

Anti-SLAPP Initiative

Fields marked with * are mandatory.

Introduction

With upholding democracy, the rule of law and fundamental rights high on the Commission's agenda ([Political Guidelines](#)), protecting journalists and civil society from strategic lawsuits against public participation (SLAPP) is one of the key actions in the European democracy action plan^[1]. The European Parliament, also concerned about this issue, is drafting an own-initiative report^[2].

SLAPP – a relatively recent form of harassment – are increasingly used against journalists, rights defenders and others (such as media outlets or civil society organisations) who are involved in protecting the public interest. SLAPP are typically meritless lawsuits lodged by powerful individuals or entities (companies or state bodies) against weaker parties who express a critical stance on an issue of major public interest, in order to intimidate and ultimately silence such parties by draining their resources – filing high damages claims or lengthening proceedings, for example.

The Commission's [research](#)^[3] shows that SLAPP are on the rise in the EU. The Council of Europe's Platform^[4], which monitors SLAPP alerts, has also highlighted the growing pressure on journalists in Europe. Given the harm done in this way to the people who play a key role in upholding democracy in the EU by serving the public interest, the EU must act swiftly and decisively to curb SLAPP.

This is why the Commission is conducting this survey on what the EU can do about this. The survey's aim is twofold:

- to identify the problems in this area and get the public's views on what needs to be done to tackle them;
- to ask the public for their views on possible legislative and non-legislative anti-SLAPP measures.

Answer the questions that apply to you or that you are able to answer given your or your organisation's experience.

[1] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the European democracy action plan, COM (2020) 790 final, 3.12.2020.

[2] 'Draft report on the strengthening of 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', 2021/2036(INI).

[3] https://ec.europa.eu/info/sites/default/files/ad-hoc-literature-review-analysis-key-elements-slapp_en.pdf

[4] <https://www.coe.int/en/web/media-freedom/all-alerts>

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation

- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

If you are a legal practitioner, where do you work?

- Judicial authority
- Law firm
- Other

Please specify

The General Council of the Bar of England & Wales represents its 17,000+ barrister members, the majority of whom are in independent practice. It is also the approved regulator through the independent Bar Standards Board.

* First name

Evanna

* Surname

FRUITHOF

* Email (this won't be published)

evanna.fruithof@barcouncil.be

* Organisation name

255 character(s) maximum

The General Council of the Bar of England & Wales (The Bar Council)

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

39850528734-23

* Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
|---|---|--|--|
| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> San Marino |
| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> São Tomé and Príncipe |
| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Saudi Arabia |
| <input type="radio"/> Anguilla | <input type="radio"/> Eritrea | <input type="radio"/> Malaysia | <input type="radio"/> Senegal |
| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Serbia |
| <input type="radio"/> Antigua and Barbuda | <input type="radio"/> Eswatini | <input type="radio"/> Mali | <input type="radio"/> Seychelles |
| <input type="radio"/> Argentina | <input type="radio"/> Ethiopia | <input type="radio"/> Malta | <input type="radio"/> Sierra Leone |
| <input type="radio"/> Armenia | <input type="radio"/> Falkland Islands | <input type="radio"/> Marshall Islands | <input type="radio"/> Singapore |
| <input type="radio"/> Aruba | <input type="radio"/> Faroe Islands | <input type="radio"/> Martinique | <input type="radio"/> Sint Maarten |
| <input type="radio"/> Australia | <input type="radio"/> Fiji | <input type="radio"/> Mauritania | <input type="radio"/> Slovakia |
| <input type="radio"/> Austria | <input type="radio"/> Finland | <input type="radio"/> Mauritius | <input type="radio"/> Slovenia |
| <input type="radio"/> Azerbaijan | <input type="radio"/> France | <input type="radio"/> Mayotte | <input type="radio"/> Solomon Islands |
| <input type="radio"/> Bahamas | <input type="radio"/> French Guiana | <input type="radio"/> Mexico | <input type="radio"/> Somalia |
| <input type="radio"/> Bahrain | <input type="radio"/> French Polynesia | <input type="radio"/> Micronesia | <input type="radio"/> South Africa |
| <input type="radio"/> Bangladesh | <input type="radio"/> French Southern and Antarctic Lands | <input type="radio"/> Moldova | <input type="radio"/> South Georgia and the South Sandwich Islands |
| <input type="radio"/> Barbados | <input type="radio"/> Gabon | <input type="radio"/> Monaco | <input type="radio"/> South Korea |

- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan

- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria

- Burkina Faso
- Burundi

- Cambodia

- Cameroon
- Canada
- Cape Verde
- Cayman Islands

- Central African Republic
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland

- Grenada
- Guadeloupe

- Guam

- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau

- Guyana

- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong

- Hungary

- Iceland
- India
- Indonesia
- Iran

- Iraq
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma

- Namibia
- Nauru

- Nepal

- Netherlands
- New Caledonia
- New Zealand
- Nicaragua

- Niger

- Nigeria
- Niue

- Norfolk Island
- Northern Mariana Islands
- North Korea

- North Macedonia
- Norway
- Oman
- Pakistan

- Palau
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland

- Syria

- Taiwan
- Tajikistan
- Tanzania
- Thailand

- The Gambia

- Timor-Leste
- Togo

- Tokelau
- Tonga

- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu

- | | | | |
|--|-----------------------------------|--|--|
| <input type="radio"/> Chad | <input type="radio"/> Ireland | <input type="radio"/> Palestine | <input type="radio"/> Uganda |
| <input type="radio"/> Chile | <input type="radio"/> Isle of Man | <input type="radio"/> Panama | <input type="radio"/> Ukraine |
| <input type="radio"/> China | <input type="radio"/> Israel | <input type="radio"/> Papua New Guinea | <input type="radio"/> United Arab Emirates |
| <input type="radio"/> Christmas Island | <input type="radio"/> Italy | <input type="radio"/> Paraguay | <input checked="" type="radio"/> United Kingdom |
| <input type="radio"/> Clipperton | <input type="radio"/> Jamaica | <input type="radio"/> Peru | <input type="radio"/> United States |
| <input type="radio"/> Cocos (Keeling) Islands | <input type="radio"/> Japan | <input type="radio"/> Philippines | <input type="radio"/> United States Minor Outlying Islands |
| <input type="radio"/> Colombia | <input type="radio"/> Jersey | <input type="radio"/> Pitcairn Islands | <input type="radio"/> Uruguay |
| <input type="radio"/> Comoros | <input type="radio"/> Jordan | <input type="radio"/> Poland | <input type="radio"/> US Virgin Islands |
| <input type="radio"/> Congo | <input type="radio"/> Kazakhstan | <input type="radio"/> Portugal | <input type="radio"/> Uzbekistan |
| <input type="radio"/> Cook Islands | <input type="radio"/> Kenya | <input type="radio"/> Puerto Rico | <input type="radio"/> Vanuatu |
| <input type="radio"/> Costa Rica | <input type="radio"/> Kiribati | <input type="radio"/> Qatar | <input type="radio"/> Vatican City |
| <input type="radio"/> Côte d'Ivoire | <input type="radio"/> Kosovo | <input type="radio"/> Réunion | <input type="radio"/> Venezuela |
| <input type="radio"/> Croatia | <input type="radio"/> Kuwait | <input type="radio"/> Romania | <input type="radio"/> Vietnam |
| <input type="radio"/> Cuba | <input type="radio"/> Kyrgyzstan | <input type="radio"/> Russia | <input type="radio"/> Wallis and Futuna |
| <input type="radio"/> Curaçao | <input type="radio"/> Laos | <input type="radio"/> Rwanda | <input type="radio"/> Western Sahara |
| <input type="radio"/> Cyprus | <input type="radio"/> Latvia | <input type="radio"/> Saint Barthélemy | <input type="radio"/> Yemen |
| <input type="radio"/> Czechia | <input type="radio"/> Lebanon | <input type="radio"/> Saint Helena, Ascension and Tristan da Cunha | <input type="radio"/> Zambia |
| <input type="radio"/> Democratic Republic of the Congo | <input type="radio"/> Lesotho | <input type="radio"/> Saint Kitts and Nevis | <input type="radio"/> Zimbabwe |
| <input type="radio"/> Denmark | <input type="radio"/> Liberia | <input type="radio"/> Saint Lucia | |

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association', 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

Public

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

I agree with the [personal data protection provisions](#)

1. Are you familiar with the term ‘strategic lawsuits against public participation’ (SLAPP)?

- Yes
- No
- I don't know/No reply

2. Are you aware of SLAPP in your own country?

- Yes
- No
- I don't know/No reply

Please specify

500 character(s) maximum

3. What do you think is the current situation in terms of SLAPP in your own country?

- The number of cases has been growing considerably
- The number of cases has been slightly growing
-

- The number of cases has remained the same
- The number of cases has been slightly decreasing
 - The number of cases has been decreasing considerably
 - I don't know/No reply

4. Are you aware of SLAPP in (a) country (countries) other than your own?

Specify which country/countries and provide examples.

- Austria
- Belgium
- Bulgaria
- Croatia
- Czechia
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden

Please provide examples

500 character(s) maximum

5. If you know of one or more SLAPP in the EU, is there a cross-border aspect (the case does not relate to one country only, but to several)? If yes, specify the country/countries involved.

- Austria
- Belgium
- Bulgaria
- Croatia
- Czechia
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden

6. Who is the target (defendant) in the SLAPP you know of?

- Journalist
- Rights defender (individual)
- Media outlet
- Civil society organisation

- Body or institution defending human rights
- Other individual or organisation – please specify
- I don't know/No reply

6.1. Are you aware of the field of activity on which these targets are active?

- Yes
- No

7. Who is the alleged perpetrator (applicant or claimant) in the SLAPP you know of?

- Public administration or state body
- Company
- Organisation (e.g. business association, political organisation)
- Politician
- Private person acting in his/her personal capacity
- Other – please specify
- I don't know/No reply

8. Are you aware of cases in which no lawsuit(s) was/were filed but a journalist, rights defender or an organisation/body/institution was threatened with litigation or other action in order to intimidate them?

- Yes, legal threats without actual litigation, other parallel procedures
- Yes, other form of intimidation – please specify
- No

9. What do you think are the consequences of SLAPP for the targets (defendants)?

- No consequences
- Targets are intimidated but can continue to do their work
- Targets are silenced and avoid engaging in debate on matters of public interest that could trigger SLAPP
- Targets stop engaging in debate on matters of public interest altogether
- I don't know/No reply

Please comment if needed

500 character(s) maximum

The Bar Council acknowledges the research conducted by the EU, the Council of Europe, other international bodies and relevant NGOs into the consequences of SLAPP for targets, and based upon that research recognises that targets are often silenced and avoid engaging in debate on matters of public interest that could trigger SLAPP, and that some targets stop engaging on matters of public interest altogether.

10. Do you think that the lack of EU-wide safeguards against SLAPP poses a problem to public participation?

- Yes, it is a serious problem
- Yes, it is a somewhat serious problem
- Yes, but not a serious problem
- No, it is not a problem
- I don't know/No reply

Please comment if needed

500 character(s) maximum

Based upon the research referred to in answer to Q 9, it is recognised that EU-wide safeguards against SLAPPs, provided they strike the necessary delicate balance, may mitigate their effect, and that the lack of such safeguards is therefore a somewhat serious problem. As developed further in the Bar Council's accompanying preliminary position paper, any such balanced EU-wide safeguards would best be developed in collaboration with third states where SLAPPs have been identified, such as the UK.

11. What measures do you think would effectively curb the use of SLAPP in the EU?

- Legislation (e.g. procedural safeguards against SLAPP)
- Non-legislative measures (e.g. recommendations or guidelines or sharing best practices)
- A combination of legislation and non-legislative measures
- Financial support for bodies that specialise in supporting targets
- Other – please specify
- I don't know/No reply
- None of the above

12. What type of legislative measures do you think would make a real difference in this area?

- Civil procedural safeguards against SLAPP, such as early dismissal of a lawsuit and accelerated proceedings
- Legal aid to targets of SLAPP
-

Third-party interventions and allowing representative organisations to act on behalf of targets of SLAPP

- Private international law rules (e.g. on jurisdiction and applicable law)
- Other – please specify
- I don't know/No reply
- None of the above

13. What assistance do you think targets (defendants) in SLAPP need?

- Information on SLAPP
- Information about legal professionals or other bodies/people that could help
- Legal assistance (e.g. pro-bono lawyers)
- Monitoring of SLAPP
- None of the above
- Other forms of assistance – please specify
- I don't know/No reply

14. Are you aware if, in your country, there are associations or other legal bodies offering assistance (e.g. information or legal assistance) to targets of SLAPP?

- Yes, there are. Please explain and provide examples
- No
- I don't know/No reply

14.1. Should there be such an association/body in every EU country?

- Yes
- No
- I don't know/No reply

15. Which of the following non-legislative measures do you think would help curb the use of SLAPP?

- Raising awareness of SLAPP
- Training legal professionals
- Sharing good practices among EU countries
- Sharing good practices among legal professionals
- Monitoring SLAPP in the EU
- None of the above – please explain

- Other – please explain

16. To whom should awareness-raising activities be addressed?

- Citizens
 Journalists and human rights defenders
 Legal professionals
 None of the above
 Others – please specify

17. What should training activities on SLAPP focus on?

Specify the main themes that the training should cover and who the target audience should be

500 character(s) maximum

Training activities on SLAPP should focus on: (i) avoidance, by training publishers in how to safely report on matters of public interest (so far as possible); (ii) mitigation, by setting out any assistance available and how to access it in the event that a publisher is targeted; and (iii) defence, by explaining to publishers the relevant domestic law and procedure.

Other

18. Please comment or give any additional information you would like to give on SLAPP.

The Commission would like to know your views on specific aspects of this initiative and/or references to relevant research.

5000 character(s) maximum

The Bar Council has developed a short, preliminary position paper setting out some key issues and concerns. That paper is being submitted directly to the consultation email address, and will also be made available on the Bar Council's consultation webpage, at: <https://www.barcouncil.org.uk/policy-representation/consultations.html>
We would be delighted to follow up in writing or otherwise on any of the matters raised.

If you have any questions, send an email to JUST-A1-CIVIL-JUSTICE@ec.europa.eu, putting Public consultation on SLAPP in the subject line.

Contact

JUST-A1-CIVIL-JUSTICE@ec.europa.eu

