

**“It’s a long story”:
Seeking
Environmental
Justice Through
Legal Means**

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SEEKING ENVIRONMENTAL JUSTICE THROUGH LEGAL MEANS

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Abbreviations

US	United States of America
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
UN	United Nations
EIA	Environmental Impact Assessment
EGEÇEP	Ege Environment and Culture Platform
EMRA	Energy Market Regulatory Authority
HEPP	Hydroelectric Power Plant
IBB	Istanbul Metropolitan Municipality
IDK	Review and Evaluation Commission
IYUK	Procedure of Administrative Justice Law
GPP	Geothermal Power Plant
OECD	Organisation for Economic Cooperation and Development
WPP	Wind Power Plant
SLAPP	Strategic Lawsuits Against Public Participation
NGO	Civil Society Organisation
TMMOB	Union of Chambers of Turkish Engineers and Architects
TUBITAK	Scientific and Technological Research Council of Turkey

Glossary

Legal Aid: Legal aid provides opportunities such as temporary exemption of persons with insufficient financial means from all trial and proceeding expenses, exemption from posting guarantee for trial and proceeding expenses, advance payment of all expenses to be incurred during litigation and execution proceedings by the state, provision of a lawyer to be paid later if the case must be followed by a lawyer.

Urgent Expropriation: Urgent expropriation is a very special and exceptional expropriation method defined in Article 27 of the Expropriation Law No. 2942. It is legally applied in exceptional cases where the Council of Ministers decides on its urgency, such as in times of state of emergency and war, and with this method, the administration can immediately seize the immovable properties of individuals.

EIA: Environmental impact assessment, used in its abbreviated form as EIA, is the process that is initiated with the aim of minimizing the environmental impacts of the projects planned to be implemented. Institutions or organizations authorized by the Ministry of Environment, Urbanisation and Climate Change prepare an “Environmental Impact Assessment Report” for a project for which an “Environmental Impact Assessment is Required” decision is made. The report is finalized by taking into consideration the opinions of the Commission members and the public. The Commission consists of representatives of relevant public institutions and organizations, ministry officials, project owners, and EIA companies.

EIA Not Required: It is the decision stating that the realization of a project is not objectionable for the environment upon the determination that the possible negative effects of a project on the environment are at acceptable levels according to the relevant legislation and scientific principles as a result of the measures to be taken.

EIA Favourable/EIA Negative: It is the positive or negative decision taken by the Ministry of Environment, Urbanisation and Climate Change on the final EIA reports, taking into account the studies of the commission on the report and the opinions of the public. With an “EIA Favourable” decision, the investment must be started within seven years. With an “EIA Negative” decision, the investment cannot be realized, but the factors that caused this decision can be changed for the projects and a new EIA application can be made.

Prevention of Seizure Lawsuit: It is a lawsuit filed by the owner of a movable or immovable property to terminate the unfair interference on this property.

Public Participation Meeting: It is a meeting held to ensure the participation of the public in the decision-making process by receiving their opinions and suggestions regarding the relevant project. It is also referred to as “Public Information Meeting”. According to the EIA Regulation, “In order to inform the public about the investment and to receive their opinions and suggestions regarding the project, a public information and participation in the process meeting is held with the participation of the institutions/organizations qualified by the Ministry and the project owner at a central place and time determined by the provincial directorate where the relevant public, which is expected to be most affected by the project, can easily reach, on the date determined by the Ministry.” Although this is the case in practice, the sole purpose of this meeting is not to inform the public about the investment and the project.

Precautionary Principle: Since the measures to be taken after an activity is proven to be harmful may result in delay, the precautionary principle stipulates that preventive measures should be taken without waiting for scientific evidence in case there is a serious suspicion that an activity will have negative effects on the environment.

Principle Decision: General and guiding decisions regarding the implementation of the legislation.

Review and Evaluation Commission (IDK) Meeting: This is the meeting where the commission members, formed after the EIA application file is found to be in compliance with the EIA general format, share their opinions on the EIA report on behalf of the central or local institutions and organizations they represent. The first session of the meeting is open to the public; citizens can go to the venue of the meeting and share their opinions and suggestions about the project with the commission in the first session.

Action for the Annulment: It is a type of administrative lawsuit filed by persons claiming that their legal interests are adversely affected by an administrative action, where the annulment of the action is requested due to the illegality of one of the elements of authority, form, reason, subject or purpose.

Summary Procedure: It is an accelerated trial procedure. In the accelerated procedure, the periods for filing a lawsuit and petition are shortened, and requests for a stay of execution are finalized without objection. According to the 2014 amendment to the law, decisions taken as a result of EIA, except for administrative sanction decisions pursuant to the Environmental Law, and urgent expropriation procedures are subject to the summary procedure.

Public Benefit: It is the benefit above personal benefit. The purpose of public activities carried out by the administration is to realize the public interest. Public tasks in which a purpose other than the realization of the public interest comes to the fore are not in accordance with the law.

Decision of Non-prosecution: A decision of non-prosecution indicates that there is no possibility to prosecute the suspected person as a result of the investigation carried out by the public prosecutor or that the prosecutor's office has decided to end the investigation proceedings and close the investigation file by evaluating the evidence collected.

Cumulative Impact Assessment: According to the EIA Regulation, it is "the determination and analysis of the environmental risks and impacts of the planned project on the area where it is planned and, on the areas, or resources that will be directly affected by the project, together with other existing, planned or other activities that may be directly related to the project".

Prevention Principle: The prevention principle envisages that the administration does not aim to eliminate environmental problems, but to prevent them by taking action before they arise. There is a close relationship between the prevention principle and the precautionary principle. The principle of prevention is implemented through methods and instruments such as prohibition, authorization, planning, EIA, and notification obligations.

Determination of Special Format: This is the stage where issues such as which issues will be examined in the EIA report and which professional disciplines the experts who will prepare the report will be from are determined. After the Public Participation Meeting, the Ministry of Environment, Urbanisation and Climate Change prepares the special format of the EIA report in line with the suggestions of the commission members formed after the EIA application file is found to be in compliance with the EIA general format and the opinions and suggestions received from the public. According to the EIA Regulation, the special format is “the format that defines the issues to be taken as basis in the preparation of the EIA Report under the main headings specified in the General Format of Environmental Impact Assessment in Annex-3, taking into account the important environmental aspects of the project by the Commission and the opinions and suggestions at the Public Participation Meeting”.

SLAPP (Strategic litigation against public participation): In the context of this study, “strategic litigation against public participation” (SLAPP in its English acronym) refers to judicial proceedings initiated by a business or its executives/employees to silence, intimidate and deter rights defenders who voice their objections or criticisms about corporate activities, exercise their right to participate in decision-making processes, freedom of expression or freedom of assembly.

Strategic Litigation: Strategic litigation is litigation that can bring about significant changes in the legal system, practice or public opinion and is filed selectively due to these characteristics.

Full Remedial Action: It is a type of administrative lawsuit filed by persons who claim that their personal rights have been directly violated due to administrative acts and actions.

Request for a Stay of Execution: In an administrative lawsuit filed against an administrative action (e.g. a decision that 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 lawsuit 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 lawsuit.

Preface

As the Center for Spatial Justice (MAD), we work for fairer, democratic, ecological urban and rural spaces, and aim to produce and promote public knowledge. In our Environmental Justice Programme, we document environmental disputes, which are becoming increasingly widespread. By contacting local environmental movements, we try to show the interconnectedness of environmental and social problems, to amplify the voices of local actors pursuing environmental struggles, and to produce concepts and methods useful for these struggles.

Documenting legal processes in order to better understand the legal and social dimension of the environmental struggle, promoting the use of different tools and methods for the accountability of the businesses that are important actors in environmental disputes, benefiting from the global experience, establishing international solidarity and defending environmental rights defenders who are subjected to pressure constitute this dimension of our work.

Struggles against projects that have negative impacts on urban and rural habitats have a long history in Turkey. Protecting the environment and fundamental rights by resorting to legal remedies stands at a very central place. Parallel to the ecological destruction, the number of environmental lawsuits filed in different parts of Turkey is increasing. These lawsuits, which are mainly filed for the annulment of plans, licences, or permits or against EIA reports, are particularly important as they also ask questions related to environmental justice, demand and defend the social good. On the other hand, these lawsuits have an important role in expressing the defense of fundamental rights, natural areas, and cities, and

in strengthening and advancing democratic participation, social justice, and even social movements.

Initiated in 2023, our *Environmental Justice Litigation* study focuses on the legal dimension of Turkey's long-term environmental struggle. In this study, we turned back to the 1990s with an aim to remember and commemorate the environmental struggles' legal dimension with its experiences as well as its achievements.

In order to make this possible, we have identified the environmental conflicts since the 1990s and the tools and methods of struggle used by environmental movements.¹ The data on which the study is based was collected through desk-based research, reviewing reports prepared by rights-based CSOs, press statements, and news articles featured in online news portals and digital broadcasting platforms.

In the early 1990s, environmental conflicts arose against nuclear power plants, thermal power plants, and mining projects in different parts of Turkey, and over time expanded with the environmental conflicts against energy projects such as HEPPs and GPPs. In order to understand the legal dimension of the long-running environmental struggles (and by 'long-running', it should be reiterated that it is continuing today), we held a search meeting with environmental movement lawyers, followed by focus group discussions with the subjects of the movement, scientists, experts, young lawyers and environmental journalists who contributed to the struggles and the legal processes. The experiences and views of the participants of the search meeting and focus group discussions informed us in establishing the axis of this study. We would like to thank them again for their contributions.

As part of our work on *Environmental Justice Litigation*, we have published an open call for academics, master's and doctoral students, independent researchers, rights defenders, activists, and members of civil society to explore the legal dimension of the struggle for environmental justice from a broad perspective and to evaluate it in an interdisciplinary and critical framework. During the open call process, we had great difficulty in choosing among valuable proposals that discuss the legal dimension of the struggle for environmental justice in different contexts. We would like to thank all applicants who applied to our open call and contributed to our thought process with their ideas and approaches.

In the online session we held on 26 January 2024, together with the authors of the papers selected, we discussed the legal dimension of the struggle for environmental justice

from different perspectives. When we completed our research, we noticed that the issues and approaches addressed in the selected papers were in dialogue with our findings and evaluations. Therefore, we decided to include the papers presented in the online session in the Turkish version of the publication. We would like to take this opportunity to thank the authors of the papers again.

İkizk y - Akbelen struggle, also informed us in establishing the axis of this study. In the summer of 2023, while we were conducting our research, we started the day of 24 July with the news of gendarmerie intervention in the nature watch that had been going on for two years in Akbelen Forest in Milas, İkizk y district of Muęla. İkizk y residents have been waging a legal struggle against the proposed lignite mine in Akbelen Forest since 2019. Although the 24-hour Akbelen Watch that İkizk y residents have been holding to protect the Akbelen Forest is two years old, it was part of a legal struggle that started in the 1990s and extends to today. The legal course of the environmental struggle arising from the struggle against Yenik y, Kemerk y, and Yataęan Thermal Power Plants and reaching the İkizk y - Akbelen struggle guided us in identifying the essential features of the research.

The environmental struggle in Turkey has been going on since the 1990s despite a harsh political climate that makes it difficult to exercise rights. We would like to express our deep gratitude to each and every one of those who have been part of this struggle, and we commemorate of those who lost their lives during the struggle.

Introduction

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, nuclear power plants, thermal power plants, HEPPs, or GPPs in different parts of Turkey. While historically the environmental struggles can be dated back to the 1970s, in studies on environmental struggles a temporal choice is made by taking into account the scope of the studies. In our study published in 2023 titled *SLAPP in Environmental Disputes: Strategic Litigation Against Public Participation*, we had to make such a choice considering the time constraints of the research.² We acknowledged the Gezi Park protests as a significant threshold for the demands for participation and recognition in relation to environmental justice and the right to the city to become more debated in Turkey and for the increase in the relations and solidarity between struggles in different localities.

However, we know that since the 1990s, public opinion-raising and judicial remedies have begun to be used against the decisions on issues of public interest such as investment, tourism zoning or planning, transportation, energy, and mining sectors which have been taken without considering the public interest and citizens' participation in decision-making processes, and against the negative impacts of these activities on the environment. In our first study on the social and legal dimension of the struggle for environmental justice, we focused on the struggle against the Cerattepe Gold Mine, which started in 1995.³

In this study, we return to the 1990s and 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 the recognition and

objections from groups that emerge from the local level and can establish relations at the national level. We consider each of these as an “environmental dispute”. We call the social struggles that develop against environmental conflicts as “environmental struggles”.

The concepts of ‘environment’ and ‘ecology’, which correspond to different meanings and ideologies, are often used interchangeably. In our work on environmental justice and in our contacts with local communities, we see that the groups that oppose and try to prevent projects that cause environmental or ecological destruction are not concerned with these conceptual distinctions in their struggles. Due to the widespread use of the word environment, we use the term “environment” in this study.

“It’s a long story...”

In the focus group interview we conducted within the scope of this study, a participant who is a member of an environmental struggle, started to talk about the struggle she was involved in by saying “The story is long, of course...” The story of seeking environmental justice through legal means in Turkey is long both in terms of its history and the process itself.

The beginning of the 1980s represents a period in which the right to the environment was recognized and protected in the constitution and the related legislation was enacted. Unlike liberal constitutions, the essence of the Turkish Constitution (ratified in 1982 and still in force) is state and authority rather than freedom and democracy.⁴ However, while fundamental rights and freedoms were restricted as much as possible, Article 56 stipulated that everyone has the right to live in a healthy and balanced environment and that it is the duty of the state and citizens to improve the natural environment, to protect environmental health and to prevent environmental pollution. In addition, Article 43 (Utilisation of the coasts), Article 44 (Land ownership), Article 63 (Protection of historical, cultural and natural assets), Article 168 (Exploration and exploitation of natural resources), and Article 169 (Protection and development of forests) also among the provisions on environmental protection. The Environmental Law No. 2872, which is the basic legal framework for the protection of the environment, was adopted in 1983.

By the mid-1980s, protests against the establishment of a thermal power plant in Gökova and the damage to sea turtles caused by a planned tourism complex in Dalyan İztuzu had begun to create public opinion around environmental issues. In this period, *the Greens*,

as they are known today, emerged as a social movement and the Green Party was founded in 1988.⁵

In this period, which is also defined as a period when the implementation of environmental legislation was just being established, *environmental movement lawyers* were also emerging.⁶ In the face of increasing environmental violations in the 1990s, many lawyers, together with the social groups exposed to these violations, took action not only against violations but also against the policies of the state and businesses. Two types of lawyering tendencies/approaches emerged, namely 'environmental lawyers', who handle cases related to environmental problems and violations through their identity as lawyers, and 'environmental movement lawyers', who see their identity as lawyers as equal in struggle, indicating a distinction in terms of their perspective on the struggle and the organization of lawyering.⁷

The struggle against the Bergama Ovacık gold mine, whose legal processes began with the applications and lawsuits of the İzmir Environmental Movement Lawyers Group, is seen as a turning point in the environmental struggle in Turkey.⁸ The movement, which started with environmental concerns after the villagers of Bergama were introduced to the phenomenon of gold mines and cyanide, evolved into a ground for the expression of democratic demands and social opposition. It also paved the way for the development of judicial remedies as a method of advocacy.

Since the late 1980s and early 1990s, we have observed the rise of environmental struggles against nuclear power plants, thermal power plants, and mines in different parts of Turkey due to industrial pollution, destruction of historical, cultural, and natural resources, and risk. Among the struggles that started in this period the struggle against the nuclear power plant in Mersin Akkuyu, the struggles against the thermal power plants in İzmir Aliağa and Amasra Bartın, the struggle against the cement factory in Muğla Deştin village, and the struggles against the gold mines in Artvin Cerattepe and Uşak Kışladağ continue today. In this section, we will look at environmental disputes that emerged in different parts of Turkey between 1990 and 2013.

Feasibility and location studies for nuclear power plant sites were carried out in the early 1970s and Akkuyu (Mersin), İnceburun (Sinop), and İğneada (Kırklareli) were identified as the most suitable locations. In 1986, after the Chernobyl disaster, nuclear power plant project studies were suspended, but the Akkuyu nuclear power plant project, for which

the site license was granted in 1976, was put back on the investment plan in 1993. With that, nuclear power plants became a hot topic again. Anti-nuclear platforms were formed in different parts of Turkey and today the struggle against nuclear power plants continues under the leadership of the Anti-Nuclear Platform (Nükleer Karşıtı Platform - NKP), an umbrella organization. While legal struggles against nuclear power plants started in the 2010s, civil disobedience actions and protests were organized in different parts of Turkey in the preceding period, inspired by the villagers of Bergama. The S.O.S Mediterranean Bureau, established in Izmir during this period, plays an important role in putting the anti-nuclear movement on the national agenda. We also see Greenpeace as an active actor in anti-nuclear campaigns and protests. Today, the construction of the Akkuyu nuclear power plant continues despite scientific and technical objections and ongoing discussions as to the compliance with laws.

In the early 1990s, lawsuits filed against Yeniköy, Kemerköy, and Yatağan thermal power plants for their practices disregarding the environmental impact initiated the legal struggle against thermal power plants. The favourable court decisions taken as a result of this legal struggle are still not implemented today. The non-implementation of the respective court decisions is considered a “systematic problem” by the Committee of Ministers of the Council of Europe (see also “***Non-implementation of court decisions***” below). Following that, we see more environmental disputes arising around newly planned thermal power plants. In the 1990s, objections to the thermal power plants in Aliğa (İzmir), Amasra (Bartın), and Çan (Çanakkale) were voiced mainly through protests, human chains, concerts and signature campaigns, while the legal struggle took shape in the 2000s. In the 2000s, wherever thermal power plants were on the agenda, in Göynük (Bolu), Gerze (Sinop), Gemlik (Bursa), Karasu (Sakarya), Erzin (Hatay), Ayancık (Sinop), Yalova, Karabiga (Çanakkale), environmental struggles manifested themselves; protest and legal struggle were used in these struggles. In these struggles, we also identify platforms such as the Bartın Platform and the Green Gerze Environmental Platform are being formed bringing different actors of the society together to carry out the struggle.

The legal struggle against thermal power plants has resulted in many important court decisions that have improved environmental law (see also “***Achievements, Opportunities***” below). Although some of these judgments were not implemented, the persistent legal struggle led to delays in operations, increased costs, and the investor company’s withdrawal from the project. The struggle against thermal power plants, which in the 1990s centered on the environmental and air pollution caused by thermal power plants, began to associate

with the struggle against the global climate crisis in the 2000s.

The struggle against the Bergama Ovacık gold mine, which is considered as the turning point of the environmental struggles in Turkey, inspired environmental struggles with the sociality it harbours and a wide repertoire of actions. The legal successes achieved in the first half of the 1990s in the Bergama Ovacık gold mine struggle became the driving power for the legal dimension of the struggle against the Cerattepe gold mine. From the 1990s onwards, the people of Artvin have been defending their city, nature, culture, memory, and living spaces against the activities of Canadian and US mining companies at first, and then against the activities of the Turkish mining company. They set an example with a style of struggle which can be referred to as “total environmentalism” with the way they organize themselves.⁹ The anti-mining struggle in Artvin, which continues today, is organized with the participation of many different groups such as men and women, young and old, and all the families. Founded in 1995, the Green Artvin Association is at the centre of this struggle. Following the Cerattepe struggle, anti-mining struggles began in Kışladağ (Uşak) and Kazdağları (Çanakkale). Despite the annulment decisions achieved as a result of the legal struggle, the Kışladağ gold mine started production in 2006.¹⁰ With the long-standing anti-mining struggle, today Çanakkale is home to various environmental organizations that have come together for different reasons.

With the amendment made to the Mining Law in 2004, every place in Turkey became an area where mining (gold, copper, zinc, limestone, lead, quarry, marble quarry) can be carried out,¹¹ and the expansion of areas where mining can be carried out increased the number of environmental conflicts. Starting from 2004 until 2013, legal struggle and protests have been important tools in the struggles against nickel mines in Gördes and Turgutlu districts of Manisa, gold mines in Efemçukuru (İzmir), Havran (Balıkesir), Kozak Plateau (Bergama), Niğde and Arapdağı (İzmir), silver mines in Gümüşköy (Kütahya) and quarries in Beyyazı (Afyon).

Although the Black Sea Region first comes to mind with the struggle against HEPPs in environmental disputes, the Black Sea Coastal Road Project to be constructed by filling the entire Black Sea coast from Samsun to Sarp with rocks in the 1990s, started environmental disputes even before its foundation is laid. Local struggles arose wherever the Black Sea Coastal Road Project passed. Following a protest organized by 15 thousand of people from Ordu, the passage through Ordu is halted. The 542.5-kilometer-long Black Sea Coastal Road, which was completed despite the decision for a stay of execution and annulment

decisions, narrows down to a single lane at the entrance of Ordu and turns into a double road again at the exit.

In the early 1990s, struggles against HEPPs first came to the agenda due to the destruction of historical and cultural sites. The dams planned to be built in the Munzur Valley National Park were canceled after 10 years of struggle. During this period, the Ilisu Dam and the HEPP project, submerging Hasankeyf under the waters of the Tigris River, caused an environmental dispute. In 2006, the Initiative to Keep Hasankeyf Alive was established to prevent the flooding of Hasankeyf. The campaign initiated by the Initiative to Keep Hasankeyf Alive and environmental NGOs is supported by the solidarity of international nature protection organizations with global actions. During this period, the multinational consortium formed to finance the Ilisu Dam and HEPP project was reconstituted twice. In 2005, the second international consortium announced the withdrawal of the export credit guarantee approved in 2009. Later in the 2010s, the loan needed for the construction of the Ilisu Dam and HEPP project was provided by three Turkish banks, two private and one public. Hasankeyf was flooded in May 2020. Dozens of lawsuits filed by the Alliaoni Initiative Group together with EGEÇEP in the struggle against the Yortanlı Dam, engulfing the ancient site of Alliaoni in the Bergama district of Izmir, unfortunately, could not prevent the flooding of the ancient site of Alliaoni, an ancient health resort. In the legal struggle, the ECtHR's ruling on the right to information is acknowledged as one of the most important achievements in seeking environmental justice through the law (see also "***Achievements, Opportunities***" below).

Since the 2000s, after the acceleration of privatization, incentives, and legislative changes, every valley, every stream, and every plain has become the subject of energy, as in mining activities. The offensive "rush" periods that started with this increase in energy projects, together with the destruction caused in rural, agricultural, and forested areas, led to environmental conflicts and struggles against them have sprouted.

In this period which is called the "rush for HEPPs", the project planned to be built in the Fırtına Valley in Çamlıhemşin Rize, became the first flare in the struggle against HEPPs. As a result of the struggle of the local community, the construction of the project was first prevented and then the Fırtına Valley was declared a natural protected area. In the following years, Rize continues to be an important place for anti-HEPP environmental struggles. We see long-lasting struggles against different HEPP projects planned to be built in Fındıklı, in the İkizdere Valley, in Çayeli Senoz Valley, on Gürgen and Başköy streams in Güneysu, and

in the Salarha Valley – in each of which both legal means and protests were resorted. The protest organized by the young people from Rize Çayeli Senoz Valley in Istanbul in 2009 to create public opinion against the destruction in their valley led to the establishment of the Black Sea in Riot Platform, which today gives voice to the struggle for nature and life against ecological destruction in the Black Sea Region and all over Turkey.¹²

Artvin is the next important stop after Rize in the anti-HEPP struggle. Environmental struggles are being waged around the planned HEPP projects in Şavşat, Borçka, and Hopa. In these struggles, we also see the Green Artvin Association from the Cerattepe struggle.

The anti-HEPP struggles carried out in the Black Sea Region such as Rize, Artvin, Gümüşhane, Amasya, Kastamonu, Sinop, Giresun, Ordu, and Trabzon contain important points of discussion for the environment and ecology agenda. When we look at these environmental struggles altogether, we see that they question the destruction of natural resources “for whom?” and “at what cost?”, and the networks of relations in which companies are a part; they discuss urban and rural life together with the nature, culture and history of the region; they remind the law, call and force the administration to comply with the law. They express these questions and objections through spontaneous forms of protest. If the company enters the valley or the forest, they cut the road, hug trees, and if the company continues its activities, they set up tents and keep watch. When necessary, they sell their cows in order to cover court and related expert costs, as Kazım Delal, 67, who struggle against the Ambarlık 1-2 Regulators and HEPP project planned to be built in Rize Salarha Valley, did. On 31 May 2011, upon learning that then Prime Minister Recep Tayyip Erdoğan would hold a rally in Artvin’s Hopa district for the 2011 general election campaign, Hopa residents decided to hold a press statement to voice their objections to the destruction caused by the HEPPs on the nature of the region and the problems of tea producers in the region, as well as other problems. However, as soon as the press statement started, they were met with a harsh intervention by law enforcement officers. Metin Lokumcu, a teacher who collapsed due to the intense tear gas he was exposed to during the intervention, died in Hopa State Hospital.¹³

In the period between 1990 and 2012, the struggle against HEPPs was not limited to different parts of the Black Sea Region; there were also struggles against HEPP projects planned in Muğla, Antalya, and Erzurum.

In the 2000s, in parallel with changes in legislation and increasing incentives, struggles against GPPs and WPPs began. In Hatay Samandağ, WPPs are being built in agricultural areas, right next to settlements and faith centres, leading to environmental conflicts. The Büyük Menderes Basin, which is surrounded by the Western Mediterranean and Burdur Basins in the south, Gediz Basin in the north, and Akarçay Basin in the east, has been covered with GPPs since the mid-2000s. In the provinces of Aydın, Denizli, and Uşak, the struggle against GPPs, which continues today, begins to manifest itself.¹⁴

In the early 1990s, struggles to defend the right to the city and to protect natural areas in the city occupied an important place. In this period, we observe environmental conflicts in Istanbul around projects that damage the city's skyline and surrounding areas and destroy urban protected areas and industrial heritage. As a result of the legal struggle that started with a lawsuit filed by a neighbourhood resident against the construction of the Park Hotel in Gümüşsuyu and followed by the Ayaspaşa Environmental Protection Association, 17 floors of the Park Hotel were shaved down. Again, after the area where Galataport Istanbul is located was declared a tourism area by the Council of Ministers in the early 1990s, many administrative lawsuits were filed by three professional chambers affiliated with TMOBB (namely, the Istanbul Branch of the Chamber of City Planners, the Istanbul Metropolitan Branch of the Chamber of Architects, and the Istanbul Branch of the Chamber of Environmental Engineers) and the IBB led to the annulment of zoning plans, projects and regulations; however, the project was made possible with two important legislative amendments.¹⁵

Urban transformation practices first started to be implemented in the 1990s as “renewal projects” to include slum neighbourhoods. In the 2000s, it gains momentum on the grounds of building robust and earthquake-resistant structures. In both periods, urban regeneration practices sprout urban movements. Ankara Dikmen Valley Urban Regeneration Project is known as the first urban regeneration project implemented in Turkey. Subsequently, Sulukule, a Roma neighbourhood, and a UNESCO-protected area, is included in the scope of urban regeneration. Although the urban transformation decision was cancelled 12 years later as a result of the legal struggle of the Sulukule Roma Culture Development and Solidarity Association and the residents of Sulukule, Sulukule had already been demolished and the residents of Sulukule were forcibly evicted, disregarding protection decisions. In these periods, urban struggles are being waged against renewal/urban transformation decisions and hasty expropriation decisions in Mamak in Ankara, Ayazma, Maltepe Başbüyük, and Fener-Balat-Ayvansaray in Istanbul.

Since the late 1980s, the environmental struggle in Turkey has had a strong experience and accumulation, especially with the awareness that the struggle against nuclear and thermal power plants and the anti-mining struggle have created large segments of society against environmental degradation. As a part of this experience and accumulation, since the 1990s we have seen how different forms of action can be used to oppose projects that destroy, pollute, or dispossess living spaces. In addition to the press releases, petition campaigns, protests, and vigils that we frequently see today, we come across actions that remind us of the public interest and citizens' participation in decision-making processes, such as holding a referendum in accordance with the Final Declaration of the UN Economic Commission for Europe Conference on Environment and Development (Bergen Declaration), which Turkey signed in 1989, or not having themselves counted in the census in the face of non-implementation of court decisions.

Since the struggle against the Bergama Ovacık gold mine, women have been at the forefront of many environmental struggles. Sometimes, as in Çamlıhemşin or Erzurum, the struggle is commemorated with a sentence or action of women, and sometimes, as in the Loç Valley, the struggle is identified with the women in yellow slips who are at the forefront. For different reasons and motivations, women actively participate in environmental conflicts to protect their living spaces. Since the 1990s, they have been organizing struggles in different localities across Turkey, sometimes actively resisting with banners, vigils, and press statements; all the while contributing to the construction of collective identity within the local struggle. Their experiences are of great importance for the struggles that follow.

**Seeking
Environmental
Justice Through
Legal Means**

When we look at environmental struggles since the 1990s, we see that law alone is not decisive. Environmental struggles have a very diverse repertoire of actions aimed at establishing justice: Press releases, acts of civil disobedience, tent vigils, protests, concerts... Law is a part of the totality of actions of the struggles to establish justice. You can dissuade the administration from a decision to build a dam, construct a thermal power plant, or carry out mining activities in a forest with a tent vigil, you can dissuade it by creating social pressure, or you can dissuade it through the law.

Environmental movements in Turkey do not have a uniform structure and struggle style, they vary. Therefore, in terms of the relationship between law and environmental struggles - which is the initiator of the movement and which is the follower - there is no single answer. It works differently in different cases.¹⁶ In some struggles, the movement itself is decisive, while in others the movement grows out of a lawsuit filed.

For example, the struggle against the Bergama Ovacık gold mine began to take shape and grow with a lawsuit filed by the İzmir Environmental Movement Lawyers Group. In the struggle against the Cerattepe gold mine, the local organisation that started with a forest cutting to be carried out in Artvin-Genya Mountain evolved into an anti-mining struggle that continues to this day. The struggle grew in the light of the information shared by scientists about the mining activities that started to be heard about in the region in the early 1990s, by going door-to-door in the region, reaching out to everyone. In this case, the legal struggle follows the social movement. In our focus group discussion, it was shared that the gains in the legal process of Bergama were effective in the inclusion of the legal struggle in the social struggle and that the Artvin Bar Association was contacted upon hearing about these gains.

In the case of Bergama, the fact that the law has a head start does not exclude the social movement itself from being the main actor. In this regard, during our interviews, it was frequently stated that the important decision of the 6th Chamber of the Council of State on public interest in 1997 was achieved as a result of the effectiveness of the social struggle of the Bergama villagers (See also “*Achievements, Possibilities*” below).

Over time, very strong relationships between law and social struggle can be established and become inseparable. In these cases, the law becomes a “glue” that makes the struggle lasting. In our interviews, it was shared that this was seen in long-term struggles. Examples were given of the anti-mining struggle in Cerattepe, which was approaching its 20th year

at the time of the interviews, the struggle against the thermal power plant in Bartın, where the 23rd lawsuit was filed, and the continuation of the first lawsuits filed in Mount Ida by newly established NGOs.

In this section, we look at the actors, tools, obstacles, achievements, and new horizons of the process of seeking environmental justice through legal means in Turkey.

A. ACTORS OF THE LEGAL DIMENSION

Lawyers are indispensable actors in the legal dimension of environmental struggle. However, the legal dimension does not take place between the court and lawyers in a narrow sense; it also has a side that extends beyond technical law. In this context, scientists and professional chambers are also critical actors. The law must be fed from other fields, supported, and strengthened scientifically. Scientific reports add coherence and concreteness to the petitions and the cases.

It is necessary to emphasize the contribution of reporting in a broad sense, including but not limited to scientific reports and monitoring reports of NGOs, to the struggle itself. Scientific/expert opinions, together with reports, pave the way for raising awareness about the threat faced and paving the way for the struggle. In some cases - Cerattepe being an example - the struggle starts from there.

At the same time, NGOs operating in the field or in contact with the field contribute to the process of knowledge production with their monitoring and research reports, scientists and professional organizations contribute to the process of knowledge production with their scientific and technical expert reports, and support advocacy work on the one hand and lawyers and lawsuits on the other.

When we look at the environmental struggle in Turkey from the 1990s onwards, we do not see movements based on an ideological basis against the destruction of habitats by large/multinational corporations, as seen in the global context. The local environmental struggle, which consists of opposing a type of project, harbours sociality in itself. When legal processes are carried out away from this sociality, they are imprisoned in legal technique. Therefore, the subjects of the struggle weaving public pressure and each actor of the civil society supporting them are also included in this set of actors.

B. TOOLS

The Constitution's stipulation that it is the duty of the state and citizens to improve the natural environment, protect environmental health, and prevent environmental pollution (Article 56/2), and the Environmental Law's stipulation that anyone who is harmed or informed about an activity causing environmental pollution or degradation can apply to the relevant authorities and request that the necessary measures be taken or the activity be stopped (Article 30) are at the basis of applications and lawsuits regarding environmental problems – so the legal dimension.

Although the legal dimension of the environmental struggle involves all fields of law (administrative, civil, criminal), administrative law has a predominance among these fields. Environmental law, which has its own principles and concepts, is a sub-branch of administrative law.

Administrative Litigation

We see a very large number of administrative lawsuits in an environmental dispute. Depending on the type of investment, lawsuits are filed for everything that is needed until the investment starts to operate; as one of the participants in the search meeting put it, the lawsuits are organized “in such a way that there is almost no space around it”. One reason for this is to prevent loss of rights due to not initiating legal processes. Another reason is to enrich the legal struggle and arguments by filing many lawsuits for different transactions as a defense strategy, on the one hand, and on the other hand, to slow down the activity even if it cannot be cancelled in the end, and to increase the costs for the company. For the reasons mentioned below under the heading “Obstacles”, it is understood that more caution is exercised in filing lawsuits, and a process of elimination is carried out.

In administrative litigation, it is primarily and predominantly intervened in processes at the authorization stage. In other words, actions for the annulment are filed for the annulment of plans, licences, ‘EIA not required’ or ‘EIA favourable’ decisions. This is followed by the operation and post-operation phases.¹⁷ If there is expropriation, an action for the annulment is filed in accordance with the Expropriation Law.

In addition, lawsuits are also filed for the annulment of regulatory acts such as the EIA Regulation and the Mining Regulation. Considering that lawsuits against regulatory acts may have a widespread impact on a large number of persons or practices, these lawsuits have the potential to be strategic lawsuits.¹⁸

It is also possible for those who have suffered a violation of personal rights due to administrative actions that cause damage to the environment or after the annulment of an action to file a full remedial action for compensation and to claim (recourse) the compensation paid by the administration as a result of the full remedial action from the relevant public official to the extent that the administration is at fault.

The order in which these different types of lawsuits should be filed depends on the stage of the action or activity that is the subject of the lawsuit and which one will result in a faster outcome. However, when we look at the examples, in accordance with the prevention principle and the precautionary principle – which are among the fundamental principles of environmental law – lawsuits are first filed regarding the permitting phase, which is preventive. This is because environmental damage may be very difficult or impossible to remedy, may take many years, and may entail substantial costs if the start of the activity is not prevented and avoided.

Civil Litigation

Civil lawsuits, such as those filed for the determination of evidence, compensation, or prevention of seizure are also among the types of lawsuits applied in the legal dimension of the environmental struggle.

In the struggle against the Bergama Ovacık gold mine, in which all areas of the law are used, Bergama villagers, including former Bergama Mayor Sefa Taşkın, filed a lawsuit for non-pecuniary damages against then Prime Minister Mesut Yılmaz, Minister of Environment İmren Aykut, Minister of Energy and Natural Resources Cumhuriyet Ersümer, Minister of Health Halil İbrahim Özsoy, Minister of Public Works and Settlement Yaşar Topçu and İzmir Governor Erol Çakır. The Ankara 5th Court of First Instance rejected the lawsuit on the grounds that “the conditions for non-pecuniary damages were not fulfilled” and the decision was appealed.

As a result of the appeal examination, the 4th Civil Chamber of the Court of Cassation stated that “those who are obliged to implement a judicial decision do not have the authority to discuss the incompleteness or inaccuracy of the decision. In addition, the fact that they implement the judgment incompletely or give an artificial appearance to the process by pretending that they have implemented the judgment does not lead to the conclusion that the judgment has been implemented. The fact that the decision has not been implemented within 30 days is considered sufficient for personal liability” and decided that “when the legal regulations and the facts in the case are evaluated together, it should be agreed that the personal rights of the plaintiffs have been damaged as a result of the wrongful act of the defendants (other than İmren Aykut) in the form of not fulfilling the requirement of the judicial decision”.¹⁹ In the trial held after the decision of the 4th Civil Chamber of the Court of Cassation, the first instance court ruled that each of the 68 plaintiffs should be paid 500 million liras, totaling 34 billion liras; the Bergama villagers further initiated enforcement proceedings to collect the compensation and demanded that the salaries of the then Prime Minister Yılmaz and Ministers Topçu, Ersümer and Özsoy be attached.²⁰

Criminal Cases

The former Turkish Penal Code, which was in force in the 1990s, did not have specific regulations to protect the environment. It is observed that during the period when the former Turkish Penal Code was in force, criminal complaints were filed against public officials who did not intervene in persons and institutions that polluted and degraded the environment on the grounds of neglect, misconduct, or misuse of duty. In terms of these criminal complaints, it is understood that the denial of the authorization needed from authorities to commence such investigations for public officials (known as, administrative authorization) is an important problem.²¹

In the Turkish Penal Code No. 5237, which entered into force in 2005, pollution of the environment (Articles 181 and 182), causing noise (Article 183), and pollution caused by construction (Article 184) are criminalized under the heading ‘Offences against the Environment’. These offences are punishable by imprisonment.

During our interviews, it was emphasized that the implementation of the crimes under the heading of ‘Offences against the Environment’ of the Turkish Penal Code is weak. Our interviewees shared that the main reason for this is that the prosecutor’s office completes

the investigation with the information it receives by asking the opinion of the complaining administration. One of the interviewees, a lawyer with thirty years of professional experience in environmental disputes, shared that since 2005, he had received a conviction only once for polluting the environment in a case he had filed and that this conviction was converted into a fine.

In addition to the criminal complaints filed within the scope of the crimes under the heading of 'Offences against the Environment' of the Turkish Penal Code, criminal complaints are also filed against the relevant public officials within the scope of crimes within the scope of 'Offences Specific to Public Officials' such as failure to implement a court decision, misuse of public duty. During our interviews, it was shared that the rate of decisions of non-prosecution issued by prosecutors' offices is quite high.

However, we see that criminal cases are directed to the rights holders, lawyers, and rights defenders in the struggle as counter-charges and that the criminal law practice of the environmental struggle is intensified *from the opposite direction*. The struggle against the Gerze thermal power plant is an example where the practice of criminal law is seen more than the practice of administrative law. While there was one administrative case, six criminal cases were filed against the rights holders.²²

The rights holders, lawyers, and rights defenders in the struggle are often indicted for non-compliance with the Law on Meetings and Demonstrations, and a criminal case is filed. The indictments include accusations such as "resisting a public official to prevent them from performing their duty", "violation of freedom of work and labour", "damage to property", "violation of the immunity of the workplace", "engaging in threatening and insulting behaviour", "engaging in harmful actions".

It must also be noted that these criminal cases have the patterns of judicial harassment against those waging environmental struggle.²³ Those against whom criminal cases are initiated establish these cases as spaces where they can raise their voices and form public opinion, and in the hearings act as 'complainants' and 'plaintiffs' rather than 'defendants'.

Applications for Access to Information

Applications for access to information are a very important legal tool in the environmental struggle, which requires to be addressed under a separate heading due to its relationship with the right to a clean, healthy, and sustainable environment.

In the early 1990s, when environmental law practices were quite new, we observed that applications were made based on Law No. 3071 on the Exercise of the Right to Petition to complain about projects and activities that harm the environment or to obtain information about them. We spotted actions for the annulment were filed against the responses to these applications. For example, when the petition for the closure of the Yeniköy, Kemerköy, and Yatağan thermal power plants received a negative response from the authorities, a lawsuit was filed for the annulment of this negative administrative action, and this is how the legal struggle started.²⁴ In the struggle against the Bergama Ovacık gold mine, the first lawsuit was filed in response to an application made to the then Ministry of Environment.

Since 2004, when the Law on the Right to Information came into force,²⁵ access to information process has been frequently used by lawyers for information requests, sometimes as a way to initiate the legal periods and procedures for lodging administrative lawsuits or raise objections and sometimes as a way to access data on the subject matter of the case.

It is stated that applications made pursuant to the right to information, which is also a fundamental element of participation in decision-making processes and control, are frequently rejected on the grounds that the information requested is a trade secret or requires a separate or special work, research, examination, or analysis.

In the context of the right to information, the ECtHR's judgment in *Cangı v. Turkey*, which is an important judgment addressing the function of the lawyer, will be discussed below under the "Achievements, Opportunities".

C. OBSTACLES

In the processes of seeking environmental justice through legal means in Turkey, we find systematic problems that prevent the protection of the right to a clean, healthy, and sustainable environment and access to justice.²⁶ These problems hinder the oversight of administrative acts and actions through applications to the judicial courts and access to relevant tools.

The obstacles and systematic problems facing the environmental struggle have never been independent of the problems of democracy, human rights, and the rule of law in Turkey. The erosion of the rule of law encircles all the obstacles mentioned here.

Circular No. 2009/7

As we have pointed out above, the legal dimension of the environmental struggle is a process in which it is *common* to file more than one lawsuit against the same process. The answer to the question of how many annulment decisions are needed to prevent the operation of a power plant or mine is “dozens”. In our interviews, as one of the interviewees (a lawyer) puts it, we encounter “repeated lawsuits in the same cycle”. The Circular dated 13.2.2009 and numbered 2009/7 of the General Directorate of Environmental Impact Assessment and Planning of the then Ministry of Environment and Forestry (“Circular No. 2009/7”) is cited as the main source of this.²⁷

Environmental justice lawsuits are a tool for citizens’ oversight over the administration. Litigation processes make that investment or that transaction subject to scrutiny. However, in practice, Circular No. 2009/7 functions to evade judicial review, and in this sense, it also evades citizen oversight. At the same time, it also provides a legal basis for the non-implementation of administrative court judgments.²⁸ For each EIA favourable decision in the processes carried out on the basis of the Circular, a new litigation process begins.

The Environmental Law defines EIA as “the studies to be carried out in the determination of positive and adverse impacts on the environment, of the project planned to be developed, in determination and assessment of the measures to be taken for preventing the adverse effects or minimizing this effect in a way that will not harm the environment and of the ‘chosen place’ and ‘technological alternatives’ and in monitoring and controlling of the

implementation of the projects". The Law stipulates that institutions, organizations, and enterprises planning to implement projects that may cause environmental problems as a result of their activities must prepare an EIA Report or Project Introduction File (Article 10). According to the legislation, unless an EIA Favourable decision or EIA Not Required decision is obtained, no approvals, permits, incentives, building, and use licences can be granted, no investments can be started and no tenders can be awarded for projects subject to the EIA process.

The EIA Regulation, which determines the procedures and principles regarding the projects subject to the EIA process and their EIA processes,²⁹ is one of the most amended pieces of legislation. The EIA Regulation, which entered into force 10 years after the effective date of the Environmental Law, had been re-published eight times and amended 16 times as of the date this study was completed.³⁰

As a rule, in order to issue an EIA Favourable decision, all stages of the EIA process must be completed one by one. However, Circular No. 2009/7 makes an exception to this. Accordingly, if the stay of execution or annulment decision of the courts on the EIA Favourable decision is related to only one or a few sections of the EIA report on which the EIA Favourable decision was issued and does not adversely affect the other sections, the EIA report, whose missing and insufficient parts are corrected by taking into account the grounds of the stay of execution or annulment decision, can be resubmitted to the Ministry of Environment, Urbanisation and Climate Change within the scope of Circular No. 2009/7. After the submission of the EIA report, only the IDK Meeting and the remaining process is carried out.

When the EIA report is resubmitted within the scope of Circular No. 2009/7, the IDK Meeting is held without the Public Participation Meeting and the Special Format Determination Meeting, and the EIA Report is decided as EIA Favourable or EIA Negative. Although Circular No. 2009/7 has been submitted to the Council of State many times through actions for the annulment, it has not been annulled yet.

When we asked how this circular causes court decisions to be ineffective and circumvented in practice, the lawyers we interviewed explained the following course of events: Stay of execution and annulment decisions must be implemented within 30 days at the latest. Within this 30-day period, "amendments" are prepared for the missing and insufficient parts, a meeting is held with the IDK, the final EIA report is prepared and then an EIA

Favourable decision is issued. All these can be completed within the 30-day period, as the intermediate stages are overcome by the circular. The practice shows that this circular is being used to suspend the implementation of the court decision and moreover to prevent its implementation even for a single day.

In our interviews, lawyers frequently emphasized that companies apply for Circular No. 2009/7 after the expert reports in the lawsuits filed which refer to omissions or insufficiencies, and continue to operate without being sealed the construction site.

The first (out of many) annulment decisions of the Çukuralan Gold Mine were cited as an example of bad practice. It was reminded that despite the debate on the chosen place of the site due to the nearby dam in the first annulment decisions, a new EIA Favourable decision was issued with the application of Circular No. 2009/7 as if the geography had changed and that dam had been removed, and the mine continues to operate today.³¹

The lawyers and scientists we interviewed, who took part in the legal dimension of the environmental struggle, emphasize that the process in Circular No. 2009/7, on one hand, prevents the EIA process from being carried out from the very beginning, and on the other hand, enables the companies to continue their activities by not implementing the court decisions, thus, avoid financial losses. However, they also emphasize that the process in Circular No. 2009/7 reduces the costs in favour of the companies and that this is the “gain” provided by the Circular.

Urgent Expropriation

This very special and exceptional expropriation method, which is defined in the Expropriation Law, is used unrestrictedly in many controversial projects such as GPPs, HEPPs, mining and urban transformation, exceeding the legal framework.

Urgent expropriation, which differs from “expropriation” in its method of execution, involves the forced acquisition of immovable property. Without informing the owners of the immovable property, the administration deposits the amount determined by the court into an account opened in their name at a public bank, and the immovable property is forcibly acquired within 30 days.

In the expropriation procedure, when a settlement invitation is sent, if the person does not agree to settle, the administration has to file a lawsuit for the forced purchase of the property. In the notification sent by the court regarding this lawsuit, the court notifies that the person can file an action for the annulment against the expropriation process before the administrative court within 30 days. In the case of urgent expropriation, the administration acquires the immovable property by depositing the price determined by the court into a bank account without such a notice.

Urgent expropriation is used for purposes other than those stipulated in the legislation in order to eliminate objections, and the way it is implemented violates the right to property. Along with these, urgent expropriation has essentially turned into a tool for the prevention of environmental struggles.

Legislation Amended to Facilitate Investments

Environmental legislation, which has been amended to facilitate investments in every period since the 1990s, is not only an obstacle to the struggle for environmental justice but also one of the leading counter-tactics against the environmental struggle.³²

The common theme of the search meeting and focus group discussions within the scope of this study was the frequently amending legislation. In each of these interviews, it was pointed out that these amendments were made in order to attract investments and to eliminate the gains achieved in litigation in order to sustain these investments. Frequently shared anecdotes were the following: mining companies' mentioning the legal regulations protecting the environment as an obstacle to investment after the judicial gains of the struggle against the Bergama Ovacık gold mine, the statement of the then manager of the mining company Newmont that the Law No. 5177 on the Amendment of the Mining Law and Certain Laws, which entered into force in 2004, was prepared in coordination with the company's officials in Ankara, and the visit of 20 business people, including the representatives of the mining company Eldorado Gold, to the Prime Minister of the period and asking for support.³³

The EIA Regulation and the Mining Law, which were mentioned above in the evaluations regarding Circular No. 2009/7, stand out as the most frequently amended legislation.³⁴

In terms of time, 2004 and the following years are particularly pointed out. Different focus group interviewees agreed that the amendments made in this period opened up significant opportunities in favour of energy and mining companies, while in 2010 and 2015, amendments had to be made to narrow these opportunities to some extent. The most frequently cited examples were the amendments to the Mining Law and the Forestry Law and the regulations of these laws, which make mining possible almost everywhere and provide extraordinary opportunities.

In the context of legislation amended to facilitate investments, this does not only mean amending to the articles of laws or regulations. In our interviews, interviewees also pointed to structural amendments to the law itself (such as Law No. 6360 on the Establishment of Metropolitan Municipalities and Twenty-Six Districts in Thirteen Provinces and the Amendment of Certain Laws and Decree Laws,³⁵ which made significant changes in the administrative structure, financial system, representation and participation, service delivery, zoning and planning of local governments in 2012) or the changes in the principle decisions of the High Council for the Protection of Cultural Assets.

In 2014, with the amendment made to the İYUK, the implementation of the summary procedure, in which the time limits for filing a lawsuit and petition were reduced, was also frequently mentioned. It was mentioned that the fact that the decisions taken as a result of the EIA (except for the administrative sanction decisions in accordance with the Environmental Law) and the urgent expropriation procedures are subject to the summary procedure and that the decisions to be given to the request for a stay of execution cannot be appealed cause negative impacts on the legal dimension of the environmental struggle.

Non-implementation of Court Decisions

As was frequently emphasized during the search meeting and focus group discussions, it is difficult to ensure the sustainability of the gains in the legal dimension of the environmental struggle. In other words, the failure to implement and enforce the judgments is a very important and fundamental problem. This problem is not limited to today. It should be traced back to the early 1990s, to the moves of the Council of Ministers to not implement judgments during the struggle against the Yeniköy, Kemerköy and Yatağan thermal power plants and the struggle against the Bergama Ovacık gold mine.

In 1994, 652 Bergama villagers filed a lawsuit against the action of the then Ministry of Environment and Forestry, which authorized the mining company Eurogold to operate a cyanide leaching gold mine in Bergama Ovacık, before the 1st Administrative Court of İzmir, which was rejected by the court two years later. Upon the appeal of this decision, the 6th Chamber of the Council of State ruled that “the procedure authorizing the operation of a gold mine by cyanide leaching method is contrary to the public interest”. Bergama villagers even erected an inscription in Çamköy square during the celebrations following this decision.

The court annulled the permit of the Bergama Ovacık Gold Mine following this decision, which is regarded as one of the first achievements of the environmental struggle. However, after the Council of State’s decision, the company continued its activities with a Prime Ministry order based on the report of a scientific commission formed by TÜBİTAK, which stated that the risk factors mentioned in the Council of State’s decision had disappeared.³⁶ Upon the Prime Ministry’s order, the General Directorate of Forestry extended the permission for the allocation of the forest area, and the Ministry of Health granted a testing permit for one year.

In the lawsuit filed for the annulment of the Prime Ministry’s order, İzmir 1st Administrative Court cancelled the order in 2001 on the grounds that “the action subject to the lawsuit has led to the reversal of the final court decision in practice, which is clearly incompatible with the principle of the rule of law”.

The administrative courts granted a stay of execution for both the General Directorate of Forestry and the Ministry of Health actions in 2002. Following the stay of execution decision on the Ministry of Health’s one-year testing permit, the İzmir Bar Association applied to the Ministry of Health and the Governorship of İzmir, requesting the implementation of the court decision. The Ministry of Health sent a letter to the İzmir Governorship stating that “the decision should be notified to the management of the facility by the İzmir Governorship until 03.04.2002 at the latest in order to suspend the testing permit and the operation of the facility”.

While it was expected that the activities would be suspended in accordance with the court decision, the then Minister of Health Osman Durmuş made a statement on a TV channel, and with that, it was learned that the Council of Ministers had taken a “decision in principle” that the gold mine could continue its activities despite the court decisions. This prin-

cial decision taken by the Council of Ministers on 29 March 2002 was not made public. The text of the decision was submitted by the government to the case before the ECtHR filed by 511 citizens of Bergama upon the non-implementation of the judgment given in 1997.³⁷

Court judgments are circumvented or not implemented, sometimes through interventions at the level of the Council of Ministers, sometimes as a result of Circular No. 2009/7 mentioned above, and sometimes as a result of the impunity of public officials who do not implement the judgments.

Among the environmental disputes that started in the 1990s, *Ahmet Okyay and others v. Turkey* (Application No. 36220/97, 12.07.2005) concerning the struggle against the Yeniköy, Kemerköy, and Yatağan thermal power plants and *Taşkın and others v. Turkey* (Application No. 46117/99, 10.11.2004), *Öçkan and others v. Turkey* (Application No. 46771/99, 28.03.2006) and *Genç and Demirgan v. Turkey* (Application No. 34327/06, 10.10.2017) concerning the struggle against the Bergama Ovacık gold mine, the ECtHR ruled that the non-implementation of administrative courts' decisions renders the 'right of access to a court' guaranteed under Article 6 of the ECHR on the right to a fair trial ineffective. The enforcement process (implementation) of these ECtHR judgments in domestic law is monitored by the Committee of Ministers of the Council of Europe³⁸. As a result of the evaluation of the inconclusiveness of court judgments in environmental protection cases as a systematic problem, it was decided to monitor the implementation of these judgments in the *enhanced procedure category*.³⁹

As a result of the non-implementation of the judgments, there is a risk that after a certain stage, the power of the social struggle will be lost, lawsuits will be abandoned, and the lawyers will no longer be able to keep up.

Change in Case Law on the Interpretation of the Concept of Interest

As stated above, in the legal dimension of the environmental struggle, first and foremost, the processes at the authorization stage are intervened; in other words, actions for the annulment are filed. Those who wish to file an action for the annulment must prove that their interest (benefit) has been affected by the administrative action as a condition for filing a lawsuit.

The Council of State had interpreted the concept of interest broadly in the cases it examined on appeal and recognized everyone as an “interested party” in matters related to the protection of environmental, historical, and cultural values. As of 2011, the Council of State has reversed this case law, which was expressed as a lost gain in our interviews, and started to interpret the concept of interest narrowly. According to the new case law, the Council of State decides that bar associations and professional chambers are not authorized to file lawsuits in cases filed by the State Council; in terms of individuals, it requires them to reside in the place in question, to have been born there, or to own property.

High Judgement Costs

High court fees, expert fees for scientific inquiries, as well as attorney fees paid in favour of administrative lawyers when the case is lost (counter-attorney fees), are today emerging as one of the major obstacles to access to justice in the environmental struggle.⁴⁰

During our interviews, it was shared that legal aid applications are made in administrative lawsuits. In addition to this, in cases filed in administrative courts and involving public interest such as zoning, environment, public health, public safety, etc., the courts may request that the advance for jury view and/or expert fees be covered from the budget of the Ministry of Justice. The lawyers we interviewed shared that they have also resorted to this procedure. However, in cases where such fees are covered from the budget of the ministry, in case the case is lost, the Ministry of Justice collects these amounts as if they were tax debts; in practice, even pensions have been seized.

In the face of high litigation costs and counter-attorneys’ fees paid in the cases lost, the defense strategy of enriching the legal struggle and arguments by filing multiple lawsuits for different administrative actions has become less and less common.

If it is remembered that it is also “usual” to have to file the same lawsuit many times, the high and repetitive judgment costs may cause the lawsuits filed with hundreds of people to continue with tens of people and sometimes with only one person over time.

Administrative and Judicial Harassment

The suppression of the rights holders, rights defenders, and civil society actors who are part of or support the environmental struggles through administrative and judicial harassment has continued uninterrupted since the 1990s.

We have already mentioned that environmental struggles have a diverse repertoire of actions aimed at establishing justice. Peaceful protests such as organising rallies or marches, sit-ins, and tent vigils have an important place in this repertoire of actions. With increasing frequency, these peaceful demonstrations are intervened by the police and gendarmerie, and peaceful demonstrations are dispersed by using excessive force, participants are detained or not allowed. Criminal investigations are frequently initiated by prosecutors' offices against participants in these intervened, dispersed, or unauthorised demonstrations; indictments are usually prepared and criminal proceedings are initiated against them, usually for violating the Law on Meetings and Demonstrations. Administrative fines are imposed based on the Law on Misdemeanours.

The security measures like the one imposed on Leyla Yalçınkaya, who has become a symbol of the struggle against the Bağbaşı HEPP in Erzurum Tortum, - ban on entering HEPP work sites and meeting with HEPP protesters – are used as a means of punishment.⁴¹

In addition, rights defenders are aimed to silenced, intimidated and deterred through SLAPPs. In our 2023 study titled *SLAPP in Environmental Disputes: Strategic Litigation Against Public Participation*, we observed that in the environmental struggles we recorded from 2013 to the first half of 2022, companies, their board members, managers, employees, or third parties whom companies are in a contractual relation with (such as private security companies) increasingly resort to judicial remedies against rights defenders. When we look at the environmental disputes between 1990 and 2012 within the scope of this study, we see SLAPPs initiated against environmental rights defenders in this period as well.⁴²

Administrative and judicial harassment against the rights holders, rights defenders, and civil society actors who are part of or support the environmental struggles by the state and companies is not only a violation of rights but also undermines the judicial system and the rule of law. It also has a *chilling effect* on the freedom of expression and freedom of assembly, thus putting rights defenders under pressure and shrinking civic space.

D. ACHIEVEMENTS, OPPORTUNITIES

Despite this negative picture, both lawyers and the rights holders do not see the loss or non-implementation of the judgments as a defeat. As was emphasized during the search meeting and focus group discussions, their approach is process-oriented rather than result-oriented. Continuation of the struggle, the fact that it can continue, delaying the investment, and increasing the investment cost are seen as successes.

It was frequently reminded that administrative lawsuits are actually a means of supervision and citizen oversight over the administrative authorities, that if lawsuits are not filed, projects that violate the right to live in a clean, healthy, and sustainable environment and will cause irreversible damage to the ecology will be put into operation by obtaining permits and licenses, and that in many parts of Turkey, there are projects that are put into operation without such lawsuits.

It is also a fact that every favourable decision leads to the development of environmental law. In this sense, the legal dimension of the struggle against the Bergama Ovacik gold mine, which is mentioned under different headings, is almost like a law school. The very first response to our question during the search meeting and focus group discussions, “Which cases/decisions created a change in the legal system/practice or public awareness in the environmental struggle in Turkey?” was the legal processes carried out in the struggle against the Bergama Ovacik gold mine⁴³ and the decision of the 6th Chamber of the Council of State in 1997, which is frequently referred to above.

The 6th Chamber of the Council of State relied on the right to life within the scope of the right to protect and improve his/her corporeal and spiritual existence regulated in Article 17 of the Constitution and the right to live in a healthy environment regulated in Article 56 in this decision. This judgment was delivered at a time when the application of environmental law was quite new in Turkey. According to the Council of State, “The environment continues its existence with certain balances that include natural and artificial elements and all kinds of human activities. In the event that the balance elements that make up the system are lost, it is natural that the deterioration in the environment will lead to destructive effects on living things and cause environmental pollution. It is essential that human life, which is the most important of living life, is maintained in a healthy, balanced, and not degraded environment. Since the protection of human life is a priority, it is necessary to

protect and develop the natural life foundations of human beings and the protection of the environment is an indispensable element of human life.”

As a result of the assessment made in accordance with the Constitution and the Environmental Law, the 6th Chamber of the Council of State ruled that “when we take into account the right to life and the state’s duty to protect environmental health, to prevent environmental pollution, and to ensure that everyone maintains their life in corporal and spiritual health, there is no conformity with the public interest in the action subject to the lawsuit to allow the operation of a gold mine with the cyanide leaching method, which works with the possible risk factors stipulated in the EIA and expert reports and which is certain to affect human life directly or indirectly through the deterioration of the environment in the event of the realization of this risk.”⁴⁴

In our interviews, both lawyers, scientists, and experts shared that they consider the decisions in the lawsuits filed against attempts to minimize the environmental impact of projects such as cumulative impact, 25 hectares, and integrated facilities as achievements that improve the environmental law.

In what lawyers refer to as “EIA cases”, the subjects of discussion are deficiencies in the preparation and review of EIA reports, non-compliance with commitments in EIA reports during the construction and operation of projects, as well as the tactics to present projects as having a lower risk than their actual environmental risks. Court precedents eliminating these tactics - although not always permanent - are considered achievements that have improved environmental law.

The case law on integrated facilities is one of these. When the court issued a stay of execution in 2013 with regards to an EIA Favourable decision for the thermal power plant, which was started to be constructed next to the Ancient Priapos City in Karabiga, Çanakkale, the company suspended the works for a while; however, it then divided the thermal power plant into four separate parts and initiated separate EIA processes. Thereupon, in 2014, Çanakkale Administrative Court annulled the EIA Favourable decision in the lawsuit filed for the EIA Favourable decision taken for one of the divided parts. The administrative court stated that “while the project subject to the lawsuit should be a single project integrated with other projects, it is seen that the integrated project of the thermal power plant is divided into parts and separate projects are envisaged in a way that will not allow the

environmental impacts of the integrated project to be evaluated holistically” and annulled the EIA Favourable decision.

The elimination of the obligation to prepare an EIA report by showing a certain part of the licensed area as the working area is referred to as the “25-hectare problem” in practice. The first annex of the EIA Regulation dated 25 November 2014 stipulated the obligation to prepare an EIA report for open-cut mining with a total excavation and dumping area of 25 hectares or more. However, this regulation did not specify the size of the licensed area. The companies were indicating a part of the licensed area that was smaller than 25 hectares as the working area and applied for an EIA for a part of the licensed area that was below 25 hectares, not for the whole licensed area, and as a result, they were receiving a decision that an EIA Not Required. In 2017, the 14th Chamber of the Council of State, in an action for the annulment of the EIA Not Required decision and the mining permit issued for a marble quarry in Kızılcık Plateau, which is covered with cedar and red pine forests in Finike, Antalya, evaluated this stipulation of the EIA Regulation and decided that the licensed area should be taken as the basis, not the working area shown in EIA applications. Following the case law of the Council of State based on the criterion of the size of the licensed area, the EIA Regulation was amended in 2017 and the phrase “regardless of the size of the licensed area” was added to this regulation.⁴⁵ In the lawsuit filed by the Ecology Collective Association against the amendment to the EIA Regulation, the 14th Chamber of the Council of State decided to stay of execution of the amendment to the EIA Regulation, which in a sense abolished its case law.⁴⁶ In 2018, the EIA Regulation was amended again and the criterion of the size of the study area was introduced.⁴⁷ In the lawsuit again filed by the Ecology Collective Association against this amendment to the EIA Regulation, the 14th Chamber of the Council of State ruled for a stay of execution.⁴⁸ As a result of the objection to the decision of stay of execution, the Council of State’s Plenary Session of Chambers for Administrative Law Divisions lifted the stay of execution decision and ruled against the case law of the Council of State.

In the Eastern Mediterranean Region, the Council of State’s Plenary Session of Chambers for Administrative Law Divisions established cumulative impact jurisprudence in the cases filed in 2011 upon the issuance of eight thermal power plant licenses side by side on the Adana-Hatay-Mersin coastline, stating that the cumulative impact of all polluting and destructive facilities planned and operating in the same region should be calculated.⁴⁹ Following this jurisprudence established by the Council of State’s Plenary Session of Chambers for Administrative Law Divisions in 2013, the administrative courts started to cancel

EIA and licenses in all polluting and destructive facility cases such as mining, thermal power plants, etc., especially between 2013-2016.⁵⁰

The ECtHR's judgment in *Cangı v. Turkey* case on the right to information on environmental issues is also important in terms of the debate on the function of the lawyer.⁵¹ Arif Ali Cangı, one of the lawyers of the environmental movement, had been denied at every stage of his application for access to information to obtain the minutes of a meeting held on the Yortanlı Dam project, which would destroy/engulfed the ancient site of Allianoi. Thereupon, Mr. Cangı applied to the ECtHR claiming that the rejection of his request to obtain an official copy of the minutes of the meeting constituted a violation of his right to receive and communicate information of public interest in his capacity as a citizen and member of a non-governmental organisation fighting to protect the ancient site of Allianoi and to promote public awareness of the issue.

In its judgment, the ECtHR, having regard to the purpose of the request for information and the content of the information, as well as the role of the applicant Arif Ali Cangı and his use of that information, held that “the meeting in question therefore unquestionably concerned a matter of public interest, given that the flooding of a historic site by the waters of a dam is obviously a matter that is likely to create a great deal of controversy, that involves an important social issue, or that relates to a problem about which the public would benefit from being informed” (para. 34) and that Mr. Cangı was “a member and representative of a non-governmental organization, the Allianoi Initiative Group, and that, by virtue of his action aimed at protecting the ancient site of Allianoi and disseminating information about the proceedings in progress concerning that site, he exercised a “public watchdog” role” (para. 35). As a result, the Court found that the denial of Mr. Cangı's access to the requested document prevented him from exercising his freedom to receive and communicate information and that his freedom of expression was violated.

In the interviews we conducted with lawyers, it was emphasized that environmental movements and lawyers do not rely solely on legislation, that their concepts are fed by both their experiences and the experiences of the struggle itself, and that when defending the rights of the “wolf, bird and insect”, they do not discuss whether this is defined in the constitution. The fact that the environmental struggle determines and constructs the concepts is important in terms of both sociality and legal dimensions. The citizen's ecocide law proposal prepared as a result of the recent Citizen Makes Ecocide Law Campaign is seen as an example of this constructivism.⁵²

E. NEW HORIZONS

On 28 July 2022, the UN General Assembly voted to recognize the ‘right to a clean, healthy and sustainable environment’ as a universal human right.⁵³ The UN Special Rapporteur on Human Rights and the Environment, David Boyd, described the decision as historic that “will change the very nature of international human rights law”, affirming that the right to a clean, healthy and sustainable environment is linked to other rights and existing international law, and requires the implementation of multilateral environmental agreements within the framework of the principles of international environmental law to promote it.⁵⁴

The debates generated by the reality of the climate crisis are also reflected in human rights law. We see this in the recognition of the right to a clean, healthy, and sustainable environment as a human right, or the adoption of binding regulations on the responsibility of the businesses for human rights and environmental violations they cause.⁵⁵

During the search meeting and focus group discussions, it was stated that the legal dimension of environmental struggles can be accompanied by the debates opened by the climate crisis and that the struggle can set its agenda based on these debates. It was stated that lawsuits discussing energy policies and climate litigation are suitable for this.⁵⁶

**In Lieu of
Conclusion**

Although it was realized early in the early 1990s with the Bergama process that legal remedies remain inconclusive, the legal struggle continues to maintain its fundamental importance.⁵⁷ The effective use of the right to petition (right to information in the 2000s) and the subsequent filing of lawsuits against administrative actions, compensation claims, or criminal complaints filed due to judgments that were not implemented constitute the legal tools of the struggle. Individual applications before the ECtHR have been used since the struggle against the Yeniköy, Kemerköy, and Yatağan Thermal Power Plants in the late 1980s. Citizens intervene in decision-making processes in which they are not included through the judiciary. Each struggle, with its methods and experiences, serves as a guide for those who come after it.

Environmental disputes cannot be isolated from the situation and problems related to democracy, human rights, and the rule of law in Turkey. However, although the pursuit of environmental justice in Turkey has a long history, it is not in close relation with the human rights movement. Although there are common problems on very basic issues such as freedom of assembly, repression of rights defenders, and access to justice, we observe that solidarity, collaboration, and exchange of experiences are very limited. In our interviews, it was evaluated that the increasing solidarity networks in Turkey in the face of shrinking civic space have gradually started to include the environmental struggle and that the recognition of ‘the right to a clean, healthy and sustainable environment’ as a human right and the reality of the climate crisis have started to bring Turkey’s two well-established movements, the environmental movement and the human rights movement, closer.

Since the late 1970s, Turkey has been a party to environmental conventions and protection standards on issues such as biodiversity, pollution, waste, toxic and hazardous substances, and climate. Although all these conventions and protection standards are invoked in environmental litigation, the use of international human rights law and mechanisms for the protection of the environment is rather weak.

Turkey recognized the right of individual application to the ECtHR in 1987 and the compulsory jurisdiction of the ECtHR in 1989. In the 1990s, in the face of increasing gross human rights violations in places under the state of emergency, lawyers initiated systematic litigation against Turkey before the ECtHR, opening up a space for legal mobilization.⁵⁸ This legal mobilization around the Kurdish question in the 1990s was instrumental in the operationalization of the ECHR provisions on the right to life and the prohibition of torture and ill-treatment.

In the same period, environmental disputes were also coming before the ECtHR. Although the right to a clean, healthy, and sustainable environment is not recognized as an independent right under the ECHR, in its judgments the ECtHR interprets and applies different provisions of the ECHR in such a way as to cover protection from environmental damage and to impose obligations on states to protect against such damage.⁵⁹ As mentioned above, the implementation of the judgments of the ECtHR regarding the struggle against the Yeniköy, Kemerköy, and Yatağan thermal power plants and the struggle against the Bergama Ovacık gold mine is monitored by the Committee of Ministers of the Council of Europe. The inconclusiveness of court judgments in environmental protection cases is considered to be a systematic problem and the implementation of these judgments is monitored under the *enhanced procedure* category. However, when we look at the documentation on these groups of cases, we see that the procedure called Rule 9.2, which allows NGOs to participate in the monitoring process,⁶⁰ is used very limitedly by only two NGOs. It should be noted that there is almost no engagement with treaty bodies, such as the Human Rights Committee or special procedures of the UN.

Multilateral development banks, such as the World Bank and the European Bank for Reconstruction and Development, have established grievance mechanisms to examine the damages caused by the projects they finance or violations of the principles and standards stipulated as a prerequisite for financing. The use of these grievance mechanisms is also limited. These mechanisms have important procedures for rights holders, such as on-site views.

For example, 372 people living in Değirmenbaşı village in İvrindi district of Balıkesir province made an application to the *Independent Project Accountability Mechanism*, the complaint mechanism of the *European Bank for Reconstruction and Development*, due to the negative impacts of gold and silver mining in the region on the environment and livelihoods.⁶¹ However, as stated in the 2022 report of the Independent Project Accountability Mechanism, the applicants withdrew the application as a result of the pressures they faced, and the application was closed.⁶²

Another issue that can also be considered in relation to the weakness of the use of international human rights law and mechanisms for environmental protection is the weak experience with new and creative tools/methods. An example of this is the use of business and human rights standards.

With the impact of the debates that started in the 1970s with the negative effects of foreign direct investments of Western companies in developing countries, both the UN and the OECD started to establish standards of behaviour for multinational corporations. Adopted in 1976, the *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (OECD Guidelines) is today one of the main reference texts in the field of business and human rights. Turkey is a party to the OECD Guidelines and has a *National Contact Point* as an obligation.⁶³ As a complaint mechanism, the National Contact Point handles complaints of violations arising from the implementation of the OECD Guidelines.

The application concerning the Zeynel Bey Tomb in Hasankeyf, which had to be relocated as part of the Ilısu Dam and HEPP Project, is the only example of a National Contact Point being used in relation to an environmental dispute in Turkey. Following an application by civil society actors from Norway and Turkey to the Dutch National Contact Point, the Dutch company Bresser, which undertook the relocation of the Zeynel Bey Tomb, was found to have violated the right to the protection of cultural heritage through its activities in Hasankeyf.⁶⁴

The Guiding Principles on Business and Human Rights (Guiding Principles), endorsed by the UN Human Rights Council in June 2011, are recognized as a global standard that sets out the roles of states and businesses in how to prevent and address the negative impacts that businesses cause on human rights and the environment. Recently, in the İzikköy-Akbelen struggle, the İzikköy Environmental Committee wrote a letter to the UN Development Programme (UNDP), reminding it of its responsibilities under the Guiding Principles and demanding that UNDP terminate its social responsibility work with the foundation of the company implementing the project. In a written statement, UNDP announced that it had terminated the partnership as a result of its inquiry.⁶⁵

Similar processes, such as complaints or claims initiated within the scope of the aforementioned standards, can be utilized for different environmental disputes in Turkey, as seen in the experiences of other countries.



Chronology of Environmental Struggles

Environmental Struggle	Year	Location (Province, District)
Struggle Against Yeniköy Thermal Power Plant	1984	Mugla, Milas
Struggle Against Yatagan Thermal Power Plant	1984	Mugla, Bodrum
Struggle Against Gökova (Kemerköy) Thermal Power Plant	1984	Mugla, Milas
Struggle Against Istanbul Park Hotel	1989	Istanbul, Beyoglu
Struggle Against HEPP, Landscape Project, Mining on Munzur Valley	1990	Tunceli
Struggle Against Mersin Akkuyu Nuclear Power Plant	1990	Mersin, Gulnar
Struggle Against Sinop Nuclear Power Plant	1990	Sinop, Centre
Struggle Against Aliaga Thermal Power Plant	1990	Izmir, Aliaga
Destin Village Struggle Against Cement Factory	1992	Mugla, Yatagan
Struggle Against Bergama Ovacik Gold Mine	1992	Izmir, Bergama
Struggle Against Black Sea Coastal Highway	1994	Samsun - Ordu - Giresun - Trabzon - Rize - Artvin
Cerattepe Anti-Mine Struggle	1995	Artvin, Centre
Struggle Against Yusufeli Dam and HEPP	1997	Artvin, Yusufeli
Struggle Against Hasankeyf/Iisu Dam and HEPP	1998	Batman, Hasankeyf
Struggle Against Kisladag Gold Mine	1999	Usak, Esme
Bartın Struggle Against Thermal Power Plant	1999	Bartın, Amasra
Can Struggle Against Thermal Power Plant	1999	Canakkale, Can
Firtina Valley Anti-HEPP Struggle	1999	Rize, Camlihemsin
Ida Mountains Anti-Gold Mine Struggle	2002	Canakkale, Ida Mountains region
Action Against Soguksu Toxic Waste Barrels	2002	Sinop, Gerze
Action Against Alacam Toxic Waste Barrels	2002	Samsun, Alacam

Environmental Struggle	Year	Location (Province, District)
Struggle Against Çınarlık Electric Power Plant	2003	Samsun, Carsamba
Struggle Against Tekkekoy Mobile Power Plant	2003	Samsun, Tekkekoy
Findıklı Anti-HEPP Struggles (Pasalar HEPP, Catak Regulator and HEPP and Caglayan Valley Struggle)	2005	Rize, Findikli
Protest against the Removal of Trees on Istiklal Street	2005	Istanbul, Beyoglu
Allianoi Ancient Site Struggle	2005	Izmir, Bergama
Kozagacı Valley Struggle Against Thermal Power Plant	2006	Bursa, Keles
Struggle Against Galataport	2006	Istanbul, Beyoglu
Struggle Against HEPP in Şavşat	2007	Artvin, Savsat
Struggle Against Caldag Nickel Mine	2007	Manisa, Turgutlu and Gordes
Struggle Against Efemçukuru Gold Mine	2007	Izmir, Menderes
Havran Anti-Gold Mine Struggle	2007	Balikesir, Havran
Goynuk Struggle Against Thermal Power Plant	2007	Bolu, Goynuk
Dikmen Valley Urban Transformation Project and the Struggle Against the Demolition of Slums	2007	Ankara, Cankaya
Struggle Against Sulukule Urban Transformation Project and the Demolition	2007	Istanbul, Fatih
Struggle Against İkizdere HEPP	2008	Rize, İkizdere
Gerze Struggle Against Thermal Power Plant	2008	Sinop, Gerze
Gemlik Struggle Against Thermal Power Plant	2008	Bursa, Gemlik
Senoz Valley Anti-HEPP Struggle	2008	Rize, Cayeli
Struggle Against Ayazma Urban Transformation Project	2008	Istanbul, Kucukcekmece
Struggle Against Mamak Urban Transformation Project	2008	Ankara, Mamak
Struggle Against Basibuyuk Urban Transformation Project	2008	Istanbul, Maltepe

Struggle Against Sigacik Bay Tuna Fish Farm	2008	Izmir, Seferihisar
Struggle Against HEPP in Yuvarlakcay	2009	Mugla, Koycegiz
Kozak Plateau Anti-Mine Struggle	2009	Izmir, Bergama
Karasu Struggle Against Thermal Power Plant	2009	Sakarya, Karasu
Nigde Struggle Against Gold Mine	2009	Nigde, Ulukisla
Cit Creek Anti-HEPP Struggle	2009	Gumushane, Turtul
Umutlu Anti-HEPP Struggle	2009	Amasya, Tasova
Gorele Struggle Against Solid Waste Facility	2010	Giresun, Gorele
Borcka Struggle Against HEPP	2010	Artvin, Borçka
Loç Valley Anti-HEPP Struggle	2010	Kastamonu, Cide
Yunuslar Anti-HEPP Struggle	2010	Kastamonu, Catalzeytin
Hatay Erzin Struggle Against Thermal Power Plant	2010	Hatay, Erzin
Struggle Against Ayancik Thermal Power Plant and HEPP	2010	Sinop, Ayancik
Giresun Canakci Valley Anti-HEPP Struggle	2010	Giresun, Canakci
Güneysu Anti-HEPP Struggle	2010	Rize, Guneysu
Samandag Struggle Against WPP	2010	Hatay, Samandag
Struggle Against Fener Balat Ayvansaray Urban Regeneration Project	2010	Istanbul, Fatih
Taskopru Struggle Against Thermal Power Plant	2010	Yalova, Ciftlikkoy
Alakir Valley Anti-HEPP Struggle	2010	Antalya, Kumluca
Hopa Anti-HEPP Struggle	2011	Artvin, Hopa
Struggle Against Arapdagi Gold Mine	2011	Izmir, Karsiyaka
Struggle Against Gumuskoy Silver Mine	2011	Kutahya, Gumuskoy

Environmental Struggle	Year	Location (Province, District)
Struggle Against Kargi Stream HEPP	2011	Antalya, Fethiye
Salarha Valley Anti-HEPP Struggle	2011	Rize, Salarha
Struggle Against Gunesli Creek Dam	2011	Artvin, Hopa
Karabiga Struggle Against Thermal Power Plant	2011	Canakkale, Karabiga
Bolaman Valley Anti-HEPP Struggle	2011	Ordu, Fatsa
Struggle Against HEPP in Solakli Valley	2011	Trabzon, Caykara
Afyon Beyyazi Town Struggle Against Quarry	2011	Afyonkarahisar
Rize Struggle Against Tea Factories	2011	Rize, Findikli
Struggle Against Bagbasi HEPP	2011	Erzurum, Tortum
Dereli Anti-HEPP Struggle	2011	Giresun, Dereli
Struggle Against Kavak HEPP	2012	Artvin, Arhavi
Zilan Creek Anti-HEPP Struggle	2012	Van, Erciş
Struggle Against Pembelik Dam	2012	Elazığ, Karakoçan
Struggle Against Ayvacikalti Transport Port Project	2013	Canakkale, Ayvacik
Protest Against Mut HEPP Project	2013	Mersin, Mut
Struggle for the Emek Movie Theater	2013	Istanbul, Beyoglu
Gezi Park Protests	2013	Istanbul and other provinces
Protest Against Urban Transformation in Inonu and Emek Neighbourhoods	2013	Kocaeli, Cayirova
Struggle Against Ahmetler Canyon HEPP Project	2013	Antalya, Manavgat
Struggle Against Babadere Thermal Power Plant	2013	Canakkale, Ayvacik
Struggle Against the Tree Massacre on Mount Cal	2013	Manisa, Turgutlu

Struggle Against Simsirli HEPP	2013	Rize, İkizdere
Struggle Against Kangal Gold Mine	2013	Sivas, Kangal
Reaction to Tree Cutting in Erciş	2013	Van, Erciş
Struggle Against Bogazpınar HEPP	2013	Mersin, Tarsus
Andon Creek Anti-HEPP Struggle	2013	Rize, Centre
Struggle Against Kabataş Seagull Project	2013	Istanbul, Beyoğlu
Struggle Against Kursunlu Mine Quarry	2013	Canakkale, Bayramic
Struggle for the Protection of Yedikule Orchards	2013	Istanbul, Fatih
Protest Against Tree Felling in METU	2013	Ankara, Cankaya
Silopi Struggle Against Thermal Power Plant	2013	Sirnak, Silopi
Struggle Against Canal Istanbul Project	2013	Istanbul
Struggle for the Protection of Hevsel Gardens	2013	Diyarbakir
Copler Anti-Gold Mine Struggle	2013	Erzincan, Ilıc
Moran Anti-HEPP Struggle	2014	Giresun, Alucra
Struggle Against Gungormez and Bahcekoy Quartzite Quarry	2014	Tekirdag, Saray
Struggle Against Soma Thermal Power Plant	2014	Manisa, Soma
Struggle Against Yenicesihlar Quarry	2014	Bolu, Mudurnu
Ardanuc Anti-HEPP Struggle	2014	Artvin, Ardanuc
Murgul Anti-Cyanide Pond Struggle	2014	Artvin, Murgul
Validebag Grove Resistance	2014	Istanbul, Uskudar
Protests Against Hevek Stream HEPP	2014	Artvin, Yusufeli
Kirazliyayla Anti-Mine Struggle	2014	Bursa, Yenisehir

Environmental Struggle	Year	Location (Province, District)
Fight Against Industrial Pollution in the Ergene River	2014	Edirne
Fatsa Anti-Mine Struggle	2014	Ordu, Fatsa
Karaburun Anti-WPP Struggle	2014	Izmir, Karaburun
Zori Stream Anti-HEPP Struggle	2014	Diyarbakır and Batman
Reaction Against Cekerek River HEPP Projects	2015	Tokat, Zile
Reaction Against Demolition of Basaksehir Park Area	2015	Istanbul, Basaksehir
Protest Against the Demolition of Albatros Park in Buyukcekmece	2015	Istanbul, Buyukcekmece
Struggle Against 3rd Bridge and 3rd Airport	2015	Istanbul
Igneada Struggle Against Thermal Power Plant and Nuclear Power Plant	2015	Kirklareli, Igneada
Green Road Resistance	2015	Rize, Camlihemsin
Struggle Against Degirmenbasi Gold and Silver Mine	2015	Balikesir, Ivrindi
Bursa DOSAB Struggle Against Thermal Power Plant	2016	Bursa
Fight Against Çeşme WPP	2016	Izmir, Cesme
Struggle for the Protection of the Roman Orchard	2016	Istanbul, Beyoglu
Avdan Struggle Against Thermal Power Plant and GEPP	2016	Denizli, Tavas
Topcam Anti-Mine Struggle	2016	Aydin, Cine
Struggle Against Kizilcadag Quarries	2017	Antalya, Finike
Kirklareli Struggle Against Thermal Power Plant	2017	Kirklareli
Struggle Against Thermal Power Plants in Thrace	2017	Tekirdag, Cerkezkooy
Gulpinar Anti-GPP Struggle	2017	Canakkale, Ayvacik
Struggle Against Alpu Thermal Power Plant	2018	Eskisehir, Alpu

Kizilcakoy Anti-GPP Struggle	2018	Aydin, Incirliova
Struggle Against Hanli HEPP	2018	Artvin, Savsat
Fight against the Hod Gold Mine	2019	Artvin
Struggle against the Istranca/Yildiz Mine	2019	Kirklareli
Kisebuku Struggle Against Construction	2019	Mugla, Bodrum
Salihli Anti-GPP Struggle	2019	Manisa, Salihli
Struggle Against the Murat Mountain Gold Mine	2019	Usak and Kutahya
Sungurlu Anti-Dam Struggle	2019	Kocaeli, Kandira
Adana Hunutlu Struggle Against Thermal Power Plant	2019	Adana
Reaction Against Quarry in Caycuma	2019	Zonguldak, Caycuma
Carsamba Resistance Against Biomass Power Plant	2019	Samsun, Carsamba
Anti-Mine Struggle in Kirazli	2019	Canakkale, Kirazli
Struggle Against the Port Project in Saros Bay	2019	Edirne
İkizköy - Akbelen Forest Struggle Against Lignite Mine Operation	2019	Mugla, Milas
Struggle Against Aydin GPP	2020	Aydin, Germencik
Gurgen Creek Anti-HEPP Struggle	2020	Rize, Guneysu
Kapaklı Village Struggle Against Limestone Quarry	2020	Kirklareli
Yagmurlu Village Reaction to Quarry	2020	Tokat, Centre
Struggle Against Salihli Capaklı Biogas Power Plant	2020	Manisa, Salihli
Struggle for Akcay Reedbed and Wetland Control	2020	Canakkale-Balikesir region
Bayındır Anti-HEPP Struggle	2020	Ordu, Korgan
Divrigi Anti-Mine Struggle	2020	Sivas, Tunceli, Erzincan and Malatya

Environmental Struggle	Year	Location (Province, District)
Resistance Against İkizdere Quarry	2020	Rize, İkizdere
Uçpınar Anti-Mine Resistance	2020	Ordu, Unye
Struggle Against Halilaga Copper Mine	2020	Canakkale, Ida Mountains region
Struggle Against Serciler Gold-Silver Quarry	2020	Canakkale, Canakkale
Struggle Against the Sahin Mountains Gold Mine	2020	Samsun, Kavak
Struggle Against Tarsus Biomass Power Plant	2020	Mersin, Tarsus
Van Struggle Against Marble Quarry	2021	Van, Gurpınar
Yeşilli Reaction Against Urban Regeneration	2021	Mardin, Yesilli
Struggle Against İcmeler Kızılbuk Timeshare Project	2021	Mugla, Marmaris
Tokat Struggle Against Cyanide Gold Mine	2021	Tokat, Erbaa
Struggle Against Giresun Copper-Zinc Mine and Andazite Quarry	2022	Giresun, Dereli
Struggle Against HEPP in Araklı, Trabzon	2022	Trabzon, Araklı
Reaction Against Kamiscik Marble Quarry	2022	Yozgat, Çekerek
Struggle for Protection of Çekmeköy Park	2022	Istanbul, Çekmeköy

Endnotes

- 1 - With this study, we have extended the record of environmental disputes from the beginning of 2013 to June 2022, which we had previously identified through our desk research, back to the beginning of 1990. A narrowed version of our record can be found in the annex. The data on environmental disputes was gathered through desk research and a review of the sources mentioned. Therefore, we need to emphasize that it does not claim to include all the cases in the time period it focuses on. You can send us an e-mail to info@mekandaadalet.org for the environmental disputes that you see are not included.
- 2 - MAD (2023). *Çevre İhtilaflarında SLAPP: Kamu Katılımına Karşı Stratejik Dava*. https://mekandaadalet.org/wp-content/uploads/2023/04/MAD_SLAPP_rapor.pdf.
- 3 - MAD (2019). *Mekânda Adalet için Yurttaş Davaları: Cerattepe*. <https://mekandaadalet.org/program/yurttas-davalari-cerattepe/>
- 4 - Bülent Tanör (2012). *İki Anayasa 1961-1982*. On İki Levha Yayınları, 4th Edition, p. 138.
- 5 - See Aylin Özman (June 1998). *Yeşiller Partisi ve ÖDP Üzerine: Batı'da Alternatif Siyaset Arayışları ve Yeşil Partiler*. Birikim, Issue 110. <https://birikimdergisi.com/dergiler/birikim/1/sayi-110-haziran-1998-sayi-110-haziran-1998/2305/yesiller-partisi-ve-odp-uzerine/3834>. In 1994, the Constitutional Court ruled for the closure of the Green Party, which had not submitted its final accounts for 1988. For the decision of the Constitutional Court, see <https://siyasipartikarlar.anayasa.gov.tr/Dosyalar/Kararlar/KararPDF/1994-1-spk.pdf>.
- 6 - When talking about the legal dimension of the environmental struggle, the İzmir Environmental Movement Lawyers Group and İzmir Bar Association lawyers Senih Özay and Noyan Özkan deserve special mention.
- 7 - See also Fevzi Özlüer (2013). "*Çevre ve Ekoloji Hareketi Avukatları Üzerine Düşünmek 1: Kapitalizm Koşullarında Kapitalizm Dışı Rüyalar Görmek*", in *Kollektif Dergi* 16, pp. 35 - 40.
- 8 - For an oral history study on the process of the struggle against the Bergama Ovacık Gold Mine from the beginning until the early 2000s, see Üstün Bilgen Reinart (2003). *Biz Toprağı Bilirik! Bergama Köylüleri Anlatıyor*, Metis Publications.
- 9 - MAD (2019), p.10.
- 10 - MAD (2024). *Kışladağ: Altın Madeni Gölgesinde*. <https://www.youtube.com/watch?app=desktop&v=6SPHPHYQV0>
- 11 - Sinan Erensü (2020, August). *Türkiye Madencilik Mevzuatı Zaman Çizelgesi*. In *Kazdağları-Kirli Altın*, pp. 1, 6-7, https://mekandaadalet.org/wp-content/uploads/2020/09/kazdaglari_v3.pdf
- 12 - See also <https://karadenizisyandadir.net/>
- 13 - For the criminal case into the killing of Metin Lokumcu, see Hafıza Merkezi, <https://www.failibelli.org/dava/metin-lokumcu-davasi/>
- 14 - For a detailed study on the Büyük Menderes Basin, see MAD (2024). *Büyük Menderes – Gökkuşbuğ Altındaki En Güzel Yeryüzü*, <https://mekandaadalet.org/wp-content/uploads/2023/10/Buyukmenderes.pdf>; See also <https://deretepe.org/cevre-adaleti-cercesinde-buyuk-menderes-havzasi/>
- 15 - For the legal process against the Galataport İstanbul project, see also MAD (2022). *Türkiye'de Şirketlerin İnsan Hakları Sorumluluğuna Bakış: 3. Havalimanı, Galataport İstanbul, Hunutlu Termik Santrali, Kirazlı Altın Madeni, Yusufeli Barajı*. https://mekandaadalet.org/wp-content/uploads/2022/04/MAD_Sirketlerin_Sorumluluguna_Bakis_rapor.pdf
- 16 - Rüya Yüksel, in her paper titled "Bir yeri savunmak: Mekân, çevre ve hukuk bilinci" (Defending a place: environment and legal consciousness) focuses on the relationship between space, environment and legal consciousness. The paper is available in the Turkish version of this publication.
- 17 - During our interviews, lawyers stated that the actions for the annulment they filed were mostly "EIA lawsuits". Scientists and experts also frequently mentioned the problems in EIA processes. For a research file on the problem areas in legislation and practice in EIA processes, see Birgün (2021, 20 July). *Kopyala yapıştır raporlar*, <https://www.birgun.net/haber/kopyala-yapistir-raporlar-352361>; *Hukuk ortadan kalktı talanın önü açıldı*, <https://www.birgun.net/haber/hukuk-ortadan-kalkti-talain-onu-acildi-352452>; *Yeni çevre düzeni: Kes-Kopyala-Yamala*, <https://www.birgun.net/haber/yeni-cevre-duzeni-kes-kopyala-yamala-352506>.
- 18 - For a study on strategic litigation in the context of environmental protection, see Dilşad Çiğdem Sever (2018). *Kent ve Çevre Davalarında Stratejik Davalama Kılavuzu*. Ecology Collective Association. <https://ekolojikolektif.org/wp-content/uploads/2018/07/Kent-ve-%C3%87evre-Davalama-%C4%B1nda-Stratejik-Davalama-K-%C4%B1lavuzu.pdf>
- 19 - For citations on the judgement, see Arif Ali Cangı (2002). *Bergama, Siyanür, Altın, Mahkeme Kararları, Hukuksal Süreç*. <https://www.geocities.ws/siyanurleatin/yazi/2002/surec.html>
- 20 - Hürriyet (2003, 18 March). *Yılmaz'ı icradan teminat mektubu kurtardı*. <https://www.hurriyet.com.tr/gundem/yilmazi-icradan-teminat-mektubu-kurtardi-38552595>
- 21 - Noyan Özkan (1995). *Doğa Koruma Rehberi*. Nar Publications, p. 82.
- 22 - For a study on the process of the struggle against the Gerze thermal power plant between September 2011 and September 2013, see Ferhat Hançer (2021). *Gerze'de Bir Doğa Mücadelesi Direniş Günlüğü*. Nota Bene.
- 23 - For an evaluation of these lawsuits, see MAD (2023), footnote 2. A similar situation applies to civil lawsuits. A reverse litigation practice develops through a type of civil lawsuit, namely compensation lawsuits filed for damage to reputation. As pointed out in the cited study, companies frequently file lawsuits against the rights holders, lawyers, journalists, rights defenders, claiming that their commercial repu-

tation has been damaged.

24 - Noyan Özkan (1995), pp. 80-81.

25 - The right to obtain information, which was not recognized as a right in the Constitution when the Law on the Right to Information was adopted. It was added to the Constitution in the Constitutional amendment made by the 12 September 2010 Referendum. With this amendment, the subtitle of Article 74 of the Constitution, which used to be "Right of Petition", was changed to "Right of petition, right to information and appeal to the Ombudsperson" and a new paragraph was added to the article: "Everyone has the right to obtain information and appeal to the Ombudsperson"

26 - See also ICJ (2022) for a study on this issue. *Türkiye'de insan hakları ve çevrenin korunması konularında adalet erişimin durumu*, <https://www.icj.org/wp-content/uploads/2022/03/Turkey-AccessToJusticeEnvironmentHR-Publications-Reports-Thematic-reports-2022-TUR.pdf>

27 - For Circular No. 2009/7, see https://api.cmo.org.tr/uploads/portal/resimler/ekler/2b9bf67d84a5350_ek.pdf.

28 - İpek Sezgin in her paper titled "Çevre Mücadelesinde Bir Yıldırma Aracı: 2009/7 Genelgesi" (A Tool of Intimidation in Environmental Struggle: Circular 2009/7) focuses on the effects of Circular 2009/7, which are referred here. The paper is available in the Turkish version of this publication.

29 - Circular No. 2009/7 regulates two situations. The first one is the possibility for the project owners to continue their activities despite the court decisions within a reasonable period of time. Circular No. 2009/7 states that if a stay of execution/annulment decision is issued by the administrative court at a stage when the construction works of the project are in progress, in this case, it will be appropriate to give the project owner a reasonable period of time to take environmental safety and security measures to eliminate environmental problems before fulfilling the requirements of the stay of execution/annulment decision. The second arrangement is the possibility of not repeating the entire process of preparing the EIA report from the beginning. This section deals with this second situation. For the timeline of the EIA process, see Cömert Uygur Erdem (2018). *Yurttaşlar İçin ÇED Süreci Takip Rehberi*. Ecology Collective Association, p. 19.

30 - For amendments to the EIA Regulation, see <https://ced.csb.gov.tr/mulga-ced-yonetmelikleri-uygulamasi>

31 - Bianet (2018, 6 November), *Çukuralan'da ÇED İptal, Yeni İDK Sonucu Bekleniyor*, <https://bianet.org/haber/cukuralan-da-ced-iptal-ye-ni-idx-sonucu-bekleniyor-202357>

32 - See MAD (2022) for our study on the relationship between legislation amended to facilitate investment and the responsibility of companies to respect human rights.

33 - See also Bianet (2010, 5 June). *Çevre Günü Madenciligi*. <https://bianet.org/yazi/cevre-gunu-madenciligi-122530>

34 - We have provided a reference above where the amendments to the EIA Regulations can be monitored. In a study we conducted in 2020, see MAD (2020) for the chronology of mining legislation we included as of that date. *Kaz Dağları - Kirli Altın*, pp. 6-7. https://mekandaadalet.org/wp-content/uploads/2020/09/kazdaglari_v3.pdf.

35 - This law is popularly referred to as "integrated city".

36 - For the chronology and references here, see Arif Ali Cangı (2002), footnote 19.

37 - *Taşkın and Others v. Turkey*, Application No. 46117/99, 10.11.2004, para. 75, <https://hudoc.echr.coe.int/eng?i=001-67401>

38 - For a detailed study on the implementation of the ECtHR judgements, see European Implementation Network (2018). *Avrupa İnsan Hakları Mahkemesi Kararlarının Uygulanması El Kitabı*. <https://static1.squarespace.com/static/55815c4fe4b077ee5306577f/t/5dc50efdb-e4777086cd2ca1/15732042471155/Handbook-EIN-TR-FINAL.pdf>

39 - For detailed information see <https://hudoc.exec.coe.int/?i=004-47927>

40 - See also Selma Kanbur Yılmaz and Kerem Dikmen (2002). *Kazdağları Bölgesinde Çevre Mücadelesinde Adalet Erişim Öncündeki Maddi Engeller: İnsan Hakları İzleme Raporu*. https://gulpinardernek.org/wp-content/uploads/2023/04/gulpinar_ih_izleme_raporu.pdf

41 - Nowadays, we see that judicial control measures such as ban on travelling to the place where the environmental struggle is being waged are being taken more frequently. Recently, Deniz Gümüşel, a rights defender in the İkizköy-Akbelen struggle, was banned from entering Milas district borders. Another example is the ban on entering within three kilometers of the mine site imposed on Sedat Cezayirlioğlu from İliç following the disaster that occurred in the Erzincan Çöpler Gold Mine when cyanide-heavy metal material slipped from the heap leaching area and nine workers were trapped under the cave-in.

42 - A register of environmental disputes that can be found in the annex.

43 - See also Bianet (2014, 13 December). *Bergama Direnişi Çevre Hukukunu Nasıl Değiştirdi?* <https://bianet.org/yazi/bergama-direnisi-cev-re-hukukunu-nasil-degistirdi-160776>

44 - 6th Chamber of the Council of State, decision dated 13.05.1997 and numbered 1996/5477 E., 1997/2312 K., <https://karararama.danistay.gov.tr/getDokuman?id=17965500&arananKelime=6.%20Daire,1996/5477,1997/2312>

45 - Official Gazette dated 27 May 2017 and numbered 30077, <https://www.resmigazete.gov.tr/eskiler/2017/05/20170526-2.htm>

46 - Ecology Collective (2018), <https://ekolojikolektifi.org/portfolio/danistay-ced-yonetmeli-gdegisliklerinden-ikisinin-yurutmesi-ni-durdurdu/>

- 47 - Official Gazette dated 14 June 2018 and numbered 30451, <https://www.resmigazete.gov.tr/eskiler/2018/06/20180614-17.htm>
- 48 - For the decision of the 14th Chamber of the Council of State, see <https://ekoloji.kolektifi.org/wp-content/uploads/2019/03/C3%87ED-Y%C3%B6n-25-hektar-y%C3%BCr%C3%BCtme-yi-durdurma.pdf>
- 49 - For an interview with lawyer İsmail Hakkı Atal on cumulative impact case law, see Evrensel (2023, 12 May). <https://www.evrensel.net/haber/489808/ismail-hakki-atal-halk-karsi-durmasaydi-akp-doga-birakmayacakti>
- 50 - Lawyer İsmail Hakkı Atal states that EMRA cancelled 20 thermal power plant projects after the cumulative impact jurisprudence of the Council of State's Plenary Session of Chambers for Administrative Law Divisions in 2013; however, we observe that even though the production licence was later terminated by EMRA, this time a new company was granted a production licence for the same location and project, and new lawsuits were filed for the production licences of these new companies. On such a process, see Adana Bar Association (2019, 7 December). <https://adanabarosu.org.tr/tr/barodan-haberler/baromuz-ve-cevre-derneklerinin-actigi-davada-ceyhan-tunas-enerji-komuru-termik-santraline-epdk-tarafindan-verilen-hulle-lisansinin-iptal-kararini-ankara-bolge-idare-mahkemesi-onayladi>
- 51 - *Cangi v. Turkey*, Application No. 24973/15, 29.01.2019, <https://hudoc.echr.coe.int/?i=001-192935>
- 52 - For the ecocide law proposal, see <https://ekokirimyasaki.org/>
- 53 - UN General Assembly (2022). *The human right to a clean, healthy and sustainable environment*, A/RES/76/300. <https://documents.un.org/doc/undoc/gen/n22/442/77/pdf/n2244277.pdf?token=Litvn8Wk6QWBPVUkDA&fe=true>. For the Turkish translation of the resolution, see also <https://altiparmakhukuk.org/blog/bm-genel-kurul-karari-cevrisi-temiz-saglikli-ve-surdurulebilir-bir-cevre-h-88>
- 54 - UN News (2022, 28 July). UN General Assembly declares access to clean and healthy environment a universal human right. <https://news.un.org/en/story/2022/07/1123482>
- 55 - For MAD's studies on both issues, see <https://mekandaadalet.org/cevre-adaleti/>
- 56 - Özlem Altıparmak, in her paper titled "Türkiye'de İklim Davası Örneği: Marmara Gölü Balıkçılarının Hukuk Mücadelesi" (The Case of Climate Litigation in Turkey: The Legal Struggle of Lake Marmara Fishermen), focuses on climate litigation as strategic litigation. The paper is available in the Turkish version of this publication.
- 57 - Kutay Kutlu, in his paper titled "Jeotermal Enerji Santrallerine İlişkin Çevre Adaleti Mücadelelerinde Aydın İli Örneği: Hukukun İmkanları ve Sınırlılıkları" (The Case of Aydın Province in Environmental Justice Struggles Regarding Geothermal Power Plants: Possibilities and Limitations of Law) focuses on how legal mechanisms are used by political power, capital and social movements in the struggle for environmental justice. The paper is available in the Turkish version of this publication.
- 58 - For a study on this issue, see Dilek Kurban (2023). *Uluslararası Adaletin Sınırları*. İletişim Publishing.
- 59 - See also ICJ (2022), pp. 13-21.
- 60 - Under Article 9 of the Rules of Procedure of the Committee of Ministers of the Council of Europe, injured parties and NGOs may submit written communications to the Committee of Ministers to assist in the implementation process. Pursuant to the second paragraph of Article 9 of the Rules, NGO submissions may cover both matters relating to the implementation of ECtHR judgments or, in relation to the fulfilment of the terms of a friendly settlement, both matters relating to the relevant ECtHR judgments themselves (individual measures) and measures necessary to remedy structural problems identified by the ECtHR in order to prevent violations similar to those in the relevant ECtHR judgment and to put an end to ongoing violations (general measures). For further information on the Rule 9.2 process, see European Implementation Network (2018), footnote 38.
- 61 - European Bank for Reconstruction and Development. (2023). Independent Project Accountability Mechanism Annual Report 2022, p. 32. For access to annual reports, see <https://www.ebrd.com/ipam-annual-reports.html>.
- 62 - *Ibid*, p. 6. For the stages of the application, see <https://www.ebrd.com/work-with-us/projects/ipam/2020/07.html>
- 63 - For detailed information, see Republic of Turkey Ministry of Industry and Technology. OECD National Contact Point <https://www.sanayi.gov.tr/anlasmalar/utn-ncp>
- 64 - For documentation and explanations regarding the application and process, see OECD Watch database, <https://www.oecdwatch.org/complaint/fivas-et-al-vs-bresser/>
- 65 - Bianet (2023, 19 August). *BM'den "Limak'la işbirliği" hakkında açıklama*, <https://bianet.org/haber/bm-den-limak-la-ismbirligi-hakkin-da-aciklama-282940>



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