞAMAN

Halime Şaman, a biologist and economist, lived in Bursa for many years. Settled in Armutalan, Marmaris after retiring from the pharmaceutical company where she was working, Şaman takes an active part in the ecology movement in Marmaris.²⁵ Because of the struggle she is engaged in, Şaman faces the pressure to pay compensation that far exceeds her income.

The construction of the project²⁶ that Sinpaş GYO's timeshare housing company Kızılbük GYO continues to sell and market under the brand "Sinpaş Kızılbük Thermal Wellness Resort" in the region between İçmeler and Turunç in the Marmaris district of Muğla was actually started in 1988 by businessman Emin Hattat.²⁷ Following Hattat's bankruptcy, Sinpaş bought the building in 2009, which at the time remained a construction site. The project that Sinpaş intends to build includes facilities such as a hotel with 230 rooms, 1350 timeshare housings, a shopping mall, a thermal spa, and an aqua park.²⁸ On 13 August 2021, a decision that "an EIA is not required" was given for this hotel and timeshare housing project planned to be built in the region. Sinpaş GYO claimed 300,000 Turkish liras in damages on "unfair competition" grounds from Halime Şaman, a member of Marmaris City Council Environmental Executive Committee (*Marmaris Kent Konseyi Çevreden Sorumlu Yürütme Kurulu*) and the spokesperson for the Muğla Environmental Platform (MUÇEP). Şaman had opposed the continuation of the project and the decision that an EIA was not required, as well as the potential urban, environmental, and public health problems that the project would create. The company argues that Şaman's statements constitute defamatory activity with the aim of creating a false impression without any documentation.

The company, which describes itself as one of the largest construction firms in Turkey and earned 5.2 billion Turkish liras in net profit in 2022²⁹, lists the following grounds in the compensation lawsuit it filed against Halime Şaman, *a retiree*: spreading baseless rumors, tarnishing their commercial activities and brand by providing false and misleading information. Şaman's statements to the press and her comments as the spokesperson of the City Council are covered in detail in the case file. The company, stating that it had to provide explanations to its customers and investors due to Şaman's statements, claims that its personality rights have been damaged. In the company's petition, there is a request for an interim measure to prevent Şaman "...from speaking about, commenting on, giving statements to the press about the company and its projects".

Inspired by the English word "slap" and referring to legal actions initiated by companies to silence, intimidate and deter rights defenders who express their dissent or criticism through different tools and means, the acronym *SLAPP* points at the real intention behind such legal actions. In the case against Şaman, the interim measure request itself demonstrates that the lawsuit constitutes a *SLAPP* as it is used as a tactic to intimidate and silence rights defenders.

The trial for unfair competition, the first hearing of which was held before the Istanbul 5th Commercial Court on 28 December 2021, was still pending as of 2022 while we were writing this report. Five hearings have been held so far. Halime Şaman travels from Muğla to Istanbul for each hearing. Like many other rights defenders targeted by legal actions that constitute *SLAPPs*, Şaman has to bear both the psychological and financial burden of these lengthy trials.

Following the compensation lawsuit filed against Halime Şaman, Ufuk Beytekin, who is the head of the Marmaris City Council and who supported Şaman's struggle and called for further support, was also sued for 300,000 Turkish liras for "unfair competition" on the same grounds as we were writing this report. Again, there is a request for interim measures to prevent Beytekin "...from speaking about, commenting on, giving statements to the press about the company and its projects".

SEDAT CEZAYIRLIOĞLU

The Çöpler Gold Mine in the İliç district of Erzincan has been operated by Anagold Madencilik Sanayi ve Ticaret A.Ş. (Anagold Madencilik) since 2010.³⁰ For about seven years, Sedat Cezayirlioğlu from İliç has been actively fighting against the environmental pollution created by the Çöpler Gold Mine and the potential threats that the mine has and will bring about. Cezayirlioğlu, a retired train driver from TCDD, first met the judiciary and courts because of his struggle to protect his place of residence and the well-being of the locals living there. Since then, Cezayirlioğlu has been under a constant threat of punishment.³¹

Cezayirlioğlu explains that he has faced eight different legal actions over three and a half years. During our desk-based research on environmental disputes, we have not come across another person who has been targeted by so many legal actions. Five of such legal actions are available on open sources.

Legal actions against Cezayirlioğlu mainly consist of criminal complaints to prompt a criminal case. In addition, Cezayirlioğlu faces a compensation lawsuit.

From legal documents available on open sources, we observe that the legal actions initiated against Cezayirlioğlu stem from his statements. Statements delivered by Cezay-



irliođlu on his own or together with other İliç locals like himself on social media accounts or television shows, and even statements from petitions Cezayirliođlu submitted to courts have all become subject to legal actions. On account of certain expressions on a petition submitted in an administrative lawsuit filed by Sedat Cezayirliođlu and two locals from İliç against Anagold Madencilik, a criminal complaint was filed alleging that their remarks amounted to insults against the court panel. The Erzincan Prosecutor's Office gave a decision of non-prosecution (KYOK).

Even though Cezayirliođlu has been fighting against mines since 2016, criminal complaints and lawsuits against him significantly increase with the year 2020. Anagold Madencilik targeted Cezayirliođlu's social media posts on 15 January 2020. The company filed a criminal complaint to the İliç Prosecutor's Office, alleging that these social media posts create fear and panic and "incite the public to disobey laws". The Prosecutor's Office considered these posts to fall within the scope of "freedom of expression and thought" and gave a decision of non-prosecution (KYOK). The company's objection against this decision was rejected by the Erzincan Peace Judgeship.

Ahmet İlker Doğan, a member of the Executive Board of Anagold Madencilik, filed a criminal complaint against Cezayirlioğlu and two other locals from İliç on 7 October 2020³² and 9 November 2020³³ for some interviews they gave. The criminal complaint alleging insults, slander, and inciting the public to hatred and hostility resulted in a decision of non-prosecution (KYOK). After this, Anagold Madencilik filed a compensation lawsuit before the Ankara 33rd Civil Court claiming 45,000 Turkish liras in damages for an “attack on personality rights and damage to commercial reputation”. This case, similar to other legal actions that constitute *SLAPPs*, did not end with a sanction. The Ankara 33rd Civil Court considered the statements to fall within the scope of “freedom of expression and thought” and rejected the case. At the time of the writing of this report, the appeal process was pending.

The company filed a new criminal complaint alleging that Cezayirlioğlu had insulted the President and government executives on his social media posts published on 25 July 2021. The İliç Prosecutor’s Office considered that some of Cezayirlioğlu’s are criticisms, some refer to concrete facts and there is no expression that would offend one’s dignity, honor, or reputation, hence giving a decision of non-prosecution. The objection against this decision of non-prosecution (KYOK) was rejected by the Erzincan Peace Judgeship.

What Cezayirlioğlu has lost in his fight against mines is not only limited to the judicial proceedings he has been through. Cezayirlioğlu, a train driver working for TCDD, recounts that when he first began his fight against the adverse impacts of the mine, he was threatened by superiors who said “Tell him not to meddle with the mine, or else we will take away his retirement...”. As a result, he had to resign and go into early retirement. In many interviews, Sedat Cezayirlioğlu says that, in addition to *SLAPPs* against him, he also fears his personal safety, is indirectly targeted and threatened.³⁴ Cezayirlioğlu’s call reminds us of the killing of Ali Ulvi and Aysin Büyüknohutçu, who defended life against stone and marble quarries.³⁵

CİHAN UZUNÇARŞILI BAYSAL

In August 2016, the IMM began the construction of the Kabataş Seagull Project designed by architect Hakan Kıran in 2005.³⁶ The project envisioned the filling up of the Kabataş seafront and creating a transfer center where the tramway and the road would meet a seagull-shaped passenger lounge. The Directorate General of Foundations stated

that the Molla Çelebi mosque was damaged³⁷ in the construction of the project which had many historical monuments in its vicinity. The Kabataş Seagull Project came to an end when it was canceled in 2018.³⁸

Defenders of the right to the city, academics, engineers, architects, urban planners, professional associations, and social scientists evaluated the effects of the project from different perspectives and shared with the public the effects of the project both during its construction and after its completion.

Hakan Kıran filed separate criminal complaints and compensation lawsuits each claiming 1000 Turkish liras in damages for “damaging the reputation of the project and his professional reputation” against urban activists Sami Yılmaztürk, former head of the executive board of the Istanbul Metropolitan Branch of the Chamber of Architects; Mücella Yapıcı, member of the Istanbul Metropolitan Branch of the Chamber of Architects; construction engineer Prof. Zerrin Bayrakdar; social scientist Cihan Uzunçarşılı Baysal and construction engineer Ersin Kiriş, Secretary to the Executive Board of Politeknik for their statements or articles. These urban activists had shared the adverse impacts of the project with the public and fought against its construction.³⁹

Social scientist Cihan Uzunçarşılı Baysal is known for her work on urban living spaces such as urban movements or the right to housing. She is a member of the Istanbul Urban Defense and the Northern Forests Defense. Between 2008 and 2013, she also took part in urban movements such as İmece-The Urbanism Movement of the Society (*İmece-Toplumun Şehircilik Hareketi*), the Sulukule Platform (*Sulukule Platformu*), the Victims of Ayazma (*Ayazma Mağdurları*) and the Istanbul Urban Movements (*İstanbul Kent Hareketleri*).

Uzunçarşılı Baysal is one the rights defenders who voiced their opinion and criticism on the Kabataş Seagull Projects on different outlets. Her article titled “The Kabataş Seagull Project: The Dubaification of Istanbul and the Ethics of the Architect” (“*Kabataş Martı Projesi: İstanbul’un Dubaileştirilmesi ve Mimarın Etiği*”) featured in the periodical *Mimar.ist Dergisi* published by the Istanbul branch of the TMMOB Chamber of Architects became subject to a compensation lawsuit.⁴⁰

In the complaint, it is stated that Hakan Kıran is an architect who has and continues to realize many national and international projects, has a justified professional repu-

tation, and continues to work as an architect registered to the Chamber of Architects. As grounds for the compensation lawsuit, the petition claims that Uzunçarşılı Baysal's article featured in the periodical of the Chamber of Architects includes false and defamatory statements that violate Kiran's personality rights, that the article goes beyond the limits of criticizing the project, personally targets Kiran and portrays him as an architect who has no moral or ethical understanding, seeks profit, and steals projects.

The Istanbul 14th Civil Court which heard the case considered that the statements in the said article must be deemed artistic criticism and rejected the case. Five rights defenders, including Cihan Uzunçarşılı Baysal, were all subjected to both criminal complaints and compensation lawsuits because they evaluated the project with their expertise, discussed it within the framework of public interest, and shared their objections with the public through press statements, interviews, or articles. This amounts to the use of judicial means to silence and pressure rights defenders, when their evaluations and objections play a central role in properly informing the public about a public project such as the Kabataş Seagull Project and contribute to discussions on the project.

Legal actions initiated against rights defenders on the same grounds point to a pattern that aims to discourage and silence, not only these five rights defenders but in general all rights defenders who would voice their objections.

RECAİ ÇAKIR AND ERDOĞAN ATMIŞ

In the Gömü Village in the Amasra district of Bartın, Hattat Holding and Hema Elektrik Üretim A.Ş. have been operating to build a thermal power plant for many years. Since 2010, the Bartın Platform has been leading a social and legal struggle against the adverse impacts of the thermal power plant on the environment and public health. Recai Çakır, a member of the Bartın Platform and elected as the Amasra Mayor in 2019, is one of the prominent figures of this struggle. Çakır states that more than 120 mass organizations came together under the umbrella of the Bartın Platform and that the most valuable aspect of this struggle is that the primary actors took it to the streets, took a stand, and contributed to the struggle.⁴¹

Çakır states that the favourable EIA decision and the environmental plans of the project, as well as the electricity production license of the company, have been annulled

one by one—all as a result of nearly twenty lawsuits filed by the Bartın Platform lawyers. Çakır lists the benefits of this collective movement as follows:

*“The company, ministry executives, their local organizations, those who politically stand in a grey zone here got a very clear message. **The people of Amasra and Bartın do not want a thermal power plant.** And indeed, this was also crowned by the legal struggle. Right now, amongst cases we have filed, there are many court decisions and cases concluded in our favor, such as the annulment of the favourable EIA decision, the annulment of the energy license of the company, the annulment of all the decisions on plan changes after the favourable EIA decision.” (Emphasis added)*

The company first arrives in Amasra in 1999 to operate the large ore bed and establish a thermal power plant. At the time, no further activities are undertaken after a meeting at the Bartın Chamber of Commerce and Industry. The company comes back in 2005 and this time -despite previous statements- announces that they will not be building a thermal power plant and will instead extract coal. Although the company says it will export the coal, they later file an application in 2009 to build a thermal power plant. This marks the first time that the company confronts with the public. The company announces the public participation meetings for the Bartın and Amasra thermal power plants in 2010. At this point, the Bartın Platform comes together and there begins the social and legal struggle.

In 2020, Bartın Member of Parliament Yılmaz Tunç announced that they met with China Coal, a Chinese company, in Hattat Holding facilities and news began to spread that Hattat Holding found a new Chinese partner, that they will extract coal from the Amasra B field together with this partner and will hire up to two thousand workers for this project. After this, Recai Çakır, in both his personal capacity and his capacity as the Mayor of Amasra, wrote a letter to Chinese companies that Hattat Holding might engage in commercial relations with and told them about the thermal power plant that Hattat Holding is trying to build in Amasra, as well as the history of the project.

It is a common practice that CSOs and rights defenders engage in advocacy by sending letters to investors and financing institutions. For example, CSOs and rights defenders fighting against the Hunutlu Thermal Electricity Plant project built in Hunutlu, Adana communicated the adverse impacts of the project by sending letters and e-mails to



Amasra beach (2022).
Photo: Ekin Çekic.

Shanghai Electric Power, the majority shareholder of the company executing the project, and the China Development Bank, the Industrial and Commercial Bank of China (ICBC) and the Bank of China, which were financing the project.⁴² Sending letters, a part of freedom of expression and a method used by rights defenders, was met with a lawsuit filed by Hattat Holding A.Ş., Hattat Enerji ve Maden Tic. A.Ş., Hema Elektrik Üretim A.Ş. against Recai Çakır and the Amasra Municipality, claiming 1 million Turkish liras in damages for damage to reputation. A remark in the company's petition, "in order to prevent the respondents from continuing their activities", reveals the purpose of silencing and preventing advocacy work, as seen in other examples of *SLAPPs*. The case was heard for the first time in March 2022 before the Istanbul 2nd Civil Court. Three hearings have been held so far. While we were writing this report in 2022, the compensation lawsuit was ongoing. Çakır leaves Amasra where he continues to perform his public service duties for Istanbul to attend the hearings.

Before Recai Çakır, Erdoğan Atmış, a faculty member at the Faculty of Forestry at Bartın University and a member of the Scientific Council of the Foresters' Association of Turkey and the Bartın Platform, was also subjected to legal actions that constitute *SLAPPs*.⁴³ The *SLAPPs* that Atmış was subjected to reveals a striking pattern.

The Turkish Hard Coal Enterprises claims compensation from the company, arguing that the company has not extracted the amount of coal undertaken in its contract. The company objects to the compensation claim on the grounds that there have been extraordinary circumstances, as a result of which they could not extract the amount of coal undertaken in the contract. An expert report is called for in the case. The Bartın Platform learns that some of the court-appointed experts have connections with the company. For instance, one of the experts, Orhan Kural, who is a retired faculty member from the Faculty of Mining at ITU, has spoken at the press conference held at the collective wedding ceremony which was hosted by the company on Miner's Day on 4 December and has delivered a speech in support of the thermal power plant. In addition, Kural has also served as an executive board member to *Yurt Madenciliğini Geliştirme Vakfı* (The Mining Development Foundation) together with the deputy general manager of Hattat Holding at the time when the expert report was prepared.

On 18 January 2018, the Bartın Platform files a criminal complaint to the Amasra Prosecutor's Office against the company and expert Orhan Kural. As the criminal com-

plaint is filed, Erdoğan Atmış reads out the press statement. Atmış being targeted with SLAPPs coincides with the period right after this date.

Mehmet Hattat files a criminal complaint for Erdoğan Atmış's remarks during a press statement he delivered as the spokesperson of the Bartın Platform in 2017. The criminal complaint is based on his remarks from 27 December 2017. Members of the Bartın Platform who find out that the olive trees in the olive grove have been cut down instead of being uprooted and relocated, apply to the relevant authorities and also want to prevent the tree cutting. Meanwhile, Mehmet Hattat files a criminal complaint on 19 January 2018 alleging that Erdoğan Atmış's remarks in addressing company employees constitute an insult.

Orhan Kural also files a criminal complaint on 7 February 2018 for Atmış's remarks in his press release concerning the criminal complaint against him. It is alleged that Atmış committed the crimes of insult, false accusation, and slander.

The Amasra Prosecutor's Office gives a decision of non-prosecution for criminal complaints against Erdoğan Atmış. Mehmet Hattat and Orhan Kural's joint action against Atmış is not limited to these criminal complaints that have not turned into a criminal case. They also file a complaint for YÖK to take disciplinary action against Atmış, who is a faculty member at the Faculty of Forestry at Bartın University. The aims of silencing, stopping, and intimidating, which are the characteristics of SLAPPs, are evident in the different consecutive legal proceedings against Erdoğan Atmış.

Findings and Recommendations

Legal actions that constitute *SLAPPs* not only pose an important – and growing – threat to participation in decision-making processes and freedom of expression but also undermine the judicial system and the rule of law.

Aiming to prevent rights defenders from voicing their dissent and criticism in fear of potential investigations or lawsuits, legal actions that constitute *SLAPPs* have a chilling effect on the freedom of expression and freedom of assembly, hence putting rights defenders under pressure and shrinking civic space.

The examples we examined that related to environmental disputes demonstrate the unique patterns of legal actions that constitute *SLAPPs* in Turkey. Differing from *SLAPPs* against journalists, *SLAPPs* against rights defenders in the ecological field result in decisions of non-prosecution, acquittal, or the rejection of the case. However, covert *SLAPPs* are an exception. Rights defenders subjected to covert *SLAPPs* often receive prison sentences as a result of legal actions initiated for non-compliance with the Law on Meetings and Demonstrations.

Not unique to Turkey, present across the world, and accepted as a global problem, *SLAPPs* are legal actions that are hard to document. They are registered as crimes such as insults, threats, or physical assaults or as compensation lawsuits. However, we know that what qualifies these legal actions as *SLAPPs* is their use as tactics to intimidate and silence rights defenders. The case against Halime Şaman and Ufuk Beytekin is a rare example where we can see this aim. If we recall this example, the companies that filed the lawsuit had requested an interim measure to prevent them “from speaking about, commenting on, giving statements to the press about the company and its projects”.

In legal documents that rights defenders have shared publicly or with the research team during this study, we observe that neither rights defenders themselves nor their

lawyers, in their defenses or petitions submitted, mention *SLAPPs* as a concept or refer to the fact that the legal action at hand constitutes a *SLAPP*. While communicating these legal actions, which are difficult to document as *SLAPPs*, to the broader public and while discussing them before judicial authorities, we deem it important to name them.

To refer to these legal actions as *SLAPPs* will allow them to appear on civil society reports documenting rights violations and news featured in the press. In other words, it will distinguish *SLAPPs* from other, more general categories of lawsuits. As a result, data specific to *SLAPPs* will be available, all aspects of the problem will be visible, data-based problem analysis will become possible and recommendations for solutions/reforms will be developed. In addition, the decisions of judicial authorities will also be monitored. This will enable an oversight of the conduct of the judiciary, as well as provide visibility to the *SLAPP* case-law.

During this research, we noticed that lawyers of rights defenders request e-hearings (e-duruşma) for some hearings in compensation lawsuits that constitute *SLAPPs*. Referring to hearings held online rather than physically in the courtroom, “e-hearings” are used in civil proceedings. While “e-hearings” are convenient, especially when the compensation lawsuit is heard in a city far from where the rights defender and their lawyer reside, the solidarity at the courthouse shown on hearing days cannot be expressed in the same manner. Showing solidarity by coming together with rights defenders on trial not only has a symbolic and healing effect but also facilitates collaborations. These collaborations are a means to strengthen environmental movements and to promote human rights, democracy, and the rule of law. Systems such as “e-hearings” which prevent these gatherings, indirectly serve the purpose of legal actions that constitute *SLAPPs*, which is to intimidate, deter and create a chilling effect on current or potential rights defenders.

- Pursuant to international human rights law, states have an obligation to protect and respect human rights. In this regard, Turkey should provide an environment that enables rights defenders to participate in decision-making processes and voice their criticism without any threat of punishment. To this aim, legal reforms should be introduced to prevent the existing legislation from being used to intimidate and deter rights defenders. These legal reforms should cover the dismissal/rejection of legal actions that constitute *SLAPPs* as soon as they are filed, as well as the liability of companies.

- Pursuant to the Guiding Principles adopted by the UN Human Rights Council in June 2011, companies regardless of their size, sector, location, ownership, and structure have the responsibility to respect and avoid infringing on the rights of others. In this respect, companies as part of their human rights due diligence should also assess the human rights risks posed for rights defenders. Companies should not resort to legal actions that constitute *SLAPPs* and should adopt and implement a policy of non-retaliation against rights defenders who voice concerns and criticisms about the companies' activities and their adverse impacts on human rights and the environment. This policy should also apply to the company's activities, value chains, and business relations.

- CSOs, lawyers, and rights defenders should use advocacy to raise local and international public awareness to fight against legal actions that constitute *SLAPPs*. In case legal actions that constitute a *SLAPP* are initiated, they should announce to the public all the patterns which disclose that these legal actions are *SLAPPs* and express this matter before judicial authorities as well.

- We invite the UN Working Group on Business and Human Rights and the UN Special Rapporteur on the Situation of Human Rights Defenders to consider these findings and conduct a country visit to Turkey.

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Endnotes

- 1- As part of our river basin studies where we apply environmental justice approaches at the basin scale, we conduct river basin studies on the important waterways of the country at least once every year with a broad research team coming from different disciplines. You can access our work, the stories we have collected and our comprehensive analyses at deretepe.org.
- 2- Our research report can be accessed via mekandaadalet.org/. In addition, webinars, where we discuss the conceptual foundations of the field of business and human rights and current issues, can be accessed via MAD's YouTube channel.
- 3- Office of United Nations High Commissioner for Human Rights (2011). *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*. ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf
- 4- Taksim Artillery Barracks ("Topçu Kışlası") was a structure located in the area where the Gezi Park is today in Taksim, Istanbul between 1806-1940. The structure was demolished in 1940 upon the recommendation of City Planner Henri Prost. Although it was decided to build a larger social activity area in its place, this project was never realized. Construction work began in Gezi Park in May 2013 to rebuild the barracks demolished in 1940. Following the approval of the project, a vigil was started to prevent the construction machines from operating in Gezi Park. Springing up with this vigil, the Gezi Park protests quickly spread following the police intervention against the participants of the vigil in the park on 31 May 2013. People from different groups began to join the vigil at the Gezi Park and the protests found widespread support across the country.
- 5- Hafıza Merkezi (2022). *Keep the Volume Up: Intimidation Policies Against Rights Defenders 2015-2021*, p. 18, footnote 1, sessizkalma.org/sites/default/files/belgeler/2022-05/keep-the-volume-up-intimidation-policies-against-rights-defenders-2015-2021.pdf
- 6- Report by the UN Special Rapporteur on the Situation of Human Rights Defenders, UN Doc. A/71/281, 03.08.2016, paragraph 7, digitallibrary.un.org/record/840291?ln=en
- 7- Ibid., paragraph 8.
- 8- With the Presidential Decree no. 85 published in the Official Gazette no. 31643 on 29 October 2021, the name of the Ministry of Environment and Urbanization was changed to the *Ministry of Environment, Urbanization, and Climate Change*. Where relevant, the report uses the *Ministry of Environment, Urbanization, and Climate Change* to reflect this name change.
- 9- See also MAD (2021). *Validebağ Korusu'nu Korumak* [Protecting the Validebağ Grove] mekandaadalet.org/validebag-korusunu-korumak/
- 10- The Istanbul Urban Defense, established on 27 June 2015, consists of the Northern Forests Defense, urban movements, park forums, as well as many neighborhood associations and environmental organizations. For detailed information, see istabip.org.tr/3416-yama-deil-yam-cin-kent.html
- 11- For example, according to a report published by TEMA in April 2020, mining permits cover 79 percent of the Mount Ida region. Similarly, according to a report published by TEMA in October 2021, 66 percent of the region that covers the cities of Tunceli, Erzincan, and their surroundings have been given mining permits.
- 12- For detailed information, see temizhavahakki.org
- 13- For a study on SLAPP lawsuits against journalists in Turkey, see MLSA (2022). *Journalists in the Judiciary's Crosshairs-SLAPP Lawsuits: Power vs. pen*. mlsaturkey.com/wp-content/uploads/2022/03/SLAPP-En-dijital.pdf.
- 14- Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises (2021). *The Guiding Principles on Business and Human Rights: Guidance on Ensuring Respect for Human Rights Defenders*. documents-dds-ny.un.org/doc/UNDOC/GEN/G21/161/49/PDF/G2116149.pdf?OpenElement
- 15- For detailed information, see the UN Office of the High Commissioner for Human Rights Working Group on Business and Human Rights. ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx
- 16- For the relevant work of BHHRC, see *Silencing the Critics: How Big Polluters Try to Paralyze Environmental and Human Rights Advocacy through the Courts* (2019). media.business-humanrights.org/media/documents/files/Big_Polluters_and_SLAPPs_Briefing_FINAL.pdf; *Defending Defenders: Challenging Malicious Lawsuits in Southeast Asia* (2020). media.business-humanrights.org/media/documents/files/documents/2020_CLA_Annual_Briefing_SLAPPs_SEA_FINAL.pdf; *Strategic Lawsuits Against Public Participation: Southeast Asia Cases&Recommendations for Governments, Businesses,&Civil Society* (2020). media.business-humanrights.org/media/documents/SLAPPs_in_SEA_2020_Final_TRdA8a.pdf; *SLAPPED but not Silenced: Defending Human Rights in the Face of Legal Risks* (2021). media.business-humanrights.org/media/documents/2021_SLAPPs_Briefing_EN_v657.pdf; *SLAPPs in Latin America: Strategic Lawsuits Against Public Participation in the Context of Business and Human Rights* (2022). media.business-humanrights.org/media/documents/2022_SLAPPs_in_LatAm_EN_v7.pdf; *Business and Human Rights Defenders in Southeast Asia* (2022). media.business-humanrights.org/media/documents/HRD_Report_SEA.pdf
- 17- Judicial harassment is defined as the use of the judicial system to intimidate and silence rights defenders. Judicial harassment methods include initiating criminal prosecutions, civil lawsuits, or administrative actions. For more information see frontlinedefenders.org/tr/violation/judicial-harassment
- 18- HES'e karşı çocuk şarkısı yapmak suç [Making a children's song against the HPP is a crime] (2014, 12 March). *Evrensel*. evrensel.net/haber/80069/hese-karsi-cocuk-sarkisi-yapmak-suc
- 19- Çocukların söylediği HES şarkısı yargılanıyor [The HPP song sung by children is on trial] (2014, 25 March). *Evrensel*. evrensel.net/haber/80893/cocuklarin-soyledigi-HPP-sarkisi-yargilaniyor#.UzFqQ6h_t20
- 20- HES'e karşı çocuk şarkısı beraat etti [The children's song against the HPP was acquitted] (2014, 16 April) *Evrensel*. evrensel.net/haber/82380/hese-karsi-cocuk-sarkisi-beraat-etti
- 21- For a recording of the accounts of women taken into custody in the village of Kirazlıyayla, see youtube.com/watch?v=nQsVCKFfxl4
- 22- Alakır Nehri Kardeşliği'ne 20 milyonluk ihtarname [A warning letter claiming 20 million Turkish liras against the Alakır River Fellowship] (2014, 16 June). *Yeşil Gazete*. yesilgazete.org/alakir-nehri-kardesligine-20-milyonluk-ihtarname/ We did not come across any news reports

indicating that a lawsuit was filed following the warning letter.

23- The relevant article of the Constitution is as follows:

“III. Freedom of expression and dissemination of thought

“ARTICLE 26- Everyone has the right to express and disseminate their thoughts and opinions in speech, in writing or in pictures, or through other media, individually or collectively. This freedom includes the liberty of receiving or imparting information or ideas without interference by official authorities. This provision shall not preclude subjecting transmission by radio, television, cinema, or similar means to a system of licensing.

The exercise of these freedoms may be restricted for the purposes of national security, public order, public safety, safeguarding the basic characteristics of the Republic and the indivisible integrity of the State with its territory and nation, preventing crime, punishing offenders, withholding information duly classified as a state secret, protecting the reputation or rights and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary.

(Repealed paragraph: 3/10/2001; Act No. 4709)

Regulatory provisions concerning the use of means to disseminate information and thoughts shall not be deemed as the restriction of freedom of expression and dissemination of thoughts as long as the transmission of information and thoughts is not prevented.

(Additional paragraph: 3/10/2001; Act No. 4709) The formalities, conditions, and procedures to be applied in exercising the freedom of expression and dissemination of thought shall be prescribed by law.”

The relevant article of the European Convention on Human Rights is as follows:

“ARTICLE 10 - Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television, or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions, or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

24- BHRRC (2021). *SLAPPEd but not silenced*, p.4.

25- For detailed information, see sessizkalma.org/en/defender/halime-saman

26- For detailed information, see sinpaskizilbuk.com/

27- In 1988, the Hattat family under the name Hema-Que Otel Yatırım A.Ş. began the construction for a five-star hotel on a 310-acre land on the seafloor, 150 acres of which was forest land. In 2007, Emin Hattat, together with Hema Dişli and four other companies, was declared bankrupt. Hema Dişli and its group companies Kızılkum Turizm, Arasaya Bilgisayar, Hema Makine and Armasan Armatör had applied to the court and requested a bankruptcy suspension stating that they were insolvent. Nevertheless, the court declared the bankruptcy of Hema companies. The hotel and its land were put under a lien to cover the debt. See also: Türkiye tarihinin en büyük iflası [The biggest bankruptcy in Turkey's history] (2007, 19 March). *Habertürk*, haberturk.com/ekonomi/makro-ekonomi/

haber/17835-turkiye-tarihinin-en-buyuk-iflasi; İnşaat şirketlerinden, Marmaris'te ranta karşı çıkan aktiviste tazminat davası [Compensation lawsuit by construction companies against activist who opposed profit-seeking in Marmaris] (2021, 29 November). *Diken*, diken.com.tr/insaat-sirketlerinden-marmariste-ranta-karsi-cikan-aktiviste-tazminat-davasi/

28- For detailed information, see kizilbukgyvo.com/sin-pas-kizilbuk-projesi.html

29- For detailed information, see paratic.com/sin-pas-gyonun-geliri-azaldi-net-karda-ilimli-artist-oldu/

30- For detailed information, see anagold.com.tr/tr/anasayfa/. The current partners of Anagold Madencilik are SSR Mining and Lidya Madencilik, which is a partnership of the Çalık group and Alacer Gold.

31- This section is based on an interview with Sedat Cezayirlioğlu conducted on 22 July 2022 and on legal documents shared by Sedat Cezayirlioğlu on his social media accounts.

32- Ana Haber (2020, 7 October). *Fox Haber*. min. 40-43.30 youtube.com/watch?v=A4ne7B8xFbE

33- Yeni Gün (2022, 9 November). *TV 52*. youtube.com/watch?v=nChOkplrj0

34- Siyanür Felaketini Duyuran Cezayirlioğlu: “Can Güvenliğim Yok” [Cezayirlioğlu, Who Announced the Cyanide Disaster: “I Have No Physical Safety”] (2022, 30 June). *İklim Haber*, iklimhaber.org/siyanur-felaketini-duyuran-cezayirlioglu-can-guvenligim-yok/

35- Ali Ulvi ve Aysin Büyüknohutçu Belgeseli [Documentary on Ali Ulvi and Aysin Büyüknohutçu] (2022, 7 May). *Ekoloji Birliği*, ekoljibirligi.org/ali-ulvi-ve-aysin-buyuknohutcu-belgeseli/

36- Although Hakan Kıran is referred to as the architect of the Seagull Project, the architectural work of the project is undertaken by Hakan Kıran Mimarlık ve Yapı Hizmetleri A.Ş.. See also shirplanlama.IBB.istanbul/kabatasmeydan-duzenlemesi/, hakankiran.com/tr/portfolyo-cagdas-yapilar.html

37- Kabataş Martı Projesinin 12 Yıllık Hikayesi [The 12 Year Long Story of the Kabataş Martı Project] (2017, 30 November). *Bianet.org*, bianet.org/bianet/kent/191966-kabatasmarti-projesinin-12-yillik-hikayesi

38- Kabataş Martı Projesi İptal Edildi [The Kabataş Martı Project Was Cancelled] (2018, 3 September). *Gazete Duvar*, gazeteduvar.com.tr/turkiye/2018/09/03/kabatasmarti-projesi-iptal-edildi

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40- To access the article, see mimarist.org/mimar-ist-sayi-57-guz-2016/

41- This section is based on an interview with Recai Çakır conducted on 29 August 2022 and legal documents shared by Recai Çakır's lawyers.

42- Mekanda Adalet Derneği (2022). *An Overview Of The Corporate Human Rights Responsibility In Turkey: Istanbul 3rd Airport, Galataport Istanbul, Hunutlu Thermal Power Plant, Kirazlı Gold Mine, Yusufeli Dam*, p. 49-62.

43- This section is based on an interview with Erdoğan Atmış conducted on 29 August 2022 and legal documents shared by Erdoğan Atmış.

