

Press Release

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London Exchange to be taken to High Court for trading in dirty metals in unprecedented legal action

Ground-breaking case highlighting long term harms occurring in West Papua could have repercussions across global supply chains.

06.02.24: Global Legal Action Network (GLAN), with co-claimant the London Mining Network, have today filed a landmark legal action at the UK High Court against the London Metal Exchange (LME or Exchange). They argue that, by enabling the global sale of ‘dirty metals’, the Exchange is in breach of UK anti-money laundering and proceeds of crime legislation. The case details the LME’s trading of metal from environmentally devastating Grasberg Mine mine in West Papua, Indonesia. If successful, this case will force the LME to revisit the rules under which it lists metal for trading on its Exchange. This in turn will force metal producers to adapt their mining practices if they want to keep being able to access this platform which is essential for them to reach customers and to sell their products; in sum: to access capital. In this case specifically, the mine’s American and Indonesian operators would have to cease exploitative mining practices which harm the environment and indigenous communities if they want their products to remain listed on the Exchange.

GLAN and the London Mining Network argue that the copper derived from the mine in question is “criminal property” as it is produced in circumstances that would breach UK criminal law if they were to occur in the UK. There is also suspicion that the production processes do not comply with Indonesian environmental criminal laws. Failure by the LME to exclude these illicit commodities triggers liability under the Financial Services and Market Act (2002) and the Proceeds of Crime Act (2002), which requires the Exchange to immediately identify and halt trade of these metals, and provides an unhindered gateway for these tainted goods to enter consumer supply chains. The legal action will have implications for other companies whose mining operations are linked to environmental crimes overseas accessing the Exchange.

In West Papua indigenous communities are suffering the effects of mining waste pollution from the Grasberg mine being dumped into the water sources that they rely on for basic needs like drinking, cooking and bathing. Over 200,000 tonnes of toxic mining waste, known as ‘tailings’ are thrown into local rivers every day. This practice is considered so harmful to the environment that it is subject to an almost universal ban across the globe. West Papua remains an exception, as one of the few places where it is still practiced, at the cost of both the environment and the indigenous people inhabiting the region of the mine.

West Papuans have seen the rivers that are central to their way of life, for fishing and navigating, disappear; sedimentation resulting from toxic mining waste is causing widespread health problems for the community. Skin diseases and other health conditions from the heavy metal pollution in the water is causing suffering to the whole community but children and the elderly are more at risk. Indigenous communities have witnessed West Papua’s forests, which provides their food, gradually disappear under mounds of mining waste.

The environmental harms in West Papua highlighted in this case are symptomatic of a deeper systemic problem across the world. GLAN has identified similar problematic patterns with mining corporations operating in Brazil, Peru, Guinea and the Russian Federation to name only a few. If

successful, GLAN and LMN's legal action might force these companies to revisit too the way they produce metals in these countries.

Adolfina Kuum, West Papuan Community Leader said, "This case is about our fight against those who profit from the destruction of our people's rivers, our forests and way of life. Our communities are experiencing the life-threatening effects of mining, we have no choice but to take up this fight because if we remain silent who will speak for us? We call on all businesses, including banks and exchanges, such as the London Metal Exchange, to end their international complicity with these mining operations. We demand to live with dignity, respect and fulfil our basic rights as dignified human beings and be able to enjoy the natural environment that our ancestors have cared for and passed on to us."

GLAN lawyer Leanna Burnard said, "This is a ground breaking legal action that, if successful, could reverberate through supply chains around the globe. The LME is the largest metals trading platform in the world. If the courts require the LME to prevent the trading on its platform of metals produced through environmental crime, it could trigger a global improvement in mining practices. This would have a profound impact on mining-affected communities around the world and see significant improvements to their livelihoods and the environment."

GLAN lawyer Stéphanie Caligara said, "This case is an opportunity for the LME and metal producers to align with consumer expectations and with standards that are key to ensuring a sustainable green transition. As the global hub for metal trading, the LME sets the standards for the metal industry. It has both the duty and the power to ensure that the metals it offers for sale on its Exchange are not the products of environmental crime. This will ripple through the entire mining industry which will have to drastically improve its practices to the benefit of the environment and local communities."

Andrew Hickman, from the London Mining Network said, "The Grasberg mine in West Papua, from which the copper traded on the London Metals Exchange is produced, is like a suppurating ulcer in the heart of the rainforests of New Guinea. Every day for decades, this mine has dumped more than 200,000 tonnes of toxic tailings waste directly into the Ajkwa river, destroying the land and lives of the people who live downstream from the mine. It is time for those who benefit from the production and trade in these metals from West Papua to be held accountable for their crimes."

GLAN Director, Gearóid Ó Cuinn said, "Never before has a legal action of this sort been taken in the UK. It highlights to exchanges and other economic service providers that they can no longer continue with business as usual. Banks are especially implicated in the functioning of exchanges like the LME and are now on notice that they too may be in breach of proceeds of crime laws."

Notes to editors:

GLAN lawyers are available for interview or further comment.

Global Legal Action Network (GLAN) is an independent organisation made up of legal practitioners, investigative journalists and academics. We identify and pursue legal actions that promote accountability for human rights violations occurring overseas by working in partnership with other international and local grassroots organisations. GLAN provides the necessary platform to explore and develop legal strategies by combining legal and investigatory expertise. glanlaw.org

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London Mining Network (LMN) is an alliance of human rights, development, environmental and solidarity groups. We work for human rights, including the rights of Indigenous Peoples and workers; and sustainable development (development which meets the needs of the present without compromising the ability of future generations to meet their own needs) in communities around the

world affected by the activities of mining companies based in or funded from London.
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