

ALBANIA ALBANIE ANDORRA ANDORRE ARMENIA ARMÉNIE AUSTRIA AUTRICHE AZERBAIJAN AZÉRBÉIDJAN BELGIUM BELGIQUE BOSNIA AND HERZEGOVINA BOSNIE-HERZÈGOVINE BULGARIA BULGARIE CROATIA CROATIE CYPRUS CHYPRE CZECH REPUBLIC RÉPUBLIQUE TCHÈQUE DENMARK DANEMARK ESTONIA ESTONIE FINLAND FINLANDE FRANCE FRANCE GEORGIA GÉORGIE GERMANY ALLEMAGNE GREECE GRÈCE HUNGARY HONGRIE ICELAND ISLANDE IRELAND IRLANDE ITALY ITALIE LATVIA LETTONIE LIECHTENSTEIN LICHTENSTEIN LITHUANIA LITUANIE LUXEMBOURG LUXEMBOURG MALTA MALTE REPUBLIC OF MOLDOVA RÉPUBLIQUE DE MOLDOVA MONACO MONACO MONTENEGRO MONTÉNÉGRU NETHERLANDS PAYS-BAS NORWAY NORVÈGE POLAND Pologne PORTUGAL PORTUGAL ROMANIA ROUMANIE RUSSIAN FEDERATION FEDÉRATION DE RUSSIE SAN MARINO SAINT-MARIN SERBIA SERBIE SLOVAK REPUBLIC RÉPUBLIQUE SLOVAQUE SLOVENIA SLOVÈNIE SPAIN ESPAGNE SWEDEN SUÈDE SWITZERLAND SUISSE «THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA» «L'EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE» TURKEY TURQUIE UKRAINE UKRAÏNE UNITED KINGDOM ROYAUME-UNI ALBANIA ALBANIE ANDORRA ANDORRE ARMENIA ARMÉNIE AUSTRIA AUTRICHE AZERBAIJAN AZÉRBÉIDJAN BELGIUM BELGIQUE BOSNIA AND HERZEGOVINA BOSNIE-HERZÈGOVINE BULGARIA BULGARIE CROATIA CROATIE CYPRUS CHYPRE CZECH REPUBLIC RÉPUBLIQUE TCHÈQUE DENMARK DANEMARK ESTONIA ESTONIE FINLAND FINLANDE FRANCE FRANCE GEORGIA GÉORGIE GERMANY ALLEMAGNE GREECE GRÈCE HUNGARY HONGRIE ICELAND ISLANDE IRELAND IRLANDE ITALY ITALIE LATVIA LETTONIE LIECHTENSTEIN LICHTENSTEIN LITHUANIA LITUANIE LUXEMBOURG LUXEMBOURG MALTA MALTE REPUBLIC OF MOLDOVA RÉPUBLIQUE DE MOLDOVA MONACO MONACO MONTENEGRO MONTÉNÉGRU NETHERLANDS PAYS-BAS NORWAY NORVÈGE POLAND Pologne PORTUGAL PORTUGAL ROMANIA ROUMANIE RUSSIAN FEDERATION FEDÉRATION DE RUSSIE SAN MARINO SAINT-MARIN SERBIA SERBIE SLOVAK REPUBLIC RÉPUBLIQUE SLOVAQUE SLOVENIA SLOVÈNIE SPAIN ESPAGNE SWEDEN SUÈDE SWITZERLAND SUISSE «THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA» «L'EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE» TURKEY TURQUIE UKRAINE UKRAÏNE UNITED KINGDOM ROYAUME-UNI ALBANIA ALBANIE ANDORRA ANDORRE ARMENIA ARMÉNIE AUSTRIA AUTRICHE AZERBAIJAN AZÉRBÉIDJAN BELGIUM BELGIQUE BOSNIA AND HERZEGOVINA BOSNIE-HERZÈGOVINE BULGARIA BULGARIE CROATIA CROATIE CYPRUS CHYPRE CZECH REPUBLIC RÉPUBLIQUE TCHÈQUE DENMARK DANEMARK ESTONIA ESTONIE FINLAND FINLANDE FRANCE FRANCE GEORGIA GÉORGIE GERMANY ALLEMAGNE GREECE GRÈCE HUNGARY HONGRIE ICELAND ISLANDE IRELAND IRLANDE ITALY ITALIE LATVIA LETTONIE LIECHTENSTEIN LICHTENSTEIN LITHUANIA LITUANIE LUXEMBOURG LUXEMBOURG MALTA MALTE REPUBLIC OF MOLDOVA RÉPUBLIQUE DE MOLDOVA MONACO MONACO MONTENEGRO MONTÉNÉGRU NETHERLANDS PAYS-BAS NORWAY NORVÈGE POLAND Pologne PORTUGAL PORTUGAL ROMANIA ROUMANIE RUSSIAN FEDERATION FEDÉRATION DE RUSSIE SAN MARINO SAINT-MARIN SERBIA SERBIE SLOVAK REPUBLIC RÉPUBLIQUE SLOVAQUE SLOVENIA SLOVÈNIE SPAIN ESPAGNE SWEDEN SUÈDE SWITZERLAND SUISSE «THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA» «L'EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE» TURKEY TURQUIE UKRAINE UKRAÏNE UNITED KINGDOM ROYAUME-UNI ALBANIA ALBANIE ANDORRA ANDORRE ARMENIA ARMÉNIE AUSTRIA AUTRICHE AZERBAIJAN AZÉRBÉIDJAN BELGIUM BELGIQUE BOSNIA AND HERZEGOVINA BOSNIE-HERZÈGOVINE BULGARIA BULGARIE CROATIA CROATIE CYPRUS CHYPRE CZECH REPUBLIC RÉPUBLIQUE TCHÈQUE DENMARK DANEMARK ESTONIA ESTONIE FINLAND FINLANDE FRANCE FRANCE GEORGIA GÉORGIE GERMANY ALLEMAGNE GREECE GRÈCE HUNGARY HONGRIE ICELAND ISLANDE IRELAND IRLANDE ITALY ITALIE LATVIA LETTONIE LIECHTENSTEIN LICHTENSTEIN LITHUANIA LITUANIE LUXEMBOURG LUXEMBOURG MALTA MALTE REPUBLIC OF MOLDOVA RÉPUBLIQUE DE MOLDOVA MONACO MONACO MONTENEGRO MONTÉNÉGRU NETHERLANDS PAYS-BAS NORWAY NORVÈGE POLAND Pologne PORTUGAL PORTUGAL ROMANIA ROUMANIE RUSSIAN FEDERATION FEDÉRATION DE RUSSIE SAN MARINO SAINT-MARIN SERBIA SERBIE SLOVAK REPUBLIC RÉPUBLIQUE SLOVAQUE SLOVENIA SLOVÈNIE SPAIN ESPAGNE SWEDEN SUÈDE SWITZERLAND SUISSE «THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA» «L'EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE» TURKEY TURQUIE UKRAINE UKRAÏNE UNITED KINGDOM ROYAUME-UNI

**HUMAN RIGHTS,
DEMOCRACY
AND THE RULE OF LAW**

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**DROITS DE L'HOMME,
DÉMOCRATIE
ET ÉTAT DE DROIT**

**European anti-SLAPP Conference
14 November 2024**

Irena GUIDIKOVA
Head of Democratic Institutions and Freedoms Department
Directorate General of Democracy and Human Dignity
Council of Europe

CM/REC(2024)2 ON COUNTERING THE USE OF SLAPPS



COUNTERING SLAPPS

Strategic lawsuits against public participation (SLAPPs) are legal actions threatened, initiated or pursued to harass or intimidate those participating in the public debate. By seeking to prevent, inhibit, restrict or penalise free expression on matters of public interest, SLAPPs have an alarming chilling effect on freedom of expression and public participation.

The Council of Europe Recommendation CM/Rec(2024)2 on Countering the Use of SLAPPs assists member States to identify these legal actions and understand their effect, and provides a roadmap for methods to prevent, dismiss, dissuade or circumvent these practices and mitigate the negative effects on those that are being targeted by SLAPPs.

Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs)

*(Adopted by the Committee of Ministers on 5 April 2024
at the 1494th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe (ETS No. 1),

Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and promoting the ideals and principles which are their common heritage, *inter alia* by promoting common policies and standards;

Recalling the commitment of member States to the right to freedom of expression and information, as guaranteed by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, "the Convention") and as interpreted by the European Court of Human Rights ("the Court") in its case law;

Recalling also the equal importance of other rights guaranteed by the Convention, including the right to a fair trial (Article 6), the right to respect for private and family life (Article 8), the right to freedom of assembly and association (Article 11) and the right to an effective remedy (Article 13);

Recalling and reaffirming that member States, in addition to their negative obligation to refrain from interfering with the right to freedom of expression, also have a positive obligation to ensure a safe and favourable environment for participation in public debate by everyone, without fear, even when their opinions run counter to those defended by official authorities or significant parts of the public;

Reiterating that free elections and freedom of expression, particularly freedom of political debate, together form the bedrock of any democratic system and that there is accordingly little scope for restrictions on political expression or debate on questions of public interest;

Stressing that the public interest is to be understood broadly as it covers all issues that affect and concern the public, including controversial issues, and that the public has the right to be informed about matters of public interest, and journalists and the media have the task of imparting information and ideas about such matters;

Underscoring that the inclusion of diverse voices and perspectives, including minority and other opinions outside the mainstream, is essential for ensuring pluralistic public debate and a well-informed and active citizenry;

Being aware that asymmetries in political, financial and other forms of power in society can give rise to inequalities in public debate and that the misuse and abuse of power and privilege by threatening or taking legal action to harass, intimidate or silence minority or critical voices have a chilling effect on public participation;

Being gravely concerned at the persistence throughout Council of Europe member States of a wide range of intimidation, threats, violence, killings and other crimes against individuals or organisations acting as public watchdogs, and at the chilling effect that those threats have on public participation, especially when they go unpunished;

STRATEGIC LAWSUITS AGAINST PUBLIC PARTICIPATION

*legal actions that are threatened,
initiated or pursued as a means of
harassing or intimidating their target,
and which seek to prevent, inhibit,
restrict or penalise free expression on
matters of public interest*

Nota bene

- ❖ **DEFINITION:** includes legal actions that are initiated and pursued, but also those that are *threatened*
- ❖ **AIM:** protect public participation against SLAPPs and prevent the use of SLAPPs in 46 member States
- ❖ **INTERPRETATION:** key terms “public participation” and “public interest”
- ❖ **SCOPE OF APPLICATION:**
 - All causes of legal actions: civil, *administrative and criminal*
 - Different types of SLAPPs: national *and* cross-border

10 SLAPP indicators

The claimant:

1. Exploits of an **IMBALANCE OF POWER**;
2. Puts forward arguments **PARTIALLY OR FULLY UNFOUNDED**;
3. Requests **DISPROPORTIONATE, EXCESSIVE OR UNREASONABLE** remedies ;
4. Engages in procedural and litigation **TACTICS**;
5. Engages in legal intimidation, harassment or threats, or has a **HISTORY** of doing so;
6. Engages in **MULTIPLE** and co-ordinated or cross-border legal actions;
7. Systematically refuses to engage with **NON-JUDICIAL** mechanisms

The legal action:

8. Amount to **ABUSE** of laws or procedures;
9. Deliberately **TARGETS** individuals rather than the organisations;
10. Is accompanied by a public relations **OFFENSIVE** to bully, discredit or intimidate.

2 - SAFEGUARDS, REMEDIES AND TRANSPARENCY

LEGAL FRAMEWORK

- comprehensive legislative framework
- regular review

PROCEDURAL SAFEGUARDS

- Effective case management
- Early dismissal
- Stay of proceedings
- Security for procedural costs and damages
- Restitution of legal costs
- Death/loss of legal capacity

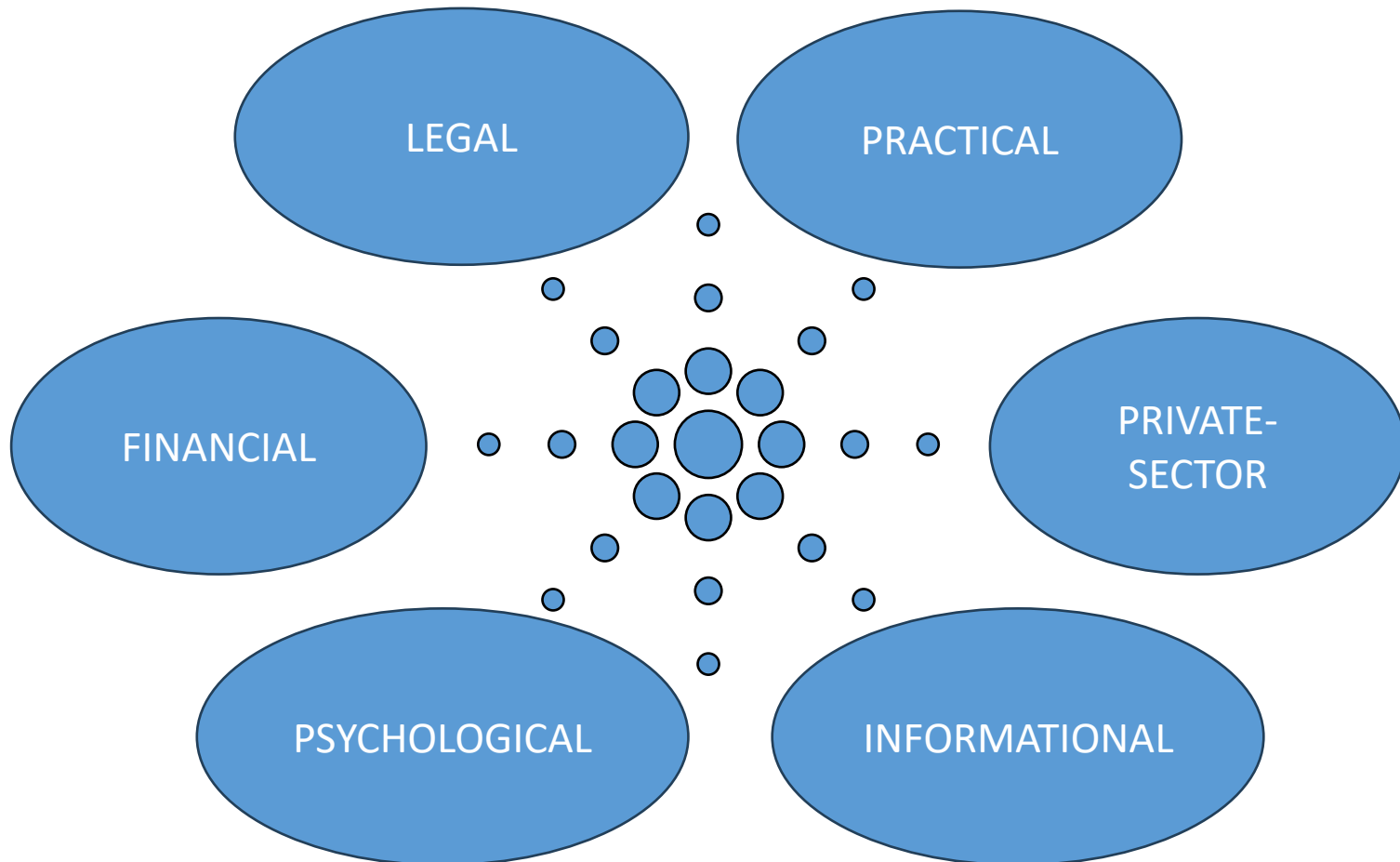
REMEDIES

- Legal/other procedural costs
- Acknowledgment and compensation for damages
- Capping of damages/costs
- Dissuasive measures
- Non-judicial remedies

«CULTURE» OF TRANSPARENCY

- Transparency
- Publicity
- Collection of data

3. SUPPORT FOR TARGETS AND VICTIMS OF SLAPPS



4. EDUCATION, TRAINING AND AWARENESS RAISING

- Set up educational and training programmes
 - Including tailor-made training for the judiciary, legal professionals and relevant public authorities.
- Encourage awareness-raising activities for the benefit of journalists, other media actors and other public watchdogs
 - facilitate access to resources and mechanisms, international, regional, national and local, for the protection of those targeted by SLAPPs.
- Develop awareness-raising strategies and measures, such as campaigns.

5. NATIONAL CO-ORDINATION AND INTERNATIONAL CO-OPERATION

- Promote the goals of the recommendation; engage and co-operate with all interested parties.
- Co-ordinate their implementation activities
 - including through existing or purpose-created national focal points.
- Enhance co-operation and exchange of information.

WHAT SHOULD STATES DO?

Recommends that member States:

- i. IMPLEMENT, as a matter of urgency, the recommendation;*
- ii. pay specific attention to SLAPPs in the context of REVIEWS of relevant domestic laws;*
- iii. PROMOTE the goals of this recommendation and engage and co-operate with interested parties;*
- iv. REGULARLY REVIEW the status of implementation*

FOLLOW-UP

- **effective implementation**
 - Co-operation
 - Continued exchange EU and CSOs
 - Complementarity

- **awareness-raising**
 - Translation, distribution

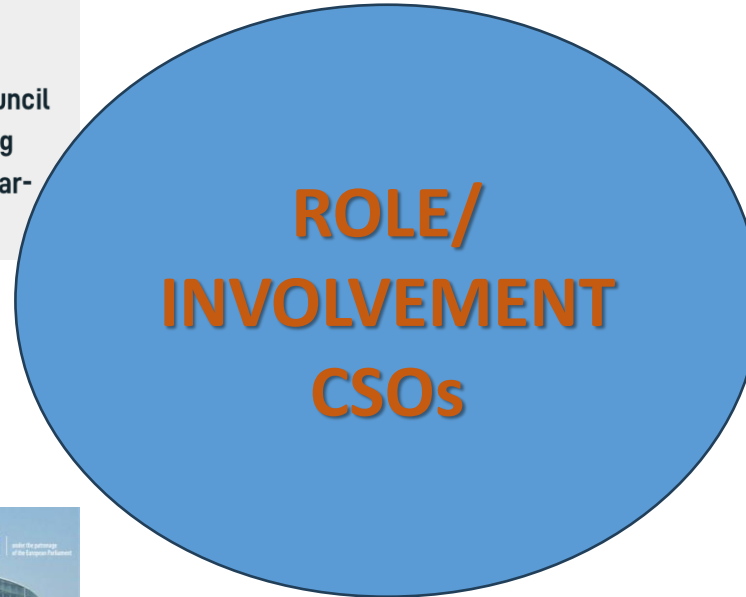
- **regular review**
 - Campaign Journalists matter
 - Inform CM

- **meaningful exchange**
 - 2nd anti-SLAPP Conference – 14 November 2024



The Need for a Council of Europe Recommendation on Combatting SLAPPs

104 civil society organisations call on the Council of Europe (CoE) to act urgently on the growing threat of Strategic Lawsuits Against Public Participation (SLAPPs).






Committee of Experts on Strategic Lawsuits against Public Participation

DOCUMENTATION

-  [MSI-SLP Terms of reference](#)
-  [MSI-SLP Committee members](#)

MEETINGS

- 4-5 APRIL 2022
1st meeting 
- 18-19 OCTOBER 2022
2nd meeting 
- 18-19 APRIL 2023
3rd meeting 
- 17-18 OCTOBER 2023
th meeting 

MSI-SLP NEWS

Public consultation on draft CM Recommendation on Countering Strategic Lawsuits against Public Participation (SLAPPs)



FULL SET OF RECENTLY ADOPTED STANDARDS

Council of Europe

- Recommendation [CM/Rec\(2024\)2](#) of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), on 5 April 2024

EU-package on anti-SLAPP

- [Directive](#) of the European Parliament and of the Council of 11 April 2024
- [Commission Recommendation](#) (EU) 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings.

COUNCIL OF EUROPE CAMPAIGN FOR THE SAFETY OF JOURNALISTS



JOURNALISTS MATTER

Council of Europe Campaign for the Safety of Journalists

Objectives

- ✓ **promoting** the development of corresponding campaigns at national level;
- ✓ **encouraging** states to take measures towards the adoption of national Action Plan for the safety of journalists;
- ✓ **providing** help to the development of appropriate legal and institutional frameworks at national level;
- ✓ **changing** the situation effectively and significantly in practice.



Expected results

- ✓ **Journalists across Europe enjoy a safe environment** they need to play freely and more assertively their role of "public watchdogs".
- ✓ **National Action Plans - where relevant** - are adopted.
- ✓ **Enhanced legal and institutional safeguards** are in place.
- ✓ **Effective remedies** against the attacks against journalists and other media actors are set up.
- ✓ **Better investigations** of crimes against journalists and proper sanctioning of perpetrators are effective.
- ✓ **Increased awareness** of the positive role of journalists is acknowledged both by the general public and the decision makers in 46 member States.

