

SCUDI'S TOOLKIT AND METHODOLOGICAL GUIDELINES FOR THE IMPLEMENTATION OF STRATEGIC LITIGATION FOR MIGRANT'S PROTECTION

SCUDI-School of Human Rights: strategic
litigation for the protection of migrants' rights



Project funded by the European Union's Citizens, Equality,
Rights and Values Programme

INTRODUCTION

The project "SCUDI - School of Human Rights: strategic litigation for the protection of migrants' rights" aims to strengthen the capacity of human rights defenders from civil society organisations to promote strategic litigation for the protection of the rights of migrants and people with a migrant background.

This document, developed as part of the SCUDI project promoted in March 2024 by Cittadinanzattiva in collaboration with CILD and funded by the European Commission through the CERV programme, has been produced with the aim of promoting and enabling the replication of the project and its results, including in different territorial contexts.

The aim is not to provide a theoretical manual, but to offer methodological and operational tools for **designing, evaluating and implementing strategic litigation actions in an informed, coordinated and sustainable manner**. This model makes it possible to transform concrete experiences into replicable tools, strengthening organisational capacities and collaboration between human rights defenders, and supporting the protection of migrants' rights at national and European level. The Toolkit is primarily aimed at lawyers, trainees and activists from civil society organisations involved in the protection of the human rights of migrants with the aim of:

- strengthen the protection of the fundamental rights of migrants and other vulnerable groups;
- improve networking and cooperation between the various actors involved;
- disseminate good practices at national and European level.



THE ROLE OF CIVIL SOCIETY AND HUMAN RIGHTS DEFENDERS

CIVIL SOCIETY ORGANISATIONS AND HUMAN RIGHTS DEFENDERS PLAY A CENTRAL ROLE IN STRATEGIC LITIGATION, AS THEY:

They identify violations that would be unlikely to come to light through institutional channels

They support those affected in overcoming language, economic and information barriers

They contribute to gathering evidence, documenting facts and building cases

They facilitate the link between legal action and political advocacy

Networking between lawyers, practitioners, activists and other actors is often a necessary condition for successful strategic action, especially in the field of migration, where violations frequently take on a transnational dimension.

STRATEGIC LITIGATION, ADVOCACY AND STRUCTURAL CHANGE

A distinctive feature of strategic litigation is its integration with other forms of action. Legal action alone is rarely sufficient to bring about lasting change. Instead, it is the interaction between litigation, advocacy, communication and civil society mobilisation that enables real impact.

In this sense, strategic litigation should not be seen as an end in itself, but as part of an overall **strategy for the defense of human rights**, aimed at strengthening the rule of law and promoting more equitable and inclusive policies.

Strategic litigation refers to the planned and intentional use of legal action to produce effects that go beyond the individual case, generating regulatory changes:

- regulatory;
- jurisprudential;
- administrative;
- in public policy;
- in the interest of the community.

The success of strategic litigation depends not only on the outcome of the case, but also on the ability to **transform individual violations into structural and systemic changes**. It is a particularly effective tool for combating unlawful practices, filling regulatory gaps, restoring violated rights, and strengthening the interpretation of fundamental rights in situations characterized by high vulnerability and power asymmetry.



DISTINCTIVE FEATURES OF STRATEGIC LITIGATION

SELECTS EMBLEMATIC CASES OF SYSTEMIC VIOLATIONS

1

2

PURSUES A GOAL OF STRUCTURAL CHANGE

3

COMBINES LEGAL ACTION, ADVOCACY, AND COMMUNICATION

4

IT DEVELOPS AT MULTIPLE JURISDICTIONAL LEVELS (NATIONAL, EUROPEAN, INTERNATIONAL)

5

IT IS PART OF A MULTI-LEVEL REGULATORY FRAMEWORK

THE SCUDI PROJECT: APPROACH AND RESULTS

THE NETWORK PATH

The SCUDI project was conceived with the aim of **strengthening the use of strategic litigation as a tool for protecting the fundamental rights of migrants**, while promoting greater cooperation between civil society organisations, lawyers, practitioners and human rights activists.

The approach adopted by the project was based on a number of key elements:

- the condition and centrality of those directly affected by violations;
- the development and strengthening of the strategic skills and capacities of the actors involved;
- networking and sharing of expertise and experience;
- the integration of legal action, advocacy and awareness-raising.

SCUDI operated in the knowledge that, in order to be effective, strategic litigation must be sustainable over time, ethically responsible and part of a broader vision of **structural change**.

During its implementation, the SCUDI project has produced significant results both operationally and methodologically.

- Firstly, the project has helped to strengthen the skills of the organisations and professionals involved in strategic litigation, promoting greater awareness of the legal and other instruments available at national and European level and the most effective ways of using them.



Secondly, SCUDI has fostered the creation and **consolidation of cooperation networks**: this networking has made it possible to **overcome fragmented approaches** and develop **shared strategies**, which are particularly important in a complex and sensitive area such as migrants' rights, in particular by promoting knowledge and awareness of the use of the Charter of Fundamental Rights of the European Union.

Another significant result has been the **development of more structured working practices**, integrating case selection, risk assessment, protection of those involved and the definition of impact objectives.

In this sense, SCUDI has contributed to strengthening a more informed and responsible culture of strategic litigation.

BEST PRACTICES IDENTIFIED

An analysis of the activities and experiences gained in the SCUDI project reveals a number of good practices that can be considered transferable to other national and European contexts.



CASE SELECTION

The SCUDI experience has shown the importance of identifying 'sentinel' cases that not only have a solid legal basis but also clear potential for systemic impact, promoting exchange, dialogue and the sharing of experiences related to different territorial contexts, identifying common lines of work and shared strategies.



NETWORKING

The project highlighted how strategic litigation is more effective when integrated with advocacy and awareness-raising actions, strengthening the overall impact of the initiatives. Networking is not an added bonus, but an essential condition for analysing and combating violations that have a structural dimension in order to promote strategic actions.



MULTILEVEL APPROACH

Capable of combining actions at national level with the use of European and international mechanisms, both in terms of litigation and institutional pressure, articulating the plurality of levels of protection – domestic, European and international – which are interconnected and mutually influential.

FROM VIOLATION TO STRATEGIC CASE: IDENTIFICATION CRITERIA

Not all human rights violations are suitable for strategic litigation. The selection of cases is a crucial step, as it directly affects the sustainability of the action and its potential impact.

A case can be considered strategic when it combines the following elements:

- **Legal relevance**, that is the presence of a clear or potential violation of constitutional, European or international norms on fundamental rights;
- **Structural nature of the violation**, which is not limited to a single episode but reflects an administrative practice, a regulatory gap or a recurring restrictive interpretation;
- **Potential impact**, in terms of changes in case law, legislation or public policy;
- **Replicability**, that is the possibility that the outcome of the case will also have an impact on other people in similar situations.

KEY PRINCIPLES

- The case must have legal relevance and potential impact.
- Strategic litigation aims at systemic change, not just the protection of the individual.
- Strategic litigation is a process, not an isolated legal event.
- The impact is measured beyond the final decision.
- Networking is not incidental but structural.

THEORETICAL TOOLS

- Comparative regulatory analysis: review of the national, European, and international legal framework.
- Evaluation of case law precedents: identify similar judgments and interpretative gaps.
- Mapping of administrative practices: identify recurring behaviors that generate violations.

FROM VIOLATION TO STRATEGIC CASE: CASE CONSTRUCTION AND EVIDENCE GATHERING

Building a case requires an interdisciplinary and integrated approach, where litigation is based on concrete data and robust arguments.

Building a case in strategic litigation requires **an interdisciplinary and integrated approach**, in which legal expertise, data analysis, social research, and advocacy skills are coherently intertwined. Legal action cannot be limited to reporting a single violation, but must be based on solid evidence and structured legal arguments capable of supporting a broader perspective of rights protection.

A first fundamental principle concerns the function of evidence: it must demonstrate not only the existence of the violation in the specific case, but also its possible **systemic nature**, that is its traceability to administrative practices, regulatory gaps, or structural dynamics that produce repeated harmful effects over time. From this perspective, the individual case becomes a **vehicle** for bringing to light broader critical issues and promoting general changes. Another key aspect is the structuring of documentation: the material collected (documentary evidence, direct testimony, statistical data, analysis of relevant legislation, national and supranational case law) should be organized in a systematic and replicable manner so that it can be used—with appropriate adaptations—in similar future disputes.

KEY PRINCIPLES

- The evidence must demonstrate not only the violation, but also its systemic nature.
- The collection of evidence must comply with ethical and legal standards, especially with regard to data protection and informed consent.
- The documentation must be structured to allow for future adaptations in similar litigation.

THEORETICAL TOOLS

- Collection of documentary evidence, testimonies, statistical data and expert reports, regulatory and judicial documentation.
- Creation of a strategic dossier, including case law, legislation, similar cases, and advocacy plan.
- Involvement and protection of those affected: individuals are not mere instruments of the case, but holders of rights and central subjects of the action.

FROM VIOLATION TO STRATEGIC CASE: THE MULTILEVEL APPROACH

The multi-level approach is one of the key elements of strategic litigation, especially in the field of human rights protection. In a legal system characterised by constant interaction between national, European and international sources, the protection of rights is not limited to a single jurisdiction, but develops through dialogue between different levels, between Courts and between regulatory systems.

Adopting a multi-level approach means planning legal action from the outset, taking into account the **possible activation of multiple protection instruments**, either sequentially or complementarily. It is not simply a matter of identifying the 'best' forum, but of building an integrated strategy capable of leveraging the interconnections between different jurisdictions, maximising the legal and systemic impact of the case.

This method requires a high degree of coordination and planning. Actions taken at national level must be consistent with any developments at European or international level; legal arguments must be formulated in such a way that they can be taken up, expanded or adapted in different contexts.

KEY PRINCIPLES

- The multilevel approach broadens the possibilities for protection for the people involved, offering additional avenues of appeal if domestic remedies are inadequate.
- It encourages dialogue between Courts, contributing to the harmonisation of protection standards and the dissemination of evolving interpretations of fundamental rights.
- It increases institutional pressure, as an issue brought to the attention of European or international bodies can have a significant impact on public policy and administrative practice.

From an operational point of view, the multi-level approach is based on a **comparative analysis of the competences, case law and procedures of the various protection mechanisms**, as well as on the **design of complementary strategies** that can activate, where appropriate, instruments provided for by the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union, European Union law or other monitoring mechanisms provided for (Treaties, UN).

From this perspective, strategic litigation is a **dynamic and interconnected process**, capable of moving between different levels of protection with the aim of bringing about change not only in individual cases but also in the overall framework of rights guarantees.

FROM VIOLATION TO STRATEGIC CASE: INTEGRATION BETWEEN LITIGATION, ADVOCACY AND COMMUNICATION

Strategic litigation does not act in isolation: its effectiveness increases when integrated with advocacy, awareness-raising and communication actions.

Strategic litigation cannot be conceived as a self-sufficient or purely technical-legal intervention.

Its **transformative capacity**—understood as its systemic impact on regulations, administrative practices, and cultural orientations—is significantly amplified when it is designed and implemented in **synergy** with advocacy strategies and structured public communication.

From this perspective, litigation becomes a **lever for policy change**: not only a tool for redressing a violation, but also a catalyst for regulatory and cultural transformation processes.

In strategic litigation, all phases are integral components of **a cyclical and multi-level methodological process**. Strategic action planning must begin with a preliminary analysis of the territories involved, regulatory contexts, and local practices in order to identify the most effective levers for producing a systemic and replicable impact.

KEY PRINCIPLES

- Legal action becomes a lever for influencing norms, policies and public opinion.
- Advocacy and communication must be planned, avoiding conflicts with the protection of those involved.
- Continuous monitoring allows messages and strategies to be adapted according to developments in the case.

The planning of the intervention requires a **collaborative and inter-organizational approach**: the network of human rights defenders (lawyers, trainees, activists) is a fundamental strategic vehicle for data collection, case documentation, and the construction of multi-level arguments.

The sharing of expertise, multidisciplinary, and mutual influence among all actors involved allows for the calibration of action based on specific territorial characteristics, anticipating procedural variations and risk scenarios and foreseeing potential regulatory or operational obstacles.

FROM VIOLATION TO STRATEGIC CASE: MONITORING, EVALUATION AND TRANSFERABILITY

Strategic litigation should not be viewed as an isolated intervention, but rather as a cyclical and dynamic process, part of a broader organisational learning process. From this perspective, every legal action represents not only an attempt to protect a specific case, but also an opportunity to strengthen skills, consolidate methodologies and generate transferable knowledge.

Preliminary and ongoing monitoring plays a dual role: in the preliminary phase, it informs the planning of the action, providing data on local contexts, experiences of similar cases and possible courts to be involved; during and after the action, it allows for the evaluation of the effectiveness of the strategies adopted and the collection of evidence on their legal, regulatory and social impact. Systematic evaluation allows for the identification of **good practices and critical issues**, supporting the adaptation of strategies that have already been tested to other geographical contexts or similar cases.

KEY PRINCIPLES

Monitoring and evaluation are methodological tools for:

- Inform the design of multi-level action based on different territoriality.
- Guide coordinated implementation within the network.
- Analysing the effectiveness of strategies in terms of legal, systemic and network impact.
- Facilitate the replicability and sharing of the most effective practices, contributing to the construction of integrated and sustainable strategic litigation over time.

The transfer-ability of the methodology is central: tools, dossiers, guidelines and strategic approaches must be documented and shared within the network and with other with other actors, including at the European level, in order to create a collective knowledge base capable of amplifying the deterrent and systemic effect of litigation.

In this perspective, monitoring and evaluation are not mere formalities, but strategic tools for consolidating the effectiveness of the action and transforming the experience gained into a shared heritage capable of generating an impact beyond the individual case.

POTENTIAL, REPLICABILITY, AND TRANSFERABILITY OF THE SCUDI PROJECT: FROM TRAINING TO ACTION

The SCUDI project is structured as a **methodological model** aimed at promoting strategic litigation.

Its strength lies not only in the results of the process, but also in its **ability to build a forward-looking systemic approach** based on the potential of a network for the protection of human rights defenders that acts on a multi-level basis, creating integrated protection and enhancing the role and capacity for action of each actor to adopt a common defence strategy.

In terms of potential, SCUDI is an operational model capable of:

- strengthen and develop the skills and capacities of human rights defenders through qualified training focused on the analysis of crucial cases and issues;
- promote dialogue and exchange between the various actors involved;
- promote the role of active citizens and civil society organisations by training 'Sentinels' and young human rights defenders/activists, developing their skills and capacities in supporting migrants and identifying strategic cases;
- strengthen alliances and networks between European civil society organizations and NGOs involved in sea rescues;
- transforming individual disputes into opportunities for structural change through action.

Its **replicability** is particularly relevant.

Thanks to the operational tools produced, the SCUDI model can be adopted in different territorial contexts, adapting to different thematic areas and legal systems.

The standardisation of processes – without methodological rigidity – allows the strategic framework to be maintained while calibrating actions to the specificities of the actors involved and the different territorial contexts.

In terms of **transferability**, the project demonstrates that the integrated approach is not limited to a single organisation or sector, but can be applied in multi-stakeholder networks, inter-institutional partnerships and thematic coalitions.

From this perspective, SCUDI is not just a project, but an operational paradigm: a model capable of generating learning, strengthening the skills of operators and producing lasting impacts on the protection of the human rights of migrants or people in vulnerable situations.

Its dissemination and adaptation in other contexts can help to consolidate increasingly effective, responsible and systemic change-oriented strategic litigation practices.

SCUDI

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Project funded by the European Union's Citizens, Equality,
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