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CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

Thematic study of the CCJE

on courts and environmental litigation

Introduction

1. In the course of its plenary meeting on 12-14 November 2025, the CCJE decided to prepare in 2026 a thematic study on courts and environmental litigation taking into account the recently adopted Council of Europe Strategy on the Environment[1], the Council of Europe Convention on the Protection of the Environment through Criminal Law[2], as well as the Study on national climate litigation recently published by the European Committee on Legal Co-operation (CDCJ)[3], which provides a snapshot of climate-related cases across Council of Europe member states.

2. The CCJE's thematic study on courts and environmental litigation could also lay the groundwork for the possible development of relevant standards in a future CCJE Opinion.

3. It was noted by the Consultative Council of European Prosecutors (CCPE) that environmental crimes continue being a growing source of global concern and a pressing threat to individuals and society.[4] Such crimes have several specific features.

4. Firstly, environmental crimes often have long-lasting and sometimes irreversible effects, which affect existing and future generations.[5]

5. Secondly, environmental crimes may be transboundary, resulting in the involvement of the justice systems of several states.[6]

6. Thirdly, environmental crimes are considered among some of the most profitable forms of transnational criminal activity, converging with other serious crimes, such as human and drug trafficking, counterfeiting, cybercrime and corruption.[7] Environmental crimes have serious potential for undermining the rule of law and good governance.

7. Consequently, proceedings relating to such crimes can often be complex, as they can be perpetrated by a range of actors, including individuals at large, public officials, companies, various criminal networks or other actors.[8] Environmental crimes usually involve a combination of these actors.

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[1] The Strategy on the Environment – United around our values for people and the planet (2025-2030) was adopted at the 134th Session of the Committee of Ministers, held in Luxembourg on 14 May 2025.
[2] The purpose of the Council of Europe Convention on the Protection of the Environment through Criminal Law, adopted by the Committee of Ministers on 14 May 2025, is to prevent and combat environmental crime, promote national and international cooperation, and establish minimum legal standards to guide states in their national legislations. The Convention is grounded in and aligns with various international treaties and standards related to environmental protection, human rights and transnational crime.
[3] The Study on national climate litigation was approved by the CDCJ at its 105th plenary meeting (18-20 November 2025).
[4] Opinion No. 17 (2022) of the CCPE on the role of prosecutors in the protection of the environment, para 2.
[5] Opinion No. 17 (2022) of the CCPE on the role of prosecutors in the protection of the environment, para 2.
[6] Opinion No. 17 (2022) of the CCPE on the role of prosecutors in the protection of the environment, para 2.
[7] Opinion No. 17 (2022) of the CCPE on the role of prosecutors in the protection of the environment, para 3.
[8] Opinion No. 17 (2022) of the CCPE on the role of prosecutors in the protection of the environment, para 3.

8. Furthermore, there is also litigation in environment-related cases that falls within the civil and administrative fields, involving a wide range of actors, including private individuals, corporate actors, and in some cases the states.[9]

9. Thus, environmental protection has become one of the defining challenges of our time. The degradation of natural ecosystems and their effects on human welfare demand effective legal responses by legislative, administrative, and judicial bodies. Courts play a pivotal role in the matter: they enforce environmental law against those who violate it, review the legality of administrative decisions that govern environmental matters, and provide access to justice for individuals and communities harmed by environmental damage. This is true to the role of courts in states governed by the rule of law.

10. This study addresses challenges in dealing with environmental cases from the perspective of judges and courts. It asks what legal frameworks equip courts to handle environmental cases, how court structures and specialisation do or do not support effective adjudication, what resources and expertise judges need and currently have, how access to justice in environmental matters is guaranteed in practice, and how courts manage cases with international or transboundary dimensions. In doing so, it connects to core values and commitments of the Council of Europe: the rule of law, the protection of human rights (including the right to a healthy environment, which is gaining constitutional recognition in a growing number of member states in line with Recommendation CM/Rec(2022)20 of the Committee of Ministers to member States on human rights and the protection of the environment), and the promotion of democracy through accountable governance.

11. The CCJE wishes to thank the experts appointed by the Council of Europe, Dr Joana Setzer and Ms Catherine Higham[10] (London School of Economics and Political Science - LSE), for preparing the preliminary version of the thematic study.

Scope and methodology

12. This study is descriptive and comparative in character. It is not a monitoring exercise and does not rank or evaluate the performance of individual member states. It is based on responses to a questionnaire sent to the members of the CCJE, covering the legal and policy framework relevant for environmental cases, the institutional and operational framework of courts, and international co-operation in such cases. Responses were received from the CCJE members in respect of 26 member states.

13. The breadth of responses varies and reflects the diversity of legal traditions, institutional arrangements, and levels of experience with environmental litigation across the Council of Europe. The study draws on all responses, while naturally drawing more substantially on those that provided detailed illustrations of particular practices or challenges. Where specific national initiatives are particularly instructive, they are highlighted in dedicated "Initiatives of interest" boxes throughout the text. The absence of a country from a particular box reflects nothing more than the level of detail available in the responses. The study proceeds on the basis of qualitative information and calls, in its conclusions, for improved data collection as a priority.

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[9] For the specific case of climate change, see the Study on national climate litigation (CDCJ).

[10] The experts wish to thank Ms Ana Fati for her review of a previous version of this study and for her assistance in checking its accuracy.

Summary of main findings

14. The study is divided into four sections, drawing on responses to the questionnaire provided by the CCJE members.[11]

15. **Section I** discusses the legal foundations for environmental protection across respondents. Almost all of them address environmental harm through a combination of administrative, criminal, and civil liability. The application of these forms of liability varies significantly between member states. Administrative enforcement dominates the courts' environmental caseload in most systems; criminal law is generally reserved for the most serious conduct; and civil liability remains comparatively underdeveloped, constrained by difficulties of causation, quantification, and standing. The underlying legislative architecture in member states ranges from unified environmental codes (Italy, the Netherlands, Sweden), through environmental frameworks supplemented by sectoral statutes, to sector-specific regimes. A notable emerging trend is the constitutional entrenchment of the right to a healthy environment, Cyprus, Türkiye and Romania explicitly reference this right. Court-specific interpretive guidance such as bench books or practice directions focused on environmental matters are largely absent. However, shared doctrinal principles (polluter pays, precaution, prevention, and remediation) give judges a common normative vocabulary, and human rights reasoning, including the jurisprudence of the European Court of Human Rights, supports judges in balancing competing interests. Across many responses, access to justice emerges as a key issue for environmental protection, with several respondents introducing legislation to broaden rights of standing in environmental matters.

16. **Section II** discusses court structures, specialisation, and tools and resources. Most respondents report no specialist environmental courts, chambers, or designated judges. Rather than a binary divide between specialist and generalist systems, the respondents reveal a continuum: from Sweden's Land and Environment Courts staffed by legal and technical judges, through Belgium's cross-jurisdictional environmental chamber and new statutory label of “environmental judge”, to the informal functional specialisation that develops within strong administrative court systems, and finally to fully generalist handling. The study takes a contextual view: specialisation is not a universal prescription, and its appropriateness depends on caseload, court size, and institutional context. Iceland's mechanism for appointing technically expert co-judges in complex cases offers a flexible alternative that embeds expertise without standing specialist structures which may not be justified by environmental caseloads.

17. A dominant challenge is the scientific and technical complexity of environmental cases, compounded by a rapidly evolving regulatory landscape and, in several states, by the difficulty of building expertise where caseloads are low. The most common response is reliance on court-appointed expert witnesses, which is useful but generates dependencies, delays, and questions about judicial capacity to weigh competing expert views. Judicial training on environmental law exists in many systems but is typically optional, ad hoc, and driven by individual initiative. Specialised prosecutors and police

[11] It should be noted that, while this study is based on the responses of the CCJE members in respect of member states, acting however in their individual capacity, further in the text, for the sake of brevity, in order to avoid repeating each time the expressions like “the CCJE member(s) in respect of … (*name(s) of member state(s)*), more simple term of “respondent(s)” is used.

units (Belgium, Italy, Spain) and judicial networks, in particular the EU Forum of Judges for the Environment (EUFJE), play a role in filling these gaps.

18. **Section III** addresses the international dimension of environmental law created by fact that environmental damage is often transboundary in nature. Most respondents rely on general frameworks to address environmental issues, rather than cross-border mechanisms dedicated to environmental matters. Courts raised various mechanisms that support cooperation and harmonisation: within the EU the rulings of the Court of Justice of the European Union and the preliminary reference procedure help provide guidance. Beyond the EU, international conventions such as the Aarhus Convention and the Espoo Convention support co-operation in transboundary matters, alongside bilateral mutual legal assistance treaties and practices. Amont the challenges, courts mentioned the absence of dedicated channels, language barriers, procedural divergence, and delay. While judicial networks serve as an informal bridge, many respondents suggest that there is more to be done to strengthen cooperation.

19. **Section IV** sets out conclusions. While all member states have a substantial regulatory framework for environmental protection, gaps remain in courts' capacity to give that framework effective judicial effect. These gaps cluster around the complexity and fragmentation of applicable law, the adequacy of resources and institutional support, and the management of cases with transboundary dimensions. The study draws on concrete recommendations made by respondents to identify future directions across five areas: strengthening the legal framework and access to justice; developing contextually appropriate forms of specialisation; investing in judicial training and expert resources; improving institutional support tools; and enhancing international co-operation and judicial exchange.

I. The legal framework: foundations for judicial engagement

20. This section outlines responses regarding key elements of the domestic legal frameworks for environmental protection of the 26 respondents, laying the foundation for the discussion in subsequent sections.

A. Environmental law operates through a combination of administrative, criminal, and civil liability across member states

21. Respondents from 23 of the 26 member states confirmed that environmental protection operates through a combination of administrative, criminal, and civil liability. These areas of law do not operate in silos. Instead, they are closely interconnected and several respondents, such as those from Czechia, Iceland, Hungary, Latvia, Romania, and Spain emphasised that the same environmental harm could give rise to administrative, criminal, and civil liability simultaneously.

22. Respondents highlighted a hierarchy between how these three areas of law operate in practice. Those from Bulgaria, Belgium, Finland, Latvia and Poland explicitly stated that the bulk of the courts' environmental caseload is made up of administrative law matters. Such cases may involve judicial review of environmental impact assessments accompanying permit applications, matters relating to administrative sanctions and enforcement decisions imposed by environmental authorities, and disputes concerning land-use planning and spatial development decisions with environmental implications.

23. Many respondents emphasised that criminal law is reserved for more serious matters, such as intentional or reckless creation of environmental harms that pose a high degree

of danger to the public or to ecosystems. Criminal liability often relates to breaches of administrative law. The respondent from Germany, for example, described criminal environmental law as an "accessory to" administrative law, imposed for egregious violations of regulatory procedures and unavailable where all the requirements of administrative law have been adequately followed. Respondents pointed to a range of criminal sanctions for environmental damages, including imprisonment ranging from several years to over a decade for serious crimes such as organised illegal waste trafficking (Bulgaria, Italy, Poland, Romania), substantial fines (Austria, Belgium, Bulgaria, Italy, Poland, Romania), and restoration orders requiring return of the environment to its original state (Belgium, Bulgaria and Italy).

24. Member states' approaches to civil liability range along a spectrum from reliance on general tort law principles to statutory frameworks establishing specific environmental liability regimes with dedicated procedures for remediation and restoration. At one end, countries such as Belgium, Czechia and the UK apply general principles of tortious liability (nuisance, negligence, causation) to environmental harm with minimal statutory specificity. At the other end, countries such as Bulgaria, Italy, Latvia and Lithuania establish specific statutory bases for environmental damage, objective liability regimes for inherently dangerous activities, and dedicated remediation/restoration procedures.

Initiatives of interest – Belgium's offence of ecocide
In Belgium, the new Criminal Code adopted on 22 February 2024 complements existing criminal liability regime with a new overarching provision on "ecocide". Ecocide is defined as "the deliberate commission, by act or omission, of an unlawful act that causes serious, large-scale and long-term damage to the environment". The offence can be committed by individuals or corporations. It is considered a serious crime, with base punishment levels set at 15-20 years' imprisonment. The provision is expected to come into effect later this year.

B. Legislative approaches and constitutional rights

25. The legislative approach by which administrative, criminal, and civil liability are created varies significantly between member states. At one end of the spectrum, member states such as Sweden and the Netherlands have introduced unified environmental codes or frameworks that create a central set of parameters for multiple aspects of environmental protection, although these may be complemented by supplementary rules and ordinances. At the other, countries such as Austria, Spain and the United Kingdom point to legislative landscapes in which environmental protection is integrated across different sectoral regimes. See Table 1 for a summary of where each country sits on the spectrum.

Table 1. The spectrum of legislative approaches to environmental protection

Type of legislative approach	Description	Respondents
Unified Environmental Code	A single comprehensive codified law organising environmental regulations across multiple areas (permitting, assessment, liability, enforcement). These codes are often supplemented by additional ordinances and regulations.	The Netherlands, Sweden

Type of legislative approach	Description	Respondents
Framework Environmental Law, complemented by sector specific legislation	A primary environmental protection law serving as coordinating/foundational legislation, supplemented by sector-specific statutes (water, waste, nature, etc.)	Bulgaria, Finland, Hungary, Italy, Latvia, Republic of Moldova, Poland, Türkiye, Ukraine
Sector specific approach	Environmental protection integrated across multiple separate statutory regimes (criminal code provisions, administrative law, civil law, sector-specific laws) with no unified code or overarching framework	Armenia, Austria, Belgium, Bosnia and Herzegovina, Czechia, Denmark, Estonia, Germany, Iceland, Lithuania, Serbia, Spain, the United Kingdom

Note: absence of a state reflects the level of detail available in the response, not necessarily the absence of any relevant practice.

26. In many responses, the complexity and fragmentation of the legal landscape governing environmental protection is identified as a particular challenge for judges. Respondents from Bulgaria, Czechia, Cyprus, Latvia, Lithuania and Romania all highlight challenges associated with the fact that environmental law is spread across multiple pieces of legislation. Several respondents also note that the legal landscape is rapidly evolving. Even in Italy and Sweden, where unified environmental codes exist, respondents highlight this type of complexity.

27. Several respondents highlight that environmental protection is grounded in constitutional provisions: in Italy, “protection of the landscape” has been guaranteed in the Constitution since the 1940s, and this protection has since evolved. Since 2022, the Constitution has stipulated the environmental protection must be ensured for future generations and that private economic activity must not harm health or the environment. In Türkiye, the original text of 1982 Constitution contains the following provision (Article 56): “Everyone has the right to live in a healthy and balanced environment. It is the duty of the State and citizens to improve the environment, protect environmental health and prevent environmental pollution”. In Cyprus, a 2024 Constitutional amendment introduced a provision that states “every person has the right to a clean, healthy and sustainable environment”, establishing a freestanding constitutional right and imposing positive obligations on the State to protect the environment”. The Constitution of Romania also guarantees every person the right to a healthy and ecologically balanced environment, and obliges the state to secure environmental protection and preservation of the ecological balance. In Poland and Latvia, the relevance of constitutional law as a basis for environmental protection is evident.

28. Finally, it should also be noted that for EU member states, the EU environmental acquis is highlighted as significant in shaping the legislative landscape for environmental protection. EU directives on environmental crime and environmental liability were explicitly referenced by several respondents, and the jurisprudence of the Court of Justice of the European Union was described as an important reference point and interpretative aid for judges.

C. Interpretative guidance, common principles, and the right to a healthy environment

29. Respondents indicate that it is rare for Council of Europe member states to have specific judicial guidance or policy documents to guide court interpretation in environmental matters. While in several cases, the respondents refer to overarching national strategy documents on aspects of environmental policy, most of them note that these are not specifically addressed to judges and therefore are of limited relevance, if any, for judges in carrying out their function. Exceptionally, in Bulgaria, "Methodological Guidelines by the National Institute of Justice" provide dedicated guidance for administrative judges with a section on environmental protection, as well as specialised manuals and guidelines on alignment with EU law. The other exceptions are Latvia, where the Supreme Court provides, and Lithuania, where the Supreme Administrative Court provides summaries of relevant case law and thematic studies or interpretative guidance to support the lower courts in the administration of justice in environmental matters.

30. Although bench books or judicial handbooks on environmental matters are rare, several respondents mention other reference points that support interpretation in judicial matters, including common principles of environmental law, which support judges in interpreting environmental matters and in balancing key interests. Respondents from Armenia, Latvia, Poland, the Republic of Moldova and Türkiye all refer to the principle of sustainable development as relevant to environmental cases. In addition, the principles of precaution and/or prevention are invoked by Armenia, Cyprus, Latvia, Romania and Ukraine. The polluter pays principle is given particular attention by several respondents (Bulgaria, Cyprus, Italy, Latvia, Romania) and is closely related to the concept of strict or objective liability which is imposed regarding certain types of environmental damage in several member states.

31. Several respondents also indicate that protection for human rights is relevant in the interpretation of environmental law. This includes both explicit references to the right to a healthy environment and reference to other rights, such as the right to life or the right to health, from which the enjoyment of the right to a healthy environment can be indirectly derived. Respondents from Armenia, Czechia, Cyprus, Italy, Romania and Ukraine all refer to the relevance of the European Convention on Human Rights and/or the caselaw of the European Court of Human Rights in the interpretation of environmental cases. Latvia, the Republic of Moldova and Poland also mention the importance of human rights in the interpretation of environmental law. Mentions of human rights extend to both substantive and procedural rights. As Poland notes, the right to information, participation in decision-making and access to justice in the field of environmental protection are often referred to as the 'next generation' of human rights. Procedural issues relating to these rights are discussed in the next section.

D. Access to justice and procedural issues

32. In most countries, the prosecution service plays a key role in bringing environmental cases to courts, with some countries including Austria, Belgium, Finland, Italy and Spain seeing some environmental specialisation among prosecutors. However, a majority of respondents also highlight the important role played by citizens and civil society in bringing violations of environmental law to light. Procedural issues about access to justice for these stakeholders are frequently raised.

33. The circumstances and conditions under which NGOs and citizens can bring environmental cases vary between jurisdictions and across different types of cases.

However, these litigants often face persistent challenges in establishing that they have a legal interest in environmental matters, particularly given the diffuse nature of environmental harms. Several respondents point to legislation or caselaw targeted at addressing this issue, often deriving from states' implementation of the UNECE Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters (Aarhus Convention). Respondents from several countries with environmental codes or environmental framework legislation mention that these laws include wide provisions on standing allowing NGOs, particularly those with environmental mandates in their articles of association, to access the courts without demonstrating that they are individually impacted by environmental damage. In countries without environmental framework legislation, such as Belgium, these rights of standing may also be created by individual instruments and clarified in caselaw.

34. Nonetheless, even in some states where respondents mention implementation of the Aarhus Convention, judges still report on issues for these groups to gain access to justice. Respondents from Bosnia and Herzegovina, Latvia, Serbia and Spain all mention high costs for citizens and NGOs seeking environmental justice or environmental protection, often alongside other procedural barriers including delay and the length of proceedings. In Latvia, reducing financial barriers and procedural complexity for NGOs and individuals could address these challenges and ensure compliance with Aarhus Convention standards. Several respondents also mention that although standing for environmental NGOs and concerned citizens is provided in some cases, this does not apply evenly across all environmental matters.

Initiatives of interest – broadening standing in environmental matters

Romania's framework act (Emergency Governmental Ordinance no. 195/2005 on environmental protection) establishes, in the words of the Romanian respondent, "the right of any person to seek judicial or administrative redress without needing to prove personal damage (article 5)". This dispenses with the usual requirement that a claimant demonstrate a direct personal interest, opening both judicial and administrative avenues to citizens and environmental NGOs alike.

Belgium has secured standing for environmental NGOs through a combination of judge-made law and a dedicated statutory right of action. Ordinarily, Belgian civil procedure requires that a claimant have a personal and direct interest in the claim - a requirement that excludes interest groups. The Belgian respondent explains that an exception exists for entities pursuing fundamental freedoms and human rights. This human rights exception was extended to environmental matters by the Court of Cassation, which interpreted the exception in line with the Aarhus Convention. Belgium also has a specific statutory mechanism, Federal Act of 12 January 1993, which grants a specific right of action to NGO's and public authorities to request a cessation order against any act or omission jeopardising the environment. However, the respondent notes that when individuals have suffered losses as a result of environmental damage cases can be complex as there is no generalised possibility to bring class actions under Belgian law.

E. Summary

35. The respondents reveal that, across the 26 member states, environmental protection rests on three interconnected tracks of liability (administrative, criminal, and civil), with administrative law carrying the bulk of the courts' caseload, criminal law reserved for the most serious conduct (and often accessory to administrative law), and civil liability the least developed, constrained by difficulties of causation, quantification, and standing.

The underlying legislative architecture varies from unified environmental codes and constitutional protections in a small number of states, through framework laws supplemented by sectoral statutes, to sector-specific regimes. Many respondents identify the resulting complexity and rapid evolution of environmental law as a significant challenge for judges. Respondents also note that ensuring access to justice in environmental matters can also be challenging, but several respondents identify keyways to address this issue.

II. Court structures and specialisation

36. This section examines how that challenge is addressed through the court structures: what forms of specialisation, if any, exist; what resources and tools are available to judges; what training they receive; and what concerns they identify.

37. The question of specialisation in environmental courts has been assessed at the international level. A 2023 UNEP report on environmental rule of law recorded over 2,100 specialised environmental courts and tribunals across 67 countries worldwide, reflecting a broader global trend towards dedicated environmental adjudication mechanisms. These institutions vary considerably in their design: some are fully autonomous specialist courts; others are specialist chambers or benches within existing courts; others concentrate cases in designated judges. The evidence suggests that, where the caseload warrants it, such bodies can improve the speed and quality of adjudication by bringing focused expertise to technically complex disputes. At the same time, the UNEP report acknowledges that specialisation is not a panacea: it depends on enabling conditions, including adequate caseload volumes, available resources and institutional support. The picture from Council of Europe member states broadly confirms this assessment.

A. The spectrum of specialisation

38. A clear finding from the respondents is that dedicated specialist environmental courts are rare among the respondents. Most of them (Armenia, Austria, Bosnia & Herzegovina, Bulgaria, Cyprus, Czechia, Denmark, Estonia, Germany, Hungary, Iceland, Italy, Latvia, Lithuania, Republic of Moldova, Romania, Spain and Ukraine) report no specialist environmental courts and no formally designated environmental chambers or judges. Environmental cases in these states are addressed by whichever court has jurisdiction under the ordinary rules: administrative courts for permit disputes, challenges to environmental impact assessments and regulatory decisions; criminal courts for environmental offences; civil courts for compensation claims.

39. Closer examination reveals a wide spectrum of institutional arrangements, and the appropriate framework for analysis is not a binary choice between specialist and generalist, but a continuum along which different states occupy different positions.

40. In the more developed part of the spectrum, Sweden's model, underpinned by the Environmental Code, provides institutional specialisation at both first instance and appellate level, with in-built technical expertise. Five of Sweden's district courts serve as Land and Environment Courts with specialist sections for environmental cases, staffed by both legal judges and technical judges with scientific or engineering qualifications. The Svea Court of Appeal has a Land and Environment Court of Appeal section handling appeals in these matters. In some cases, appointed members with expertise in the specific technical issue are added to the panel. Specialist judges in these courts receive dedicated training in environmental law.

41. Finland operates a somewhat similar approach, with appeals against decisions under the Water Act and the Environmental Protection Act concentrated in the Administrative Court of Vaasa, where specialist panels include judges holding master's degrees in technology or natural sciences alongside legally qualified judges. The Supreme Administrative Court maintains expert members for the consideration of environmental cases. Finland's Land Courts, handling cadastral and land-use matters with significant environmental dimensions, likewise include technically qualified judges. This de facto specialisation, achieved through court concentration represents a practical model that does not require the full institutional overhead of a standalone specialist tribunal.

42. Belgium presents an innovative approach. The Mons Court of Appeal has established a dedicated environmental chamber that combines civil and criminal judges and handles all environmental issues within its territorial jurisdiction. At the level of administrative law, the State Council (Conseil d'État) operates three chambers specialising in environmental and planning matters. Below the national level, Flanders has established specialist administrative tribunals for permit disputes (the Council for Permit Disputes) and appeals against administrative sanctions (the Enforcement College). Belgium has also taken a legislative step towards broader specialisation: an Act of Parliament of January 2024 introduced the titles of "environmental judge" and "prosecutor specialised in environmental matters" into the judicial code, and a parliamentary bill (currently pending) would establish environmental sections in courts of first instance. Belgium's experience illustrates how specialisation can be achieved incrementally and within an existing institutional framework, without waiting for the creation of purpose-built environmental courts.

43. In Türkiye, where there is a regional administrative court in the province concerned, environmental cases are heard by specialised first-instance administrative courts; where there is no regional administrative court, they are heard by general first-instance administrative courts. Furthermore, at the appellate and Supreme Court levels, these cases are also heard by specialised chambers.

44. In Czechia, there is an example of informal concentration. No specialist environmental courts exist, but under Section 7(4) of the Code of Administrative Justice, judicial review of decisions by the Transport and Energy Construction Authority that engage with environmental issues are concentrated in the Regional Court in Ostrava. More broadly, within the administrative judiciary, the Supreme Administrative Court and regional administrative courts handle the preponderance of environmental disputes, and judges in these courts develop practical expertise through repeated engagement with such matters, even in the absence of formal specialisation.

45. Several other respondents describe similar patterns of functional specialisation within administrative court systems. In Bulgaria, while there are no formal environmental courts or chambers, the 28 regional administrative courts and the Supreme Administrative Court handle most environmental cases, and many administrative judges develop informal expertise through the frequency of such cases. In Lithuania, judges select specialisation areas that may include environmental protection and spatial planning, promoting consistency in adjudication even in the absence of formal environmental chambers. In Germany, existing chambers for economic criminal law handle environmental offences committed in an economic context, providing a degree of de facto concentration. Similarly, in the United Kingdom, many environmental cases are heard by the Planning Court, which specialises in matters relating to land use.

Initiative of interest – Iceland's system of appointing expert co-judges

Iceland has developed a distinctive response to the challenge of technical complexity. Icelandic law provides that, where a case is particularly complex and may call for specialist knowledge, expert co-judges with relevant technical expertise can be appointed to sit alongside the regular judge, both at district court level and at the Court of Appeal. According to the Icelandic respondent, this mechanism is used regularly and works well in practice. This model provides access to expertise on a case-by-case basis without requiring standing specialist courts, and it is available as needed regardless of caseload volume.

Table 2: Levels of specialisation across member states

Ordered from highest to lowest degree of specialisation

Level of specialisation	Description	Respondents
Dedicated specialist sections at multiple court levels	Specialist environmental sections in district courts and courts of appeal, staffed by legal and technical judges; dedicated training	Sweden
Specialist court or section	Concentration of major environmental cases (water, EIA, permits) in one administrative court with expert judges; or specialist appellate chambers	Finland, Türkiye
Specialist chamber within a court	Dedicated environmental chamber combining civil/criminal tracks, or specialist chambers within administrative courts	Belgium (Mons CoA; Conseil d'État chambers; Flemish tribunals), Netherlands
Designated environmental judges (statutory)	Formal designation of 'environmental judges' in the judicial code, without a fully separate court	Belgium (Act of January 2024)
Informal specialisation	No formal designation, but cases cluster in administrative courts or experienced judges; expertise built through practice	Austria (some admin. courts), Bulgaria, Czechia (Ostrava Senate; administrative judiciary), Denmark (Environment & Food Board of Appeal), Estonia, Germany, Latvia, Lithuania, Spain, Ukraine
Flexible case-by-case expertise mechanism	Expert co-judges with technical qualifications appointed for complex individual cases, without standing specialist courts	Iceland
Specialist planning/land-use court (adjacent to environment)	Specialist court for planning, land use or development matters that frequently engage environmental issues	United Kingdom (Planning Court)

Level of specialisation	Description	Respondents
Fully generalist - no specialisation	Environmental cases are distributed to whichever court has ordinary jurisdiction (criminal/civil/administrative); no formal specialisation is reported	Armenia, Bosnia and Herzegovina, Cyprus, Hungary, Italy, Republic of Moldova, Romania

Note: several states appear in more than one category; Belgium, in particular, combines multiple models. Absence of a state reflects the level of detail available in the response, not necessarily the absence of any relevant practice.

B. Resources, tools and support

46. Beyond court structure, the respondents reveal a fairly thin institutional layer of support for judges handling environmental cases, despite the fact that such cases are often characterised by scientific and technical complexity. The question of what specific procedures, mechanisms and resources are available elicited largely negative responses across most of the 26 member states.

47. The most widely mentioned practical resource is the court-appointed expert witness. Respondents from Belgium, Bulgaria, Czechia, Italy, Latvia, Lithuania, Spain, Türkiye and Ukraine refer to reliance on externally appointed experts to assist courts with scientific or technical questions. In Cyprus, courts may rely on expert evidence in technically or scientifically complex matters under ordinary procedural rules. In Poland, judges may appoint experts from lists maintained by the presidents of regional courts, covering fields including nature conservation, hydrology, geology and toxicology; courts may additionally seek the opinion of a specialised research body or administrative body in cases relating to environmental impact assessments. In Türkiye, expert witnesses are appointed from official lists covering fields of expertise related to environmental disputes. These lists include various fields and sub-fields of expertise related to environmental disputes, such as environmental measurement and control services; water, environment and hazardous chemicals; ecology and environmental biology; soil science; geology; and toxicology. In Romania, expert witnesses are also appointed under general procedural rules, notably for pollution assessment, ecological damage quantification and regulatory compliance. In Italy, there are court-appointed experts as a standard mechanism for addressing scientific complexity. In the Netherlands, the court has the option to engage its own independent expert in the environmental cases, free of charge; this reduces reliance on party-instructed expertise and helps to mitigate the resource imbalance between well-funded parties and the court itself.

48. Limitations of this system mentioned by the respondents include dependency on the availability and quality of external expertise, delays, and questions about judicial capacity to assess competing expert views. In Czechia, expert opinions are in practice used sparingly, with judges often assessing cases from the perspective of an "average layman" working through complex administrative files. In Finland, in large cases, the resources available to well-funded parties can substantially exceed those of the court itself.

49. A small number of respondents mention other specific support systems. Bulgaria stands out for the tools it has put in place. Bulgaria's National Institute of Justice provides dedicated training and resources for administrative judges handling environmental cases, including handbooks covering the Environmental Protection Act and the

Biodiversity Act, and an online platform with access to EU environmental case law. The Supreme Administrative Court has issued interpretive rulings that are binding on all lower courts, helping to standardise application of complex environmental law principles across the system. In Lithuania, judicial assistants with relevant expertise in environmental matters support the work of judges in the Supreme Administrative Court, contributing to consistency.

50. Sweden has a procedural framework for environmental cases, embedded in the Environmental Code, which includes specific rules for water and environmental permit proceedings and a consultation procedure involving circulation of cases to relevant authorities. However, Sweden's Land and Environment Courts do not handle criminal environmental cases under these procedures; those follow ordinary criminal procedure.

51. In Hungary, there is an interesting practice, where judicial representatives participate in the process of drafting criminal law provisions relating to environmental protection, providing courts with the opportunity to comment on draft legislation.

Initiative of interest — Specialist prosecutors and police units

A complementary resource is the existence of specialist prosecutors and police units dedicated to environmental matters. In **Spain**, there is Environmental and Urban Planning Prosecutor's Office and SEPRONA, a specialist environmental protection unit within the Civil Guard. In **Italy**, prosecuting authorities rely on specialist police forces with environmental expertise during investigations, and the Office of the Attorney General at the Court of Cassation has established a Network of Offices of the Attorneys General on Environmental Matters to standardise criminal proceedings against environmental offences nationwide.

C. Judicial training

52. The respondents reveal that judicial training in environmental law exists in many systems, but is typically ad hoc, not mandatory, and dependent on individual initiative. Very few states have embedded environmental law training as a compulsory element of judicial education. The overall picture from the responses can be summarised as:

53. Belgium mandates an environmental law course for new entrants completing the two-year judicial internship, though further training for serving judges is optional.

54. Many respondents (including Czechia, Finland, Germany, Hungary, Latvia, Lithuania and Spain) describe a model in which training is available but optional. In Hungary, there are voluntary courses covering topics such as Aarhus Convention case law and environmental crime. In Spain, specialist courses are available through the General Council of the Judiciary but are not compulsory. In Germany, the Judges Academy runs seminars on environmental criminal law. In Lithuania, training was introduced recently covering the new 2024 EU Directive on environmental criminal law and the impact of climate change on administrative law.

55. In Armenia, training has been organised in specific years or through one-off initiatives (see Box) without a systematic framework. In the Republic of Moldova, there is similar *ad hoc* provision through the National Institute of Justice in partnership with civil society organisations.

56. **I**n Bosnia and Herzegovina, there is no systematic training, with training described as limited, non-mandatory and irregular. In the United Kingdom, the Planning Court judges' pre-appointment experience is relied upon.

57. Where specialist courts or judges do exist, training provision is generally more structured. Sweden's specialist judges in the Land and Environment Courts receive dedicated training in environmental law. Finland provides training through the National Courts Administration specifically for judges dealing with environmental cases.

58. An important broader resource for judicial learning is the EU Forum of Judges for the Environment (EUFJE), mentioned explicitly by respondents from Belgium, Bulgaria, Romania and Czechia as a channel for informal knowledge exchange and cross-border professional learning. In the absence of systematic national training frameworks, networks of this kind are filling a significant gap.

Initiative of interest — Armenia's 2025 judicial training course

In 2025, **Armenia**'s Academy of Justice, in partnership with the French Embassy and the international cooperation agency Expertise France, organised a three-day course entitled "Judicial Protection of the Environment in Armenia" with expert participation from France. This initiative illustrates how bilateral and multilateral co-operation can supplement national training capacity in states where systematic provision is limited.

D. Concerns and challenges

59. A central challenge identified across almost all respondents is the scientific and technical complexity of environmental cases, and the difficulty of equipping generalist judges, who may encounter an environmental case only occasionally, to handle it effectively.

60. In Czechia, environmental disputes require courts to combine constitutional principles, EU law, national sectoral legislation, procedural rules and technical evidence in a single proceeding. The complexity is not primarily a matter of legal doctrine but of interdisciplinary reasoning. In Latvia, the resulting problems are assessed: inconsistent case law due to the absence of specialist knowledge; high dependence on expert evidence of varying quality; and the length and cost of proceedings. In Spain, the high technical complexity and strong reliance on expert evidence are similarly identified as among the primary operational challenges for its courts.

61. Several respondents flag the challenge of keeping pace with a rapidly evolving regulatory landscape, particularly the overlay of EU environmental law on national systems. In Sweden, the regulatory framework is described as extensive, complex, and difficult to navigate, and courts are constantly called on to respond to new government bills on environmental procedure. In Czechia, this concern is echoed, noting the growing post-Green Deal regulatory environment and the absence of a stable institutional layer of environmental specialisation that would help courts absorb new developments.

62. Resource constraints feature in several responses. In the United Kingdom, the delay in bringing environmental cases to court is identified as the primary challenge, attributable to insufficient judicial capacity and funding. In Finland, the resources available to parties in large environmental cases can overwhelm courts that lack equivalent analytical capacity.

63. This issue of lack of resources to deal with environmental cases is connected in some responses to the relatively small number of environmental matters brought before the courts. In Austria, for example, specialisation in criminal environmental cases is difficult to justify given a total of only 11 final convictions in 2023, making it difficult to build dedicated expertise at low caseload volumes. In Finland and Estonia, low caseloads are

also observed which do not justify increasing levels of specialisation. In contrast, in the Republic of Moldova, the number of environmental cases is rising and is challenging the judiciary's capacity.

E. Limits of adjudication

64. The questionnaire asked specifically about concerns regarding judicial decisions that may be perceived as extending beyond the limits of adjudication. Several states engaged with the question of what the scope of judicial intervention in environmental matters is, particularly in cases involving climate change.

65. In Spain, the risk of "judicialisation on environmental policy" is raised and the increasing intensity of judicial control is noted, as well as the growth of climate litigation, raising questions about judicial activism is mentioned. In Belgium, parts of the public and some policy makers consider that courts adjudicating environmental cases take over the role of the legislator, but courts have generally stayed within appropriate limits by identifying legal shortcomings without imposing highly detailed policy prescriptions. In Bulgaria, courts may be criticised for "overstepping their bounds" when they block strategic national projects based on procedural shortcomings in environmental impact assessments. Czechia also traced the challenge specifically to strategic climate litigation; the first domestic strategic climate case that reached the Constitutional Court has been elevated to the European Court of Human Rights.

66. In 2019, the Dutch Council of State ruled that national legislation was incompatible with the EU Habitats Directive, which had implications for the granting of permits. Other administrative and civil court rulings also drew criticism from the national government and parliament; the judiciary was accused of a form of activism. This issue illustrates how the application of existing legal obligations may lead to political controversy.

67. In the United Kingdom, judges exercise a supervisory jurisdiction in environmental cases that concerns the lawfulness of a decision, not its merits. To adjudicate on the underlying merits of an administrative decision would exceed the proper limits of adjudication within the UK system. In Latvia, there are concerns about judicial overreach in relation to potential administrative or policy domains; challenges in assessing complex scientific issues; the use of broad legal principles; and the high societal and economic impact of decisions. In Lithuania and Cyprus, among others, courts are operating consistently within the boundaries of judicial review, without concerns having been identified.

F. Summary

68. The picture that emerges from the responses suggests that most Council of Europe member states handle environmental cases through generalist courts, without formal specialisation. A minority have developed specialised structures - ranging from Sweden's dedicated Land and Environment Courts with technical judges, through Belgium's innovative cross-jurisdictional chamber and its new statutory environmental judges, to Finland's concentration of key cases in courts with expert members. In Iceland, expert co-judge model offers a flexible alternative that addresses technical complexity without institutional specialisation. Across the spectrum, the administrative court track carries the heaviest burden of environmental adjudication, and in systems with strong administrative courts, judges develop functional expertise without formal designation. Against this backdrop, some gaps stand out, particularly the insufficiency of judicial training in environmental law, of institutional support for judges (specialised tools, databases, handbooks), and opportunities for building environmental expertise in courts with low caseloads.

III. International dimensions

69. Due to the transboundary nature of environmental harm, air pollutants, hazardous waste movements and climate change do not stop at national borders, and the environmental cases arising from such harm may require courts to work across jurisdictions to secure evidence, coordinate proceedings, or apply international legal standards. No specialist cross-border environmental co-operation mechanisms exist for courts. Every respondent relies on general judicial co-operation frameworks applied to environmental cases. Some states also note that police and prosecutors often have co-operation frameworks that support evidence gathering in environmental cases.

A. Available frameworks

70. Despite the absence of specialist mechanisms, a range of general instruments is invoked by respondents. These fall into three categories.

71. EU instruments are the most commonly cited tools among EU member states. Several respondents (including Bulgaria, Czechia, Hungary, Latvia, Lithuania and Romania) refer to EU judicial co-operation mechanisms. These include: the preliminary reference procedure under Article 267 TFEU, which allows the Court of Justice of the European Union to rule on matters of EU law to ensure harmonious interpretation between member states; regulations on the taking of evidence and service of documents in civil and commercial matters; the European Judicial Network; and the European Investigation Order in criminal matters. In Romania, the e-CODEX application for electronic cross-border procedural exchange is also specifically mentioned. In Hungary, the European Arrest Warrant mechanism for criminal environmental matters is additionally referred to. For EU member states, the preliminary reference procedure is the most significant supranational tool specifically used in environmental cases, producing binding rulings on the interpretation of EU environmental directives and directly shaping domestic environmental adjudication.

72. International conventions are cited across both EU and non-EU respondents. The Aarhus Convention is the most frequently mentioned, cited by respondents from Armenia, Bulgaria, Hungary, Lithuania, the Republic of Moldova and Poland. Several respondents note its specific relevance to cross-border access to justice: in Bulgaria, Article 3(9) of the Convention is highlighted, which requires parties to ensure non-discriminatory access for foreign citizens and NGOs in environmental matters. The Espoo Convention on Environmental Impact Assessment in a Transboundary Context is cited by Hungary, Poland and Sweden as a key procedural framework for projects with potential cross-border environmental effects. In Hungary, a broader set of substantive multilateral environmental agreements as part of the applicable framework in cross-border environmental cases is listed. In the Republic of Moldova, the Council of Europe Convention on the Protection of the Environment through Criminal Law (2025) has been signed, which is specifically directed at facilitating a coherent response to cross-border environmental crimes.

73. Bilateral agreements and general mutual legal assistance are invoked by respondents from non-EU states such as Armenia and Ukraine. In Finland, while courts themselves lack dedicated cross-border tools, the National Bureau of Investigation and the National Prosecution Authority have well-functioning operational connections with their counterparts in Estonia, Norway and Sweden for evidence-gathering in cross-border environmental cases.

74. Judicial networks are mentioned in Belgium and Bulgaria (specifically the EU Forum of Judges for the Environment - EUFJE) as an informal but important layer of cross-border professional exchange. Belgium notes that judges specialised in environmental law regularly convene with colleagues from other EU jurisdictions to discuss shared challenges in applying EU law.

B. Concerns and challenges

75. While most EU member states report that the available frameworks function adequately in practice, some concerns emerge across the responses.

76. The absence of specific mechanisms: in Latvia, courts do not usually co-operate directly with foreign courts or authorities as they depend on national administrative institutions and formal mechanisms, giving them limited control over the quality and timing of cross-border co-operation, with the risk of incomplete factual bases or procedural gaps in proceedings. In Ukraine, a pressing issue is the recording and determination of environmental damage in territories not under its control.

77. Procedural delays are identified in Bulgaria, Latvia and Romania, including the lack of legal assistance, language barriers and the slow translation process as challenges that prolong environmental cases with an international element.

78. Differences between national legal systems create further difficulties. In Romania, divergences in the standing of environmental NGOs, liability regimes and the status of technical data across jurisdictions are identified. In Latvia, procedural complexity for foreign applicants is noted. In Bosnia and Herzegovina, the main issue is not the absence of legal frameworks but their limited practical effectiveness and coordination.

79. Emerging challenges were mentioned in the Netherlands, for example with the implementation of the Water Framework Directive, given that several major rivers flow into the North Sea via the Dutch delta.

C. Summary

80. The picture that emerges from the responses is one of structural reliance on general frameworks applied to an inherently cross-border problem. Respondents have access to a range of EU instruments, international conventions and bilateral arrangements that can in principle be used in environmental cases with transboundary elements, but none of these was designed specifically for environmental adjudication, and none provides the specialist channels for evidence, expertise or judicial co-operation, that the complexity and urgency of environmental harm often requires.

IV. Conclusions

81. The overall picture is that all member states have a regulatory framework for environmental protection, the interpretation of which is often informed by environmental principles and human rights law. However, many respondents suggest that fragmentation in legal regimes applicable to environmental matters may pose challenges. Access to justice in environmental cases is also described as challenging by several respondents, particularly given the diffuse nature of environmental harms which give rise to collective forms of damage that many European legal systems are ill-equipped to deal with. Thanks in part to the Aarhus Convention, many member states are starting to develop mechanisms to address these challenges, by expanding rights of standing for citizens and NGOs in environmental matters and capping costs.

82. For many member states, there are limited resources and tools to support generalist judges in dealing with the complex evidence and lengthy proceedings that environmental matters often require. In some cases, the number of judges is inadequate to the caseload. Only a small minority of countries have specialised environmental courts, and training tends to be voluntary or ad hoc. Nonetheless, the respondents do indicate novel approaches to combining the legal expertise of generalist judges with the scientific and technical expertise required to adequately adjudicate environmental matters which may provide models for other member states.

83. Environmental cases also bring with them other challenges for the judiciary. Some types of environmental cases, particularly those relating to climate change, have led to questions about whether judges are overstepping the proper bounds of the judicial role. At the same time, the fact that environmental damage does not respect national borders also creates a unique need for judicial cooperation at the international level. The need to keep pace with scientific advances is also a factor that weighs in favour of sustained exchange and discussion between judges from different jurisdictions.

84. Several respondents move beyond diagnosing challenges to offer concrete recommendations that could support judges in environmental cases. These can be broken down into general recommendations to support domestic courts and those relating to matters of international cooperation.

85. Recommendations offered by respondents to support domestic decisions:

- *Create dedicated resources*: several respondents mention the creation of dedicated resources to support environmental adjudication. Resources mentioned include bench books and handbooks, guidelines applicable to certain environmental issues, fact sheets and databases of relevant environmental jurisprudence, including environmental rights cases.

- *Enhance judicial training and access to specialist expertise*: provide targeted training for judges on technical and scientific environmental matters, as well as on EU environmental law, international conventions, and cross-border procedural tools, with particular support for states where practical experience of transboundary cases is limited. Improved access to and collaboration with environmental experts is mentioned as a possible path forward in several responses, even in those that stop short of explicitly calling for increased specialisation.

- *Increase judicial numbers and procedural efficiency*: several respondents mention the need to increase the number of judges available to hear environmental cases, as well as other matters that could improve procedural efficiency, including digitisation and improved case management tools.

86. Recommendations offered by respondents to improve international co-operation and exchange:

- *Strengthen and streamline procedures for international co-operation*: simplify and accelerate mutual legal assistance processes, particularly for urgent environmental cases; develop clearer and faster channels for cross-border evidence requests; and promote digitalisation to reduce delays.

- *Improve information and data sharing*: develop shared databases and digital platforms for cross-border exchange of environmental data, technical reports and monitoring information, with clear protocols and interoperable platforms.

- *Develop practical guidance for judges*: create guidelines or manuals specifically for judges on handling transboundary environmental cases, covering applicable EU instruments, international conventions and procedural tools. In Romania, it is additionally recommended to designate contact points specialised in environmental cases within existing co-operation mechanisms, and develop common protocols for cases of transboundary pollution.

- *Invest in judicial networks*: support and expand judicial networks, including EUFJE and other regional networks, as vehicles for cross-border professional exchange and knowledge sharing, compensating for the absence of formal specialist environmental co-operation structures. In Serbia, notably, it is recommended to establish regional working groups to coordinate activities among countries in the region.