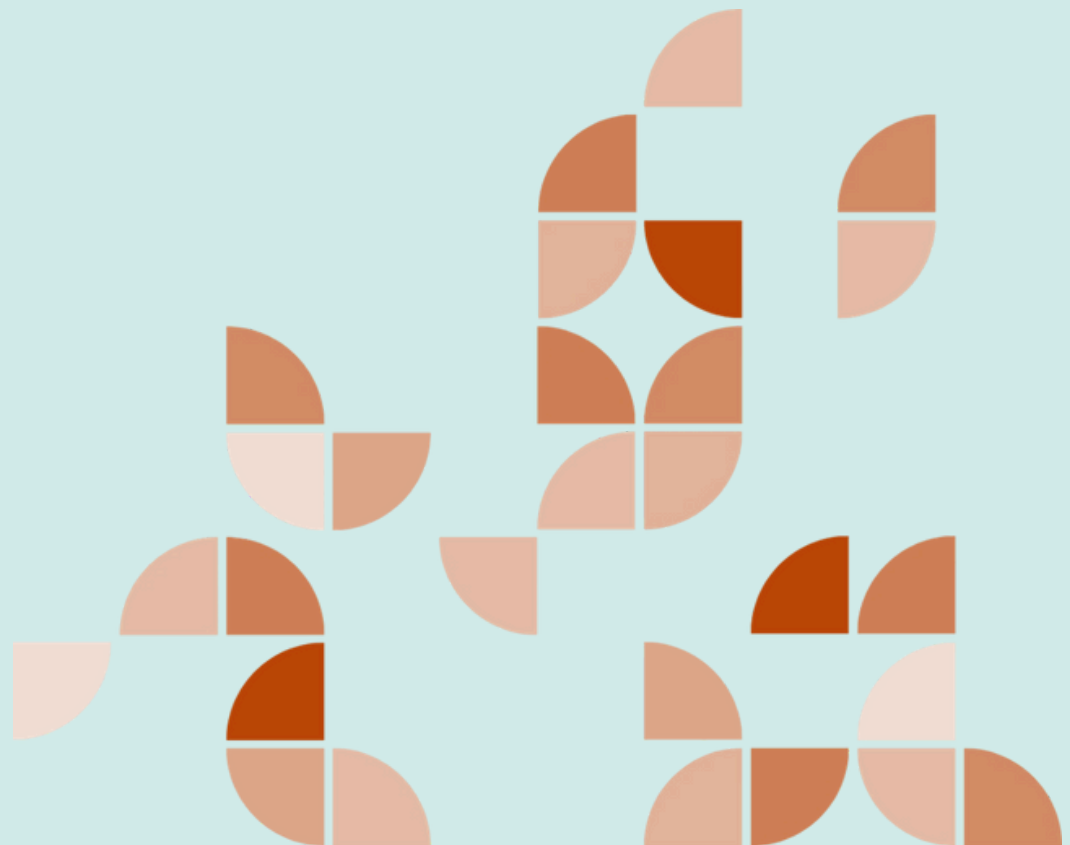


From Silence to Strength: A Regional Response to SLAPPs in the Western Balkans

PARTNERSALBANIA
FOR CHANGE AND DEVELOPMENT

JULY 2024



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PARTNERS ALBANIA FOR CHANGE AND DEVELOPMENT

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Introduction

In an era marked by growing concerns over threats to civic space, freedom of expression and civil society engagement, Strategic Lawsuits Against Public Participation (SLAPP) have emerged as a significant threat that affects various pillars of democratic participation. These lawsuits pose substantial threats to activism, civil society organisations, whistleblowers, and media associations on a global scale, including countries of the Western Balkans. As tools employed to intimidate individuals or groups advocating for public interest causes, SLAPPs have garnered attention for their unfavourable impact on democratic discourse and the ability of individuals to exercise their fundamental rights without fear of legal retribution.

In the face of these developments, in February 2024, the European Parliament adopted the Anti-SLAPP directive^[1] for protecting public watchdog organisations, human rights defenders, journalists, and other entities against abusive litigation in the form of SLAPPs. According to this directive, “Abusive Court Proceedings Against Public Participation mean court proceedings which are not brought to genuinely assert or exercise a right but have as their main purpose the prevention, restriction, or penalisation of public participation, frequently exploiting an imbalance of power between the parties, and which pursue unfounded claims”^[2].

Concerning public participation, it “means the making of any statement or the carrying out of any activity by a natural or legal person in the exercise of the right to freedom of expression and information, freedom of the arts and sciences, or freedom of assembly and association, and any preparatory, supporting or assisting action directly linked to it, and which concerns a matter of public interest”.^[3] It is under the responsibility of Member States to build on the foundation set by the Anti-SLAPP Directive and draft effective national legislation by 2026.

The scope of the research report “From Silence to Strength: A Regional Response to SLAPPs in the Western Balkans” is to give an overview of issues concerning SLAPPs and to provide recommendations on how these issues can be addressed.

[1] EU Anti – SLAPP directive, [Online] https://www.europarl.europa.eu/doceo/document/A-9-2023-0223-AM-126-126_EN.pdf

[2] Ibid, Article 4, point 3, “Definitions” of the Anti-SLAPP of the Directive.

[3] Ibid, Article 4, point 1 “Definitions” of the Anti-SLAPP of the Directive.

The objectives of the research report are to analyse current legislation in place, understand the prevalence and impact of SLAPPs on activists, civil society organisations, and media associations; identify the strategies employed by plaintiffs and defendants in SLAPP cases, and provide recommendations for addressing the key issues mapped through the research.

This research report is part of the series of national reports conducted in six countries of the Western Balkans, prepared in the frame of the initiative "Protecting Civic Space – Regional Civil Society Development Hub", a project implemented by the Balkan Civil Society Development Network (BCSDN) of which Partners Albania is a member. All the national reports will be based on the same SLAPP definition stated by the BCSDN. A regional report is also available summarising findings and recommendations for all countries.

Methodology

The definition of the SLAPP for this research report is tailored and based on internationally established standards, and the current challenges in the region identified by BCSDN members. "Strategic lawsuits against public participation, or SLAPPs, are malicious legal actions pursued by private parties, natural persons acting on behalf of private or public entities, and state institutions. These actions target activists, journalists, civil society representatives, and ordinary citizens. Their primary aim is to censor, intimidate, and silence criticism by subjecting individuals to protracted and costly legal proceedings, thereby deterring or restricting public participation, preventing raising public awareness of pressing social, environmental, and political issues, or prompting action from other public institutions".

The process for the preparation of the research report was carried out from November 2023 – April 2024. The methods used for the preparation of this research report are:



Desk research.

The desk research included:

Legal framework review – involved evaluation of the implementation of ratified conventions the legal framework and regulations applicable to SLAPP cases and regulations, adopted by Albania to evaluate their effectiveness in countering SLAPP cases.

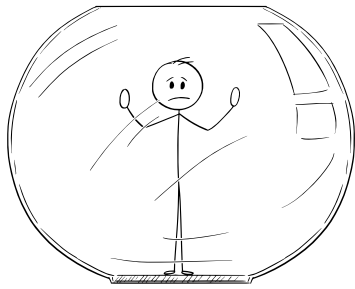
Literature review – this encompassed research of secondary data sources prepared by international organisations, civil society organisations, and articles of national and regional media outlets.



Semi-structured interviews.

The primary data collection involved semi-structured interviews with key stakeholders. The semi-structured interviews were administered face-to-face with experts.

Limitations



This research report is subject to several limitations. Firstly, a legal framework for SLAPPs is missing, including the definition of SLAPPs, along with a lack of awareness and research on this topic. Without a legal definition, it is challenging to establish a reference point for what practices constitute SLAPPs and how they are addressed. Our analysis only refers to the portion of SLAPPs which are publicly reported. Secondly, given that SLAPPs are a new notion and development, there is no established legal practice concerning them. Thirdly, the lack of a definition of SLAPPs has resulted in a lack of legal expertise on this issue, which is not reflected in the report.



Thank You Note

Partners Albania would like to extend its gratitude to Ms. Kristina Voko, Executive Director of BIRN Albania, Mr. Dorian Matliaj, Lawyer and Executive Director of Res Publika, and Mr. Artan Rama, a Freelancer for providing insights and information that contributed to the preparation of this report.

Background and Legal Framework

Country context on SLAPPs

Albania has actively pursued European Union (EU) accession since being awarded candidate status in 2014. The commitment to EU integration has played a crucial role in driving democratic reforms, leading Albania to harmonise its policies, legislation, and institutions with EU standards. Notably, in 2022, Albania commenced accession talks with the European Union, initiating the "screening" process[4] aimed at aligning legislation with EU Acquis.

Another achievement in 2024 for Albania was the vote of the Parliamentary Assembly of the Council of Europe to remove the country from the human rights monitoring list. This progress indicates that the country will no longer undergo annual scrutiny by the Council of Europe[5].

Albania's legal framework provides a solid basis for protecting fundamental rights, but the efforts to implement the legal framework need intensification[6]. In the Freedom House report, Albania is classified as Partly Free concerning political rights and civil liberties[7].

Regarding freedom of the press, Albania is ranked 99th position in the World Press Freedom Index in 2024[8], the lowest ranking among the Western Balkans countries. The intersection of business and political interests, the lack of transparency of sources of finance, the concentration of media ownership, intimidation and precarious working conditions continued to hamper media independence, pluralism/ and the quality of journalism[9].

The 2021 National Barometer for Media Freedom in Albania[10] revealed a concerning trend, with 68% of respondents, (journalists, and media workers), expressing the perception that media freedom in the country is either limited or non-existent. The findings underscore a persistent challenge wherein political figures, both at central and local levels, continue to have significant influence as primary arbiters of censorship, restraining the independence of media. Following closely behind are media owners, representatives of state entities, particularly the police, and individuals associated with criminal activities, all identified as factors contributing to the oppressing of media freedom.

[4]The information is retrieved from the European Council website. Accessed 18.12.2023 [Online] <https://www.consilium.europa.eu/en/policies/enlargement/albania/>

[5] The information is retrieved from the Albanian Ministry for Europe and Foreign Affairs. [Online] <https://www.punetejashtme.gov.al/asambleja-parlamentare-e-miraton-shqiperia-del-nga-faza-e-monitorimit-te-kie-pas-29-vitesh/>

[6] European Commission, 2023, "Albania 2023 Report". Accessed 19.12.2023 [Online] https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_690%20Albania%20report.pdf

[7] Freedom House, 2023, Nations in Transit: Albania. Accessed 18.12.2023, [Online] <https://freedomhouse.org/country/albania/nations-transit/2023>.

[8] Reporters Without Borders, 2024, "2024 World Press Freedom Index" [Online] <https://rsf.org/en/country/albania>

[9] European Commission, 2023, "Albania 2023 Report". Accessed 19.12.2023 [Online] https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_690%20Albania%20report.pdf

[10] Albanian Helsinki Committee, 2022, "The National Barometer of Media Freedom in Albania for 2021" Accessed 19.12.2023 [Online] <https://ahc.org.al/wp-content/uploads/2022/10/Barometri-Kombetar-per-Lirine-e-Medias-ne-Shqiperi-Tetor-2022-KShH.pdf>

This assessment underscores the pressing need for concerted efforts to safeguard journalistic integrity and ensure the free dissemination of information in Albania.

A study from the "Res Publica" organisation published in 2023, examined 200 legal cases concerning freedom of expression, encompassing civil, criminal, and administrative spheres, and Accessed the application of European Court of Human Rights (ECHR) jurisprudence by Albanian courts from 2016 to 2021. The study revealed that 44% of the cases involved journalists and media as defendants, while 25% involved them as plaintiffs[11]. In cases when media and journalists acted as plaintiffs, the primary reasons were related to the right to information and defamation campaigns against journalists[12]. Additionally, the study revealed that domestic courts adopted the proportionality standard in sanctions, imposing penalties equivalent to 8% of the amount sought by the plaintiffs. Other standards observed in the practice of domestic courts, influenced by the ECHR, are the evaluation of journalist ethics in analysing attitudes that suggest good faith or bad faith of the author, or even the difference between fact and opinion[13].

Regarding SLAPPs, the Albania 2023 Report by the European Commission highlights: "Media organisations reported that 19 new criminal court cases were filed against journalists or media workers in 2022, while 11 cases remain unresolved and have been carried over from previous years. Furthermore, 12 civil cases were filed, of which 11 are for allegedly publishing fraudulent or inaccurate information. No custodial penalties have been imposed on journalists during the reporting period".

The lack of a legal definition of SLAPPs complicates the identification of legal actions involving allegations against human rights defenders, journalists, civil society organisations, and citizens. Thus, these cases are often examined in isolation without a comprehensive consideration of the broader context of SLAPPs. Another consequence is the challenge to identify cases that can have the elements of SLAPPs but are not recognised in and by public as such.

As evident, from the public information available and studies to date, journalists and media nonprofit organisations are the most prevalent target of SLAPPs in Albania.

[11] Dule, I., Alexandridis, Th., Matlija. D. "Përmbledhje 2022 Studim Liria e Shprehjes, Si Pasqyrohet Jurisprudenca e Gjykatës Evropiane për të Drejtat e Njeriut nga Gjykatat Shqiptare", Res Publica, 2023. Accessed at 15.01.2024. [Online] [1680a8982f.\(coe.int\)](#).

[12] Ibid, page 6

[13] Ibid, page 10

Legal framework analyses regarding SLAPPs in Albania

Freedom of expression stands as a cornerstone among the essential human rights and liberties. This section's analysis focuses primarily on a review of the Constitution of Albania, and international conventions on freedom of expression ratified by Albania, followed by analyses of the Civil Code and Penal Code established within the country.

The Albanian Constitution^[14] is the highest law in the Republic of Albania. Human rights and fundamental freedoms, being indivisible, inalienable, and inviolable, constitute the cornerstone of the entire legal framework^[15]. Any restriction on the rights and freedoms stipulated in this Constitution can solely be imposed by law to serve a public interest or safeguard the rights of others, with the condition that such restriction remains proportionate to the circumstances necessitating it. These limitations must not infringe upon the essence of freedoms and rights and must never surpass the limits outlined in the European Convention on Human Rights^[16].

Freedom of expression, including press, radio, and television, is guaranteed in Albania, with prior censorship of means of communication prohibited^[17]. Additionally, the Constitution recognises the right to information as fundamental, affirming that 'everyone has the right, in accordance with the law, to receive information about the activity of public bodies, as well as persons exercising state functions' (Article 23). Article 46 of the Constitution further supports these rights by affirming that "everyone has the right to organise collectively for legal purposes" ensuring that citizens can freely gather and associate. Freedom of peaceful assembly, as well as participation in them, is also guaranteed by the Constitution^[18].

Albania has ratified all the main international conventions that guarantee fundamental rights and freedoms. Some of the ratified conventions are the International Covenant on Civil and Political Rights (ICCPR)^[19], the European Convention on Human Rights (European Convention)^[20], the Stabilisation-Association Agreement between the Republic of Albania and the European Communities of their member states, etc.

[14] Law No. 8417, dated 21.10.1998 "The Constitution of the Republic of Albania". Accessed 19.12.2023 [Online] <https://qbz.gov.al/preview/635d44bd-96ee-4bc5-8d93-d928cf6f2abd>

[15] Article 15 of the Constitution of the Republic of Albania. Accessed 19.12.2023.

[16] Article 17 of the Constitution of the Republic of Albania. Accessed 19.12.2023.

[17] Article 22, point 1,2,3 of the Constitution of the Republic of Albania. Accessed 19.12.2023.

[18] Article 47 of the Constitution of the Republic of Albania. Accessed 19.12.2023

[19] United Nations, 1966, "International Covenant on Civil and Political Rights". Accessed 17.01.2024.

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

[20] Council of Europe, European Court of Human Rights, Accessed 17.01.2024 [Online] https://www.echr.coe.int/documents/d/echr/convention_ENG

Further freedom of expression and public participation are regulated through laws approved by the Parliament.

Concerning the right to information, the Law No. 119/2014 "For the Right to Information", amended,[21]regulates the right of access to information being produced or held by public sector bodies. It stipulates that every person has the right to access public information, without being forced to explain the motives[22].

Concerning public participation, Law No. 146/2014 "For Notification and Public Consultation"[23] regulates the process of notification and public consultation of draft laws, draft national and local strategic documents, as well as policies of high public interest. The law prescribes rules on notification and consultation processes, aiming to increase the transparency of public bodies in important decision-making processes and allows the public and interest groups to give their inputs and recommendations during these processes.

Legal restrictions on freedom of expression are included in the Civil Code, and the Criminal Code of the Republic of Albania.

The Civil Code includes provisions for non-pecuniary damages, allowing plaintiffs to seek financial compensation for insults or the deliberate dissemination of defamatory information, contingent on a final court ruling. Article 617 "Misleading or Inaccurate Publications", of the Civil Code of the Republic of Albania[24] specifies that if a person publishes misleading or inaccurate information that harms another person, the court, upon the request of the injured party, may compel the publisher to issue a retraction appropriately. This obligation can be enforced even if the publication was not illegal and was made unintentionally, provided the publisher was unaware of the inaccuracies. Article 625 of the Civil Code stipulates that individuals who endure non-pecuniary damage possess the entitlement to compensation under various circumstances: firstly, if they have sustained injuries to their health, physical, or psychological well-being; secondly, if their honour, personality, or reputation has been infringed upon; thirdly, if their right to a name has been breached; fourthly, if there has been a violation of their privacy; and finally, if the memory of a deceased individual has been dishonoured.

[21] Law No. 119/2014, dated 18.09.2014 "For the Right to information", amended, Accessed 02.04.2024 [Online] <https://qbz.gov.al/eli/ligj/2014/09/18/119>

[22] Article 3, point 1. Accessed 02.04.2024

[23] Law No. 146/2014, dated 30.10.2014 "For Notification and Public Participation" Accessed 02.04.2024 [Online] <https://qbz.gov.al/eli/ligj/2014/10/30/146/3923aec7-2287-4909-9119-ea5dcee6245e>

[24] Law No. 7850, dated 29.07.1994 "The Civil Code of the Republic of Albania", amended. Accessed 17.01.2024 [Online] <https://qbz.gov.al/preview/f010097e-d6c8-402f-8f10-d9b60af94744>

Article 647/a regulates the manner and criteria for determining civil liability and the amount of non-pecuniary damage. It stipulates that the allocation of compensation for non-pecuniary damages due to the infringement upon an individual's honour, personality, or reputation is intended to rectify the violated right.

In the Criminal Code of the Republic of Albania, certain articles are directly linked to the freedom of expression. It is worth noting that despite the increasing number of international authorities advocating for the abolition or consideration for abolishing criminal defamation[25], in Albania defamation is regulated through the Criminal Code of the Republic of Albania[26]. Article 120 "Defamation" stipulates that "intentional dissemination of statements, as well as any other information, knowing that they are false, violate the honour and dignity of the person, constitutes a criminal offence and is punishable by a fine from fifty thousand to one million five hundred thousand ALL" (approx. 500 to 15,000 EUR). In cases when this offence is committed publicly, to the detriment of several persons or recurring, it constitutes a criminal misdemeanour punishable with fines ranging from fifty thousand to three million ALL (approx. 500 to 30,000 EUR).

Another article in the Criminal Code related to the freedom of expression is Article 119 "Insult". It stipulates that "Intentional insulting to a person constitutes criminal contravention and is punishable by a fine from fifty thousand to one million five hundred thousand ALL" (approx. 500 to 15,000 EUR). In cases when this offence is committed publicly to the detriment of several persons or more than once, it constitutes a criminal misdemeanour punishable by a fine from fifty thousand to three million leks." (approx. 500 to 30,000 EUR).

Focal points and available mechanisms to counter SLAPPs in Albania.

The lack of a specific legal framework for SLAPPs in Albania is associated with a lack of mechanisms in place to counter SLAPPs in Albania. Nevertheless, there are some local focal points, mainly NPOs, which are engaging with this issue. There are as follows:

[25] The information is retrieved from the Media Law Database webpage, "International Standards" article, Accessed 19.01.2024 [Online] <http://legaldb.freemedia.at/international-standards/>

[26] Law No. 7895, dated 27.01.1995 "The Criminal Code of the Republic of Albania", amended, Accessed 19.01.2024 [Online] <https://qbz.gov.al/preview/a2b117e6-69b2-4355-aa49-78967c31bf4d>

1. Res Publica organisation.[27] Res Publica is a nonprofit organisation aiming to facilitate access to justice through pro bono services, for different identify groups, categories, and individuals by promoting public interest, human rights, and justice for all. Since 2010 the organisation has facilitated access to justice by providing pro bono services for different identified groups, categories, and individuals in need, by promoting equality and justice for all.

The Res Publica has extensive experience in this field, directly defending various individuals (journalists, media, activists) in civil, administrative, or criminal legal cases. The organisation develops practical training programs to embody the basic concepts of freedom of expression and its limits.

2. The Primary and Secondary Free Legal Aid. The legal clinics established in public and private universities as well as organisations licensed by the Ministry of Justice to provide primary and secondary free legal aid, are important instruments in offering free legal aid services to marginalized and impoverished citizens and communities in the regions where they operate. The organisations and centres have been also the main instrument where local and national non-profit organisations (AKIP, Albanian Rafting Federation, Eco Albania, EDEN, Mileukontakt Albania, etc.) have addressed environmental and issues of public interests identified by them and then proceeded to pursue issues together at the bodies of administrative and judicial jurisdiction[28].

3. Albanian Helsinki Committee[29]. The Albanian Helsinki Committee's (AHC) mission is to contribute to respect for human rights, strengthening the rule of law, and the conduct of free and fair elections, in accordance with the Constitution and international acts applicable to the Republic of Albania. For more than 10 years, AHC served on improving the situation of Human Rights, through the Legal Clinic. Legal Clinic offers free legal aid for citizens who have no financial means to access the justice institutions and pretend violations of human rights because of actions or passivity of public authorities. AHC represents cases of strategic litigation and class action in which individual cases are intended to solve the problem for a wide group of people in the same situation or intended improvements in legal and institutional framework in the interest of citizens' human rights and freedoms.

[27] The information is retrieved from the Res Publica webpage. Accessed 15.02.2024 [Online] <https://www.respublica.org.al/>

[28] The information is retrieved from the Leviz Albania webpage. Accessed 15.02.2024 [Online] <https://www.levizalbania.al/sq/nisma-te-mbeshtetura/nisma-te-zbatuara-nga-konsorciumi-i-la/legal-clinics-in-durres-and-shkoder-osfa>

[29] The information is retrieved from the Albanian Helsinki Committee webpage. Accessed 15.02.2024 [Online] <https://ahc.org.al/en/>

4.Alliance for Ethical Media[30]. Established in 2020, the Alliance for Ethical Media is a self-regulatory mechanism to actively engage media, particularly online, to abide by the journalistic Code of Ethics. Within its structure is functional “the Board of Ethics” which oversees reviewing complaints from the public regarding ethical violations of online media and giving recommendations for the latter.

5.PRO – FREX “Protecting Freedom of Expression and of the media in Albania”. It is a program by the Council of Europe[31] for the period 2023- 2026. The goal and objectives of the program are to promote and protect freedom of expression and the media in Albania in line with European standards; enhance the protection of journalists and contribute to the creation of an enabling, safer, and more pluralistic media environment; strengthen the skills and knowledge of the institutional actors who are responsible for applying the standards on freedom of expression and media, as part of their daily work; and to support journalists and media actors in their self-regulation efforts and in exercising their rights in line with the related duties and responsibilities and the relevant ethical standards.

[30] The information is retrieved from the Council of Europe website. Accessed 15.02.2024 [Online] <https://www.coe.int/en/web/tirana/-/albanian-alliance-for-ethical-media-establishes-self-regulation-mechanisms>

[31] The information is retrieved from the Council of Europe website. Accessed 15.02.2024 [Online] <https://www.coe.int/en/web/tirana/protecting-freedom-of-expression-and-of-the-media-in-albania-pro-frex-a-1>

Strategies and tactics employed in SLAPP cases

Tactics Used by Plaintiffs in SLAPP Cases

SLAPPs serve as a tool to intimidate individuals into silence, frequently targeting investigative journalists and media outlets, activists and nonprofit organisations who speak out in the public interest[32]. They represent an abuse of the legal system by influential actors[33] to reframe matters of public concern as private legal disputes. Plaintiffs with financial and political power don't have as a primary goal to win in the court, instead, it's about intimidating the defendants and quashing public participation from getting involved in important issues[34].

A study of open SLAPP cases in 2022 and 2023 in the European Union identified five litigation tactics: multiple lawsuits, multiple targets, targeting an individual, excessive damages, and claims for moral damage[35]. Such tactics are observed even in Albania. For example, in June 2017 Gjin Gjoni, a member of the High Council of Justice at that time, and his wife filed two defamation lawsuits[36] against two media and four journalists. They claimed that the stories published by media and journalists related to an investigation by the prosecutor's office into his family wealth and the asset declaration process of appeals court judges caused reputational damage and sought a total compensation of 11 million ALL (approx. 82,000 EUR[37]). The legal process is still ongoing.

According to a recent report published by the CASE Network[38] regarding SLAPPs in Europe countries, including Albania, businesses and individual businesspersons, accounted for the highest proportion of lawsuits filed, totalling 39.9%. Following closely behind were state-owned entities, contributing to 26.8% of the lawsuits, while politicians constituted 25% of the legal actions.

[32] The information is retrieved from the Green Peace organisation website. Accessed 20.02.2024 [Online] <https://www.greenpeace.org/eu-unit/issues/democracy-europe/4059/how-the-rich-and-powerful-use-legal-tactics-to-shut-critics-up/>

[33] Business and Human Right Resource Centre, 2021, "SLAPPed but not silenced – Defending Human Rights in the Face of Legal Risks. Accessed 20.02.2024 [Online] https://media.business-humanrights.org/media/documents/2021_SLAPPs_Briefing_EN_v657.pdf

[34] Borg-Bathet, J., Farrington, F., 2023, "Open SLAPP Cases in 2022 and 2023 - The Incidence of Strategic Lawsuit Against Public Participation, and Regulatory Responses in the European Union" Accessed 20.02.2024 [Online] [Open SLAPP Cases in 2022 and 2023 \(europa.eu\)](https://www.europa.eu/press-communications/infographic/open-slapp-cases-in-2022-and-2023)

[35] Ibid, pg. 48-49

[36] This information is retrieved from the European Federation of Journalists. Accessed at 16.01.2024 [Online] <https://europeanjournalists.org/blog/2017/06/16/albania-two-media-outlets-and-four-journalists-sued-by-judge/>

[37] For the purpose of this research report, the exchange rate is done by using the average exchange rate of the time of 2017.

[38] The Coalition Against the SLAPP in Europe, 2023, "A threat to democracies continues to grow - A 2023 Report Update" Accessed 20.02.2024 [Online] <https://www.the-case.eu/wp-content/uploads/2023/08/20230703-CASE-UPDATE-REPORT-2023-1.pdf>

In Albania, there are documented cases where businesses act as plaintiffs in lawsuit cases. To illustrate is the case of Artan Rama, a freelancer, who was put on trial by the construction company Edit.al for publishing a post^[39] on its Facebook account "Shadows in the Theatre Hall" ("Dritëhije në sallën e teatrit"). The company initiated legal proceedings and claimed compensation of 15 million ALL (approx. 150,000 EUR). After hearings in the court, one year after the publication of the article on social media, the court decided to dismiss the construction company's claims for defamation and compensation of 15 million lek (approx. 150,000 EUR)^[40]. As of the date of this report, the company has filed the decision with the Appeal Court^[41].

Artan Rama faced the second SLAPP case in November 2020. Albtek Energy filed a lawsuit against him for the online article "What Lies Behind the Scenes of the Second Contract for the Elbasan Incinerator" ("Prapaskenat e një kontrate të dytë për incineratorin e Elbasanit"). The company claimed that Rama's article contains unfounded "prejudicial statements." The company demands 300,000 lek (approx. 3,000 EUR) for damages to its reputation, the retraction of the article, and compensation for legal costs^[42]. The legal process is still ongoing.

Another case from private entities, as reported by the Business and Human Rights Resources Centre^[5] is related to environmental issues. TOKA, the organisation to conserve the Albanian Alps, has emerged as one of the leading groups opposing the plans for fourteen Hydro Power Projects (HPPs) along the Valbona River. After facing constant pressure due to their activism, the "Gener 2" company, a company involved in the HPP projects, brought a defamation claim against TOKA and its director, Catherine Bohne. The claim demanded approximately 150,000 EUR for "waging a denigrating campaign against Gener 2 and Dragobia Energy, including through making defamatory public statements" and for "damages done to their reputations". As reported by the Business and Human Right Resource Centre the case is in the Appeal Court.

[39] The information is retrieved from the publicus.al Facebook account. Accessed 20.02.2024 <https://www.facebook.com/publicus.al/posts/1179289765451268>

[40] IREX, 2019, "Media Sustainability Index 2018 – Tracking Development of Sustainable Independent Media Around the World" Accessed 04.04.2024 [Online] <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2018-albania.pdf>

[41] The information is provided by Mr. Rama.

[42] Business and Human Right Resource Centre, 2021, "SLAPPed but not silenced – Defending Human Rights in the Face of Legal Risks. Accessed 20.02.2024 [Online] https://media.business-humanrights.org/media/documents/2021_SLAPPs_Briefing_EN_v657.pdf

[43] The information is retrieved from the Business and Human Right Resource Centres, Accessed 04.04.2024 [Online] <https://www.business-humanrights.org/en/latest-news/catherine-bohne-toka-the-organization-to-conserve-the-albanian-alps/>

Strategies employed by defendants in responding to SLAPPs

Responding to SLAPPs involves a multifaceted approach for defendants. In the absence of a comprehensive mechanism to counter SLAPPs, civil society organisations, and legal support networks play an important role in mitigating its effects. This includes establishing mutual insurance mechanisms, pooling resources, and lobbying for changes to court rules that empower SLAPP defendants[44].

Defendants strategically leverage public opinion by publishing articles and campaigns that portray the legal action as an assault on free speech, seeking to garner support and mitigate potential reputational damage. This is evidenced even in Albania. Journalists and media investigative organisations have published articles, related not only to their cases (in cases they were defendants), but even to other peers to increase awareness and transparency on the cases. To illustrate this, the SafeJournalist.net[45] a platform for advocating media freedom and journalists' safety. The platform provides information related to freedom of expression and media on the Western Balkan, including SLAPP cases in the region.

Also, collaborative efforts can make a difference[46]. Engaging in regional and European networks establishes a strategic approach employed by defendants against SLAPPs. This strategy involves actively participating in collaborative initiatives, alliances, and partnerships that extend beyond national borders. By becoming part of larger networks, these defenders aim to leverage collective strength, share resources, and exchange knowledge and expertise in the fight against SLAPPs. The collaborative nature of these networks facilitates a more robust response to the challenges posed by SLAPPs, fostering a united front in safeguarding freedom of expression and protecting individuals targeted by such malicious litigation.

[44] Noorlander, P., 2022 "Fighting SLAPPs: What can media, lawyers, and funders do?", Accessed 20.02.2024 [Online] <https://www.cima.ned.org/publication/fighting-slapps-what-can-media-lawyers-and-funders-do/>

[45] The information is retrieved from the safejournalist.net website. Accessed 02.04.2024

[46] Clause, Pierre-Jean, 2023 "Silenced and Stifled: The Use of Strategic Lawsuits Against Public Participation to Threaten Environmental Researchers in France", Accessed 20.02.2024, [Online] <https://ssrn.com/abstract=4632750> or <http://dx.doi.org/10.2139/ssrn.4632750>

Impact on Public Participation

The broader impact of SLAPPs on public discourse and civic engagement.

The most often discussed aspect of the effect of SLAPP cases is the chilling effect on public participation. This chilling effect extends beyond the immediate litigants, impacting broader societal dynamics by discouraging others from speaking out on public matters, or engaging in public discourse due to fear of legal repercussions. This widespread intimidation restrain free expression, undermines democratic principles, and hinders the ability of civil society to hold powerful entities accountable. The "ripple effect" created by the fear of SLAPPs, may discourage citizens and groups from engaging in political participation or public discourse[47].

In the context of journalistic speech, SLAPP suits are often exercised as tools to intimidate journalists into self-censorship or to dissuade them from pursuing investigative reporting. The Council of Europe Commissioner for Human Rights has highlighted this dangerous tactic, noting that SLAPPs aim to silence critical voices and undermine the freedom of press by coercing journalists to abandon their investigative pursuits[48]. The threat of legal action can lead to self-censorship among journalists, who may choose to refrain from covering contentious issues or conducting in-depth investigations for fear of legal reprisals. This erosion of journalistic independence not only undermines the public's right to information but also weakens democratic accountability and transparency[49].

In addition to journalists, SLAPP suits can also intimidate civil society organisations, activists, and ordinary citizens, stifling their voices and inhibiting their participation in public debates. The fear of costly legal battles and reputational damage may deter individuals and organizations from speaking out on important social issues or challenging powerful interests. As a result, SLAPP suits pose a significant threat to democratic values and the robust exchange of ideas essential for a vibrant civil society.

[47] Sharon Beder, 'SLAPPs – Strategic Lawsuits Against Public Participation: Coming to a Controversy Near You', *Current Affairs Bulletin*, vol.72, no. 3, Oct/Nov 1995, pp.22-29. Accessed 04.04.2024 [Online]

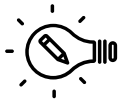
<https://www.herinst.org/sbeder/SLAPPs/SLAPPS.html>

[48] Commissioner for Human Rights of the Council of Europe, 2021, "Annual Activity Report", Accessed 04.04.2024 [Online] <https://rm.coe.int/annual-activity-report-2020-by-dunja-mijatovic-council-of-europe-commi/1680a2150d>

[49] Bayer, Judit and Bard, Petra and Vosyliūtė, Lina and Luk, Ngo Chun, 2021, "Strategic Lawsuits Against Public Participation (SLAPP) in the European Union. A Comparative Study", Accessed 04.04.2024 [Online] <https://ssrn.com/abstract=4092013> or <http://dx.doi.org/10.2139/ssrn.4092013>

Recommendations

Addressing SLAPPs in Albania requires a multi-faceted approach encompassing legal, educational, and societal dimensions. Some of the recommendations are:



Establish a Legal Framework on SLAPPs: Albania should promptly develop a comprehensive legal framework specifically addressing SLAPPs, in line with the directives approved by the European Parliament. This framework should define SLAPPs, establish clear criteria for identifying such cases, and outline expedited procedures to handle them. By doing so, the legal system can act as a shield against strategic lawsuits, providing activists, civil society organisations, journalists and media organizations with a robust defence. This mechanism should include legal protections and remedies, anti-SLAPP procedures, legal assistance and support services, public awareness and education campaigns, and international cooperation and advocacy efforts.



National, regional, and international collaboration and advocacy: Foster alliances among activists, civil society organisations and networks committed to press freedom and human rights as a pivotal element for national, regional and international collaboration. Through these alliances, coordinated advocacy campaigns, joint statements, and collaborative initiatives can be orchestrated to raise awareness about the effects of SLAPPs and advocate for systemic reforms aimed at safeguarding freedom of expression and civic engagement.




Increase awareness raising and training: Promoting understanding and awareness of SLAPPs among various stakeholders, including judges, legal professionals, civil rights defenders, activists, and the public, is crucial. This awareness should not only highlight the definition and patterns of SLAPPs but also address the consequences they have on the integrity of the individuals targeted and on public participation. Organizing educational initiatives, workshops, and training programs can play a pivotal role in equipping these stakeholders with the necessary knowledge and skills. This will support the identification, prevention, and effective response to SLAPP cases. By fostering a proactive approach to addressing SLAPPs, such initiatives significantly contribute to building a resilient environment that safeguards freedom of expression and encourages civic engagement in public matters.



Media Ethics and Self-Regulation: Since more public cases of SLAPPs are related to the media and journalists, strengthening media ethics and self-regulation mechanisms within the journalistic community is a proactive measure to mitigate the risk of SLAPPs. Upholding high ethical standards is crucial not only for fostering trust but also for preventing legal litigation. By adhering to industry-wide ethical guidelines and promoting collaborative efforts, such as establishing self-regulatory bodies and providing ongoing training programs, media organisations can enhance resilience against potential legal challenges. This concerted effort will contribute to a more responsible and accountable media landscape, reducing the likelihood of SLAPPs and safeguarding freedom of expression.

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