

**Aarhus Convention Task Force
on Access to Justice
Fourteenth meeting
Geneva, 27-28 April 2022
Tools to promote effective
access to justice**

*Measures to discourage
strategic lawsuits against
public participation (SLAPP)*

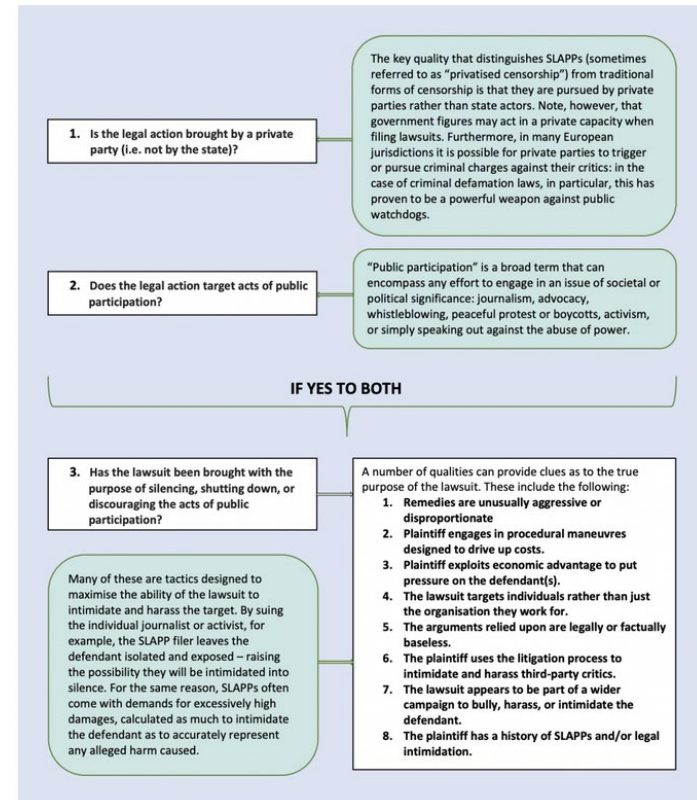
**Csaba Kiss
J&E, European ECO Forum**





1. Definition of SLAPP cases

- CASE Coalition: an abusive lawsuit filed by a private party with the purpose of silencing critical speech
- + Multiple definitions: Wikipedia, Merriam-Webster, Legal Information Institute of Cornell Law School, Public Participation Project etc.
- Key point is not definition but identification.
- Step by step guide on CASE website: <https://www.the-case.eu/about#block-b1b01b79fa1caf24f59f>





2. Presentation of the Coalition Against SLAPPs in Europe (CASE)

- Coalition of non-governmental organisations from across Europe united in recognition of the threat posed to public watchdogs by SLAPPs
 - Exposing SLAPPs and those who use them
 - Building resilience to SLAPPS
 - Advocating for law reform
- 40+ members, including Article 19, ClientEarth, EEB, Greenpeace, Justice & Environment, Civil Liberties, Transparency International, Whistleblowing International, the Daphne Caruana Galizia Foundation





3. Status of SLAPP cases in Europe

- CASE collected 570 cases over a 10-year period
- Trend: the number of SLAPP cases across Europe has been increasing year on year
- Shutting Out Criticism: How SLAPPs Threaten European Democracy – [report](#)

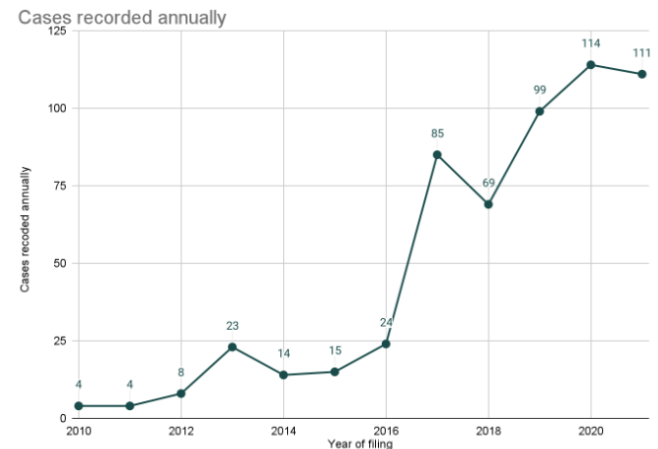


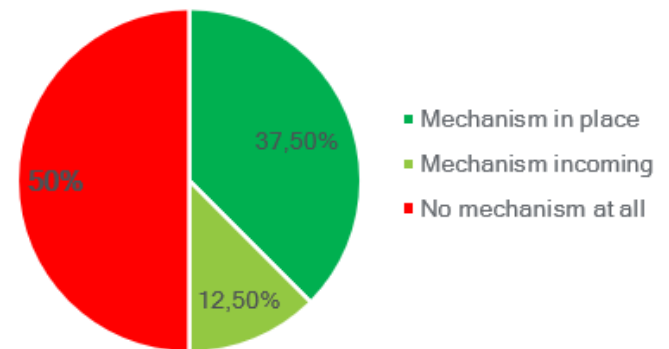
Figure 2: CASE-recorded SLAPP legal cases from 2010 - 2021²⁹



4. Status of anti-SLAPP laws

- 8 EU MS survey by J&E (AT, BE, BG, EE, EL, ES, HR, HU)
 - 2 countries have effective mechanisms that can be used in SLAPPs, but none has specific anti-SLAPP laws
 - 4 countries have partial or total protection for whistleblowers but never played a role in SLAPPs
 - International legislation's impact is low
 - GDPR as basis for SLAPPs
 - None has effective procedural legal tools against SLAPPs
 - 3 countries have rules in bar association codes of conduct for filing SLAPPs

Is there a mechanism that can be used to prevent SLAPPs?





5. EU and CoE actions

- European Parliament 2021/2036(INI) Strengthening Democracy and Media Freedom and Pluralism in the EU: the undue use of actions under civil and criminal law to silence journalists, NGOs and civil society
- Commission Roadmap: EU package against abusive litigation (SLAPP) targeting journalists and rights defenders
- Open Public Consultation factual summary report
- Legislative proposal for an anti-SLAPP directive (27 April 2022)
- Council of Europe (CoE) Anti-SLAPP expert group and drafting a recommendation (2023)

The screenshot shows the Council of Europe website's 'Human Rights Comments' section. The header includes the Council of Europe logo and the Commissioner for Human Rights. The main content area features a comment titled 'Time to take action against SLAPPs' from Strasbourg, dated 27/10/2020. The comment image shows a person's face with a red blindfold and a red banner over their mouth that says 'SLAPPed'. To the right, there are navigation menus for 'Posts by Year' and 'Posts by Thematic'.

POSTS BY YEAR

2022	2021	2020	2019
2018	2017	2016	2015
2014	2013	2012	2011
2010	2009	2008	2007
2006			

POSTS BY THEMATIC

- > Artificial intelligence
- > Children's rights
- > Counter terrorism
- > Covid-19
- > Discrimination
- > Economic crisis
- > Education
- > Freedom of assembly
- > Freedom of expression



6. CASE advocacy actions and further demands

- a) Harmonise EU laws on SLAPPs so as to make them predictable for all those targeted by SLAPPs
- b) Reform the EU private international law framework
- c) Support the EU Member States
- d) Decriminalise defamation and bring other laws criminalising speech in line with human rights standards
- e) Fully implement EU Directive (once enacted)
- f) Offer victims support
- g) Implement professional standards for lawyers and law firms
- h) Enable civil society
- i) Create and/or support independent bodies
- j) Offer awareness raising and training to stakeholders
- k) Collect data on SLAPPs





7. Art. 3.8 of the Convention & ACCC case law

- „Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.”
- ACCC Case Law:
ACCC/C/2009/36 Spain,
ACCC/C/2013/98 Lithuania,
ACCC/C/2014/102 Belarus
- RRM





8. Importance of the matter for fundamental freedoms and rule of law and need for action

*“Transparency and integrity are key to the proper functioning of the courts and to the law. Those values underpin public scrutiny of the powerful and maintain confidence in our laws. Let me be clear: today’s speakers are right to highlight the rare instances where the law is being weaponised as lawfare. SLAPPs represent an abuse of the legal system—let me be clear about that—as they rely upon threatening tactics to silence free speech advocates who act in the public interest. **Public participation enriches all our lives and our democracy.**”*

- James Cartlidge,
Parliamentary Under Secretary
of State for Justice, UK



Thank you for your attention!

- Justice & Environment:

<http://www.justiceandenvironment.org/home/>



- CASE: <https://www.the-case.eu/>



- Layout: <https://poweredtemplate.com/10536/0/index.html>

