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WHAT TO DO WITH CROSS-BORDER ENVIRONMENTAL POLLUTION: LEGISLATIVE ASPECTS

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Abstract – Environmental torts and possibility of trans-border dispute settlement thereof has gained significant prominence in the recent years. Cases such as *Urgenda foundation v the State of the Netherlands, Milieudefensie et al. v. Royal Dutch Shell plc., ClientEarth v. Enea, Neubauer et al. v. Germany* demonstrate that environmental tort cases can be brought by stakeholders globally rather than relying on involvement of a relevant national responsible authority. EU climate policy of decreasing GHG emissions and the ambitious target of reaching climate neutrality by 2050 has resulted in a rapid development of environmental law. Thus, environmental regulation is becoming increasingly complex and possible breaches may cause serious legal consequences affecting everyone not just selected individuals or states. These developments could possibly lead to a necessity of a forum or rules where any natural person or an NGO could bring a claim against a state or multinational corporation which engages in illegal activities causing harm the environment on a global scale. Using litigation as a tool to empower society to stand against environmental wrongdoers may serve as a deterring factor to maintain order when it comes to environmental regulation. While such reasoning may seem farfetched and extreme, nevertheless it still raises a question of current regulation on determination of jurisdiction and the applicable law and whether it would be possible to benefit from developing these rules. By engaging in a systematic literature analysis identifying the relevant terms, the research shall explore the basic principles of private international law in relation to assigning jurisdiction and determining applicable law in claims concerning environmental torts. The research shall develop a methodology with the aim of covering and identifying a wider range of problems related to the determination of jurisdiction and application of law in cross-border environmental tort claims. Some of the main issues concern the determination of defendants in cases involving multinational corporations, multi-claimant cases, and the compensation of indirect damages. An exploration of material aspects in the developments of the current EU regulation and guidelines shall be analysed in conjunction with the aforementioned notion. The result of the study not only will reflect the specifics of the application of the Brussels Ibis Regulation and Rome II regulation in cross-border environmental torts, but also how the EU environmental regulation could potentially promote corporate responsibility and environmental protection, thus developing research on interaction between private international law and environmental law.

Keywords – *Applicable law; cross-border pollution; environmental tort; jurisdiction; SEG emissions*