



How to better protect HRDs from SLAPPs: A practical defence guide for European lawyers

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Abstract: SLAPPs are destructive to civil society and public interest. Training and awareness-raising activities appear to be the best strategy at our disposal to effectively tackle abusive lawsuits and respond to the shrinking space for civil society in Europe.

25 years have passed since the adoption of the [Declaration](#) on Human Rights Defenders (HRDs), yet the available evidence shows an increase in the number and complexity of the attacks against those who stand up for human rights. The threats and attacks against them may take many different forms: they can be the target of executions, torture, beatings, arbitrary arrest and detention, death threats, harassment, and defamation, as well as restrictions on their freedoms of movement, expression, association and assembly, false accusations and unfair trial and conviction.

[Recent reports](#) of the European Union's Fundamental Rights Agency (FRA) mention attacks on, and harassment of, human rights defenders, including negative discourse intended to delegitimize and stigmatise civic society organisations (CSOs). In many cases, legal and judicial systems have acted as key accomplices or contributors to these efforts. A particularly worrisome aspect is the fact that HRDs are increasingly found as the target of a strategy designed to

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limit the speech of those with less power or resources: the so-called Strategic Lawsuits Against Public Participation (SLAPPs).

The term [SLAPP](#), first coined in the late 1980s by American legal scholars George W. Pring and Penelope Canan, refers to legal actions, often (but not exclusively) framed as civil and criminal defamation suits, filed by powerful subjects—corporations, wealthy individuals, or even governmental bodies or government officials—wishing to protect their personal, financial, or reputational interests against weaker parties (HRDs, journalists, independent media outlets, NGOs, academics, whistleblower, etc.) who express an opinion or convey information on a public matter that is perceived as unfavourable or otherwise uncomfortable to the powerful, i.e. environment, corruption, migration, civic rights, or political criticism.

A sword of Damocles hanging over those who dare to speak out

Often masqueraded as ordinary lawsuits, SLAPPs are generally based on meritless, frivolous, or exaggerated claims, and inherently have, in theory, no chance of prevailing in court. They are solely used for a variety of tangential and overarching abusive purposes including retaliating against, or punishing targets for speaking out, halting particular acts, or opposing political activities, and offering a highly visible warning to others who might wish to express an opinion. The aim of distracting or intimidating is often achieved by rendering the legal proceedings expensive and time consuming through included motions, injunctions, and other costly disclosure processes. Demands for damages are often exaggerated. In some cases, several lawsuits are initiated at once in an effort to overwhelm the counterpart in expensive litigation. Another common feature of SLAPPs is the engagement in the practice of “forum shopping” as a further hurdle for the defendant.

By tying them up in abusive, lengthy, and therefore costly legal proceedings, SLAPPs can be a nerve-wracking and frightening experience for the victims and their families as well as deter organisations' human rights work. In addition, they can have a chilling effect on the exercise of freedom of expression if others are afraid to speak out because they might be sued.

In the last few years, the SLAPP phenomenon has gone global, and is now taking place not just in countries that are led by repressive or autocratic governments, but also in several generally considered to be 'developed' or 'consolidated' European democracies. In April 2024, the [Directive \(EU\) 2024/1069](#) of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings ('Strategic lawsuits against public participation was adopted to provide safeguards against it. In 2022, the Coalition Against SLAPPs in Europe (CASE) published '[Shutting out criticism: How SLAPPs threaten European democracy](#)', the first-ever comprehensive study aimed to identify the scale, nature, and impact of SLAPPs in Europe, based on data collected about 570 abusive lawsuits in 29 countries over the last 10 years. According to the Coalition's last report '[A Threat to Democracy Continues to Grow](#)', CASE database has increased from 570 cases in 2022 to over 820 cases in 2023.

According to the [latest report](#) of the European Network of National Human Rights Institutions ([ENNHRI](#)) on the 'State of the rule of law in the European Union', CSOs and HRDs are the object of attacks and harassment, including SLAPPs in

several member states of the EU (Belgium, Bulgaria, Croatia, Greece, Estonia, the Netherlands, Poland, Romania, and Slovakia).

Despite the increasing number of SLAPPs being filed to intimidate journalists and HRDs in many of the European countries, knowledge on defending against SLAPP suits is an as-yet entirely undeveloped field.

The role of legal professionals in upholding the rule of law

A substantial chapter of both the [Recommendation \(EU\) 2022/758](#) (adopted in 2022 by the European Commission as part of its anti-SLAPP package) and the [Recommendation CM/Rec\(2024\)2](#) on countering the use of SLAPPs (adopted by the Committee of Ministers finally of the Council of Europe) regards the invitation to educate the legal community on the harm that SLAPPs cause to HRDs as well as to the recipients of SLAPPs so as to avoid normalising the practice.

However, when it comes to SLAPPs, most of the time legal professionals are not equipped with the required knowledge and skills to successfully identify harassing causes and react appropriately. Defending against SLAPPs requires, in fact, solid knowledge of international human rights principles together with detailed know-how on domestic legal systems and procedure

The PATFox project and its anti-SLAPP curriculum hub

Now, Europe's first anti-SLAPP curriculum provides legal professionals defending journalists and media organisations, NGOs, and activists with the necessary tools to properly identify and challenge this form of abuse. The curriculum has been designed, developed, and implemented in the framework of the [PATFox project](#) (Pioneering AntiSLAPP Training for Freedom of Expression), co-funded by the European Commission, with the aim of bringing much-needed coherence to frontline SLAPP defence efforts across the European Union.

Divided into two main sections, the [PATFox curriculum](#) is a user-friendly training tool which can be used for self-learning purposes as well as by legal trainers. It is composed of 73 learning materials, both in English and local languages, drawing both on international expertise and European human rights principles as well as local procedural knowledge and case law. The central section provides a brief overview of the characteristics of SLAPPs, and then sets out the parameters for the legal topics relevant to the phenomenon. It also includes 4 additional modules covering specialist legal and extra-legal aspects considered relevant for the anti-SLAPP defence, such as cybersecurity best practices, financial forensics, strategic legal communication, and whistleblowing protection.

On the other hand, the second section focuses on the phenomenon and its manifestations in the different scenarios of the 11 countries that are part of the PATFox consortium: [Germany](#), [Malta](#), [Cyprus](#), [Slovakia](#), [Spain](#), [Poland](#), [Slovenia](#), [Croatia](#), [Romania](#), [Bulgaria](#), and [Hungary](#). The 11 local curricula include case studies and analysis of the substantive and procedural tools used in each country for SLAPP purposes. After having been tested and evaluated during the two rounds of training conducted since November 2022 to December 2023, all materials produced are now freely available on the [PATFox website](#) to any person wishing to make use of them.

Improving anti-SLAPP defence effort

PATFox's experience clearly demonstrates that there is a great need and significant untapped demand for anti-SLAPP educational, training and awareness-raising initiatives. Over the two-year duration of the project, the PATFox consortium managed to train 364 lawyers in 11 member states of the EU and 462 law students and trainee lawyers, benefiting the possible targets of SLAPPs, who can count on better-prepared defence lawyers, now equipped with the tools necessary to meet the demands of this specific category of clients. Evidently, when it comes to SLAPPs, there is no silver bullet to tackle the problem, however knowledgeable and skilled justice professionals can play a fundamental role in reversing the slide in democracy by defending fundamental freedoms—to express dissent, hold leaders accountable, and speak truth to power—on behalf of journalists, opposition groups, and HRDs.