



Journalist Fellowship Paper

# A six-step plan for dealing with strategic litigation in Eastern Europe

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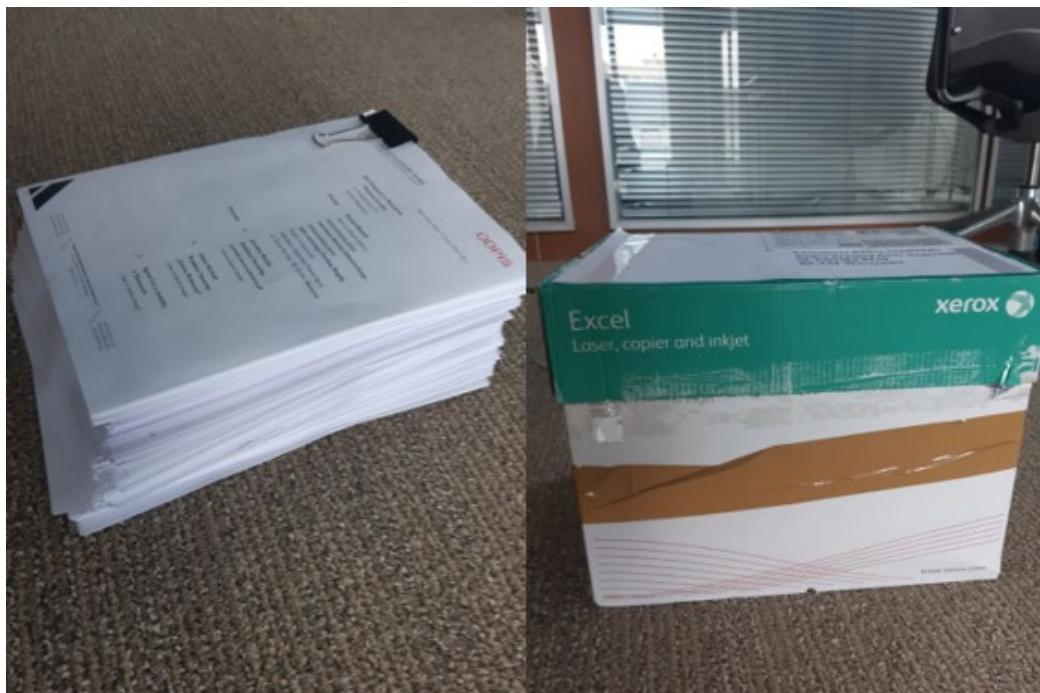
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## Introduction

Between 2016 and 2018, 130 lawsuits were filed against my newsroom in Poland, *Gazeta Wyborcza*. That's an average of more than one suit per month.

Were we doing such poor work? Quite the contrary: we were doing rigorous reporting on shady businesses, state capture, and political corruption, and legal action was being used to stifle it.



*Boxes of legal documentation received by Gazeta Wyborcza in relation to SLAPP suits.  
(Image: Bartosz Wieliński, vice editor-in-chief)*

I have been a journalist at *Gazeta Wyborcza* since 2000. Over the past decades, I have watched Poland develop into a mature economy, witnessed the coming of age of generations for whom freedom and democracy are unquestionable values, and chronicled for our paper how we have benefited from our accession to the European Union.

But cracks have begun to appear in that transformational picture of a stable democracy. Across Europe, extremist political forces have grown in influence by exploiting the votes of those who were not sufficiently appeased by progress.

When the conservative Law and Justice party (PiS), with its affinity for nationalist ideals, took power in 2015, they began to change the system step by step. Democratic mechanisms were weakened or dismantled, the judiciary system was destroyed, and the tripartite division of power principle was annulled. In the background, the state and its organs were gradually but strategically captured by the new political elite, citing principles of “party solidarity” and “defence of the interests of the elected”... and their friends.

*Gazeta Wyborcza* reported on all of these manoeuvres, calling out political corruption and the slow subjugation of the state to one caste. In response, government ministers and managers of state-owned companies began to inundate us with démentis. In Poland, a démenti is a formal denial or refutation issued by officials or organisations in response to allegations or reports, often used to challenge and reject claims made by the media. While its primary purpose is to correct perceived misinformation, it can also serve as a precursor to litigation if the disputing party decides to pursue legal action for defamation or libel.

The court procedure related to a démenti in Poland does not typically involve examining the substance of the reported topic. Instead, the court checks whether the media outlet followed all the procedures related to the right to express a position. This procedural focus means that the courts look at the formal aspects of how the information was handled rather than the truthfulness of the content itself.

The spike in démentis was not coincidental; PiS had planned to use them before the elections. Maciej Świrski, who later became head of the new National Media Council, the body in charge of the state-owned public media, talked about it publicly.

Roman Imielski, first deputy editor-in-chief of *Gazeta Wyborcza*, recounts how Świrski told a gathering of PiS supporters that the hostile media should be confronted with tactics to cut them off from advertising and subscription money and flood them with lawsuits.

When the law is weaponised and used spuriously against the media, it weakens press freedom and threatens democracy itself. This is exactly what has happened.

Flooding a newsroom with lawsuits to exhaust them operationally and financially, intimidate them, and induce self-censorship is not a uniquely Polish phenomenon. It has a name: Strategic Lawsuits Against Public Participation, or SLAPPs. You can feel it: like a slap across the face.

I spent my time at the Reuters Institute speaking to journalists and legal experts in Poland, Serbia, Croatia, Slovenia, and Bosnia & Herzegovina, researching how SLAPPs have been used there. I wanted to understand how they affect journalists' work and how we can mitigate against the risks of receiving one.

The result is five case studies of journalists who have faced SLAPPs in these countries, as well as advice on how to identify a SLAPP, an explanation of the damage they cause, a discussion of efforts to mitigate SLAPPs by policymakers, individual journalists, and the wider industry, as well as a six-step plan to make newsrooms ready to counter the strategic lawsuits that seek to silence them.

# How the law has been weaponised

Journalists have always taken risks to uncover the truth about those in power. There has been a significant rise in recent years, however, in the deliberate targeting and silencing of journalists by individuals, organisations, and governments desperate to avoid scrutiny and manipulate the public narrative to suit their agendas.

Carolina Henriquez-Schmitz, director of [TrustLaw](#), the Thomson Reuters Foundation's pro bono legal service, said: "We're seeing an alarming trend in the sharp increase in legal attacks against journalists around the world. Used as a tool to silence critical voices who report on matters of public interest, this is not only an attack on journalists and journalism, but also on the public's right to know and their ability to make free and informed decisions. We call this the weaponisation of the law against media freedom."

Henriquez-Schmitz said there are myriad ways and many different players who abuse the law in this way, but all with the same desired outcome: the criminalisation of media practitioners to suppress scrutiny and to seize power. "Widespread abuses of the law range from the introduction of new legislation purporting to be in the interests of national security, to the rise in abusive defamation lawsuits by powerful individuals that threaten financial ruin."

A record-breaking [363 journalists](#) were jailed across the globe for doing their job in 2022.<sup>1</sup> This figure has nearly doubled since 2015 and is the highest since the Committee to Protect Journalists began tracking imprisonments three decades ago.

In April 2023, the Thomson Reuters Foundation partnered with Columbia University's Tow Center for Digital Journalism to publish a report on the most serious legal threats facing journalists worldwide.<sup>2</sup> The report, titled [Weaponising](#)

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<sup>1</sup> Committee to Protect Journalists, 2022. Prison Census. [online] Available at: <https://cpj.org/reports/2022/12/number-of-jailed-journalists-spikes-to-new-global-record/> [Accessed 18 July 2024].

<sup>2</sup> Thomson Reuters Foundation, 2023. Weaponising the Law: Attacks on Media Freedom. [pdf] Available at: <https://www.trust.org/documents/weaponizing-law-attacks-media-freedom-report-2023.pdf> [Accessed 18 July 2024].

[the Law: Attacks on Media Freedom](#), revealed that 47.6% of the 493 journalists surveyed, representing 106 countries, reported facing legal threats to themselves or their media organisations. These threats include defamation and insult laws, accusations of espionage and foreign influence, cybercrime legislation, “fake news” laws that are misused to censor critical reporting, and Strategic Lawsuits Against Public Participation (SLAPPs).

**Case study 1: Roman Imielski, first deputy editor-in-chief, *Gazeta Wyborcza*, Poland**

“Our SLAPP lawsuits are usually not only outrageous blows to media freedom, but also interesting cases. One resulted after we revealed how former PiS politicians had set up a consultancy, R4S, to help allies win seats on the boards of state-owned companies.

“We were even reported to the public prosecutor's office (a seat PiS held) because they found the questions we sent them to be defamatory! We had several lawsuits from R4S. They detailed how we were damaging their good name and that they could lose very lucrative contracts because of our articles. They also believed we were being defamatory of [R4S partner] Robert Pietryszyn and [R4S co-founder] Adam Hofmann and their business activity.

“Since *Gazeta Wyborcza* was a constant target of attacks by PiS politicians, perhaps they hoped that by joining in they would improve their ratings with political decision-makers? Since the change of power we have been offered a settlement; all lawsuits were withdrawn.

“Then there is the curious case of the sword, allegedly from the time of King Mieszko I (10th-11th century). A foundation set up by the state-owned energy company Enea bought and donated this historic sword to Roman Catholic priest and a prominent media mogul, Tadeusz Rydzyk. PiS ally Rydzyk manages a network of radio stations, a TV station, educational establishments, and has funded several other businesses.

“We reported that experts doubted that it was really an 11th century sword, if only because it did not look like it was from that period, and during the handover ceremony no one was wearing protective gloves on their hands, which would have been a prerequisite if the sword was that old. Enea and the foundation would not say where the artefact was purchased or provide any document confirming the age and valuation. If it really was an early medieval Slavic sword, it would be an archaeological sensation! Our experts concluded the sword was most likely several centuries younger, and on top of that German (which in itself was a funny circumstance as the PiS government played on anti-German sentiment). The Enea Foundation sued us for compromising their good name by reporting the case. The case is still pending.”

## How to identify a SLAPP

While there is no definitive legal definition of a SLAPP, editors who have faced multiple suits know what to look for:

- The case is brought by a powerful person with significant influence in political or business circles, and/or enough money to pursue a spurious claim.
- The aim is not the court case or justice, but the legality surrounding it and how this can be used to silence the press. Sometimes the letters begin even before the offending story has been published. “We mustn’t forget: claims are just the tip of the iceberg; the vast majority of SLAPP work is done at the point when somebody gets a letter and doesn’t proceed to publish,” said Caroline Kean, consultant partner at Wiggin LLP.
- The suing party makes disproportionate demands, usually financial, which are beyond the power and capacity of the media. “These demands are not prevented by the fact that the person [...] has not responded to questions sent before the material was published,” said Kean.
- It’s usually not an isolated complaint: the person or institution responds with SLAPP lawsuits to subsequent articles about themselves;
- The complainant obstructs and prolongs proceedings: does not appear in court, or floods the court with large thousands of documents irrelevant to the case to cloud the picture and make it difficult to get through;

Finally, it is worth remembering that establishing the truth is not the suing party’s main objective, but rather to exhaust the resources, funds and energy of editors. Consider the case brought against Elliott Higgins, founder of the Bellingcat website. He was sued by Yevgeny Prigozhin for attributing to him the founding of the Wagner Group, a private army that worked on behalf of Russia. Prigozhin sued Higgins for stating facts for which Prigozhin had previously been subjected to international sanctions. However, that did not prevent Bellingcat from being exposed to a costly trial in the UK.

Justin Borg-Barthet, Senior Lecturer in EU Law and Private International Law at the Centre for Private International Law, University of Aberdeen, explained: “[A SLAPP is] a form of a retaliatory lawsuit intended to deter freedom of expression on matters



of public interest [...] used against public watchdogs with an active role in the protection of democracy and the rule of law”.<sup>3</sup>

So the aim of a SLAPP lawsuit is not necessarily to win the case but to intimidate, harass, or financially burden the defendants, thereby discouraging them from expressing their opinions or participating in public debate.

Speaking at an Anti-SLAPP conference organised in London last November, human rights barrister Caoilfhionn Gallagher KC, a leading expert in media law, noted the particular hypocrisy of politicians who use SLAPPs to silence those who wish to reveal conflicts of interests in the laws they are passing. “This has a particularly profound impact in democracy, particularly representative democracy,” she said.

Gallagher is known for her work in defending freedom of expression, and representing journalists and media organisations, including leading the international legal team for the family of Daphne Caruana Galizia, the award-winning journalist assassinated in Malta in 2017. She highlighted six features commonly observed in cases where politicians attempt to suppress journalists:

**1. Attrition:** *Journalists and media organisations often face multiple legal cases, aiming to wear them down over time. This tactic, akin to a game of whack-a-mole, involves dealing with numerous legal targets simultaneously. This tactic is used in the Daphne Caruana Galizia case.*

**2. Cross-jurisdictional attacks:** *Cases are often pursued across borders, utilising the “Long Arm of the Law”. Politicians may attempt to silence journalists through libel tourism, exploiting jurisdictions that may be perceived as more favourable for winning cases. This tactic is illustrated in the Azerbaijani laundromat case, where Romanian citizen*

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<sup>3</sup> Borg-Barthet, J., Lobina, B., & Zabrocka, M. (2021) The use of SLAPPs to silence journalists, NGOs and civil society. European Parliament. Available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694782/IPOL\\_STU\(2021\)694782\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694782/IPOL_STU(2021)694782_EN.pdf) (Accessed: 18 July 2024).

*Paul Radu working for the outlet registered in the U.S. was sued in the UK by Javanshir Feyziyev, a sitting Azerbaijani MP and businessman.*

**3. Creative use of law:** *Politicians are becoming more creative in their use of laws beyond traditional libel cases, such as invoking intellectual property law or personal data security law or accusations of fraud and tax evading against journalists. Accusations of breaching various laws can make it harder for journalists to defend themselves.*

**4. Use of proxies:** *Politicians may use private individuals or businesses as fronts to mask their involvement in suppressing journalists. This tactic aims to present disputes as private matters while the politician pulls the strings behind the scenes.*

**5. Targeting support networks:** *Journalists' support networks, including NGOs and lawyers, are increasingly targeted. This tactic involves using legal means to threaten not only journalists but also those who support them, sending a broader message of intimidation. Like Benedict Rodgers who runs Hong Kong Watch and was being threatened using the National Security Law in Hong Kong.*

**6. Climate of impunity:** *Gallagher emphasises the connection between these legal manoeuvres and the broader climate of impunity, noting instances where governments fail to condemn actions against journalists, even when the victims are their own nationals. She calls for stronger moral leadership from countries to address such issues on the global stage.*

### **Case study 2: Domogoj Novokomet, N1 TV Chanel, Croatia**

“I spent nearly three decades working at the public TV station. When a new right-wing government took over, the pressure on me became unbearable. As the host of a daily political evening debate, I faced many bizarre situations, including political interference with my colleagues and even attempts to create scandals around me.

“One day, a branch of the state attorney’s office wasn’t satisfied with the programme. We were hosting a show about a case they were involved in. State Attorney officials wrote an open letter to me, which had never happened before or since. Despite there being no professional mistakes on my part, the management decided to suspend me, citing pressure from external forces.

“Fortunately, I received an offer to work for N1 TV channel and have been there since. When asked on another show if I felt my removal from the station was political, my honest response was that ‘I cannot feel any other way, because they couldn't find any professional mistakes’.

“And this served as an excuse to sue me. They said I did terrible damage to their image. And it destabilized the functioning of public TV as a company. However, during the legal proceedings, the general manager who accused me was arrested for corruption.

“Now, with a win in court and court confirmation, it’s undeniable that I was indeed politically targeted and removed from my position.”

# Seven ways SLAPP suits damage media freedom

There are broadly-speaking two categories of SLAPP: those brought by businesses and individuals, and those brought by the state. Both are a threat to press freedom, free speech, and public participation.

In wealthy Western democracies, the suing party in SLAPPs is usually a business representative. One example here is the judicial activism of Russian oligarchs who do not like the exposure of their ties to the Kremlin.

But journalists I spoke to in Poland, Serbia, Croatia, Slovenia, and Bosnia and Herzegovina, reported their SLAPPs frequently originate from somewhere far more chilling: the state. What happens to a country's democracy when the very entity appointed to enact it is proactively undermining it?

**1. Journalistic chilling effect** The mere threat of a SLAPP lawsuit can deter journalists, media organisations, and individuals from freely expressing their opinions, conducting investigative journalism, or participating in public discussions due to fear of legal repercussions. This fear often leads to self-censorship as a precaution against potential legal consequences.

**2. Censorship via legal harassment** By embroiling their critics in long and expensive legal battles, SLAPP filers can effectively censor their opponents, even if the lawsuit lacks legal merit.

**3. Financial burden** Defending against a SLAPP lawsuit can be costly, both in terms of legal fees and time. Many individuals or small media outlets may lack the financial resources to mount a defence, leading to settlements or withdrawal of statements even if they are protected by the right to free speech.

**4. Diversion of newsroom resources** Media organisations or journalists may be forced to divert resources away from reporting or investigative journalism to deal with legal challenges. If the case consumes all of the newsroom's time, it can impact the quantity and quality of reporting on other important public issues.

**5. Impact on public discourse** SLAPP lawsuits can have a broader impact on public discourse by discouraging open discussion and criticism beyond their intended victim. If individuals or media outlets observe the case and fear receiving their own legal reprisals for expressing unpopular opinions or challenging powerful entities, the public may be deprived of diverse perspectives and important information. This further undermines public accountability, and can cause other outlets to shy away from covering stories that are in the public interest.

**6. Silencing freelance journalism** Independent journalists usually lack the legal and financial resources of established media outlets, are particularly vulnerable to SLAPPs. Close attention must be paid to promoting and protecting the rights and well-being of freelance journalists in this climate, given they often operate with a level of freedom that produces critical coverage that is essential to public accountability.

**Case study 3: Primož Cirman, freelance at *Necenzurirano*, Slovenia**

“In 2018, we embarked on an investigative journey that uncovered a clandestine loan of €500,000 originating from Bosnia & Herzegovina, funnelled into the coffers of the largest political party. What made this discovery all the more intriguing was the enigmatic figure behind the transaction – a 33-year-old woman from Bosnia and Herzegovina, shrouded in mystery.

“The timing was poignant; half a million Euros represented a significant sum, especially considering that the average cost of an election campaign for political parties in Slovenia hovered around €200,000 at the time. Bowing under the weight of media pressure – amid raised eyebrows and public scrutiny – the loan was abruptly cancelled by the involved parties three days after we reported it.

“We weren't satisfied to leave it there. Our continued investigation of the transfer converged on one name: a Slovenian tycoon and political consultant named Snežič, who was known to have close ties with then-Prime Minister Janez Janša. Their friendship germinated in the confines of prison – Janša for corruption, and Snežič for tax evasion.

“In 2020, amid the tumult of the COVID-19 pandemic, Snežič retaliated with a barrage of legal onslaughts. These weren't just any lawsuits; they were criminal charges aimed squarely at the hearts of investigative journalism. In Slovenia, such charges are directed at individuals rather than media outlets, leaving our journalists vulnerable to legal harassment.

“But we refused to be cowed. From 2019 to 2021, we pressed on with our investigation, undeterred by the threats and legal manoeuvrings. Our persistence paid off when police investigations validated our findings.

“Each lawsuit filed by Snežič was not just a legal hurdle but a financial drain, costing our newsroom upwards of €16,000. For a publication operating with a modest budget – capped at €150,000 annually – this was a significant blow.

“Our resolve remains unbroken. We are seeking to reclaim the funds expended in the pursuit of truth, but our efforts are being stymied by Snežič's claim of insolvency. It's a paradox: a man purportedly living on a monthly income of €300, yet boasting a fleet of Maseratis and an impressive real estate portfolio spanning two countries.”

# The policy response: can we legislate against SLAPPs?

Many human rights lawyers, including Gallagher KC, advocate for the implementation or strengthening of Anti-SLAPP Legislation (ASL). First drafted in the state of California in 1992, such laws are designed to provide legal mechanisms to disarm a summoner and protect individuals and organisations whose work is relevant to public discourse.

Anti-SLAPP legislation has been proposed or adopted primarily in common law countries, including the [U.S.](#), [Canada](#) and [Australia](#). In the U.S., 31 states and the District of Columbia have enacted such laws and in Canada the provinces of British Columbia, Ontario, and Quebec have legislated against this form of judicial harassment.<sup>4,5, 6</sup>

Australia proposed a narrow definition of what constitutes a SLAPP, and requires proof of “improper purpose” (e.g., that the claim has been brought to discourage public participation).<sup>7</sup>

To varying degrees, these laws include provisions that allow for the early dismissal of cases, the suspension of the discovery process, and/or the recovery of litigation costs for the defendants.

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<sup>4</sup> District of Columbia Council. (n.d.) District of Columbia Official Code, Title 16, Chapter 55. Available at: <https://code.dccouncil.gov/us/dc/council/code/titles/16/chapters/55> (Accessed: 18 July 2024).

<sup>5</sup> British Columbia Legislative Assembly. (n.d.) Bill 29-1: Protection of Public Participation Act. Available at: [https://www.leg.bc.ca/parliamentary-business/overview/36th-parliament/4th-session/bills/1st\\_read/gov29-1.htm](https://www.leg.bc.ca/parliamentary-business/overview/36th-parliament/4th-session/bills/1st_read/gov29-1.htm) (Accessed: 18 July 2024).

<sup>6</sup> Australian Legal Information Institute. (n.d.) Protection of Public Participation Bill 2008. Available at: <https://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/act/bill/poppb2008370/> (Accessed: 18 July 2024).

<sup>7</sup> "Open SLAPP Cases in 2022 and 2023. The Incidence of Strategic Lawsuit Against Public Participation, and Regulatory Responses in the European Union" [https://www.europarl.europa.eu/RegData/etudes/STUD/2023/756468/IPOL\\_STU\(2023\)756468\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2023/756468/IPOL_STU(2023)756468_EN.pdf)

In the Southeast Asian some jurisdictions provide legislative protections to human rights defenders. For example, in Indonesia, [the law](#) bans the filing of criminal or civil cases against persons “struggling for a right to a proper and healthy environment”, and against journalists and informants who provide information under the law on the Prevention and Eradication of Forest Destruction.<sup>8</sup>

In Thailand, the [Criminal Procedure Code](#) includes a reference to the protection of defenders’ rights to freedom of expression against SLAPPs. It allows the Court of Justice to dismiss any criminal case at the filing stage of the lawsuit if the court determines that the cause of action stems from “ill intention to harass to take advantage over a person to gain any unlawful benefits or to achieve any corrupt underlying objectives”.<sup>9</sup>

The most extensive work on legislation against SLAPPs has been carried out by the European Union. The consent of multiple member states was required, and the process has been protracted. However, in November 2023 European Parliament stated agreement [had been reached](#).<sup>10</sup> In February this year, the directive was formally approved by the plenary and the member states, the legislation should enter into force twenty days after its publication in the Official Journal. Member states will have two years to transpose the legislation into national law.

“I’m very proud of what we have achieved,” said European Parliament president Roberta Metsola, describing the legislation as “a strong anti-SLAPP directive that provides cover to journalists and activists in the crossfire, who are threatened and harassed day and night for doing their job, who have nowhere else to turn to.”

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<sup>8</sup> Government of Indonesia. (2009) Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup. Available at: [https://www.env.go.jp/en/recycle/asian\\_net/Country\\_Information/Law\\_N\\_Regulation/Indonesia/law32-2009.pdf](https://www.env.go.jp/en/recycle/asian_net/Country_Information/Law_N_Regulation/Indonesia/law32-2009.pdf) (Accessed: 18 July 2024).

<sup>9</sup> Business & Human Rights Resource Centre. (n.d.) Anti-SLAPP legislation must outlaw judicial harassment of Human Rights Defenders. Available at: <https://www.business-humanrights.org/en/blog/anti-slapp-legislation-must-outlaw-judicial-harassment-of-human-rights-defenders/> (Accessed: 18 July 2024).

<sup>10</sup> Jurgen Balzan "European Parliament approves anti-SLAPP directive Metsola hails approval of 'Daphne Law' as a 'watershed moment'". Newsbook Malta, 27.02.2024



Unfortunately, the EU directive only applies to matters that have a cross-border element. Member states are left to determine their own national-level legislation.

Dominika Bychawska-Siniarska, advisor at the Prague Civil Society Center, said: “It will not apply to 99% of our SLAPPs because these are domestic proceedings. To solve this problem, countries should work on implementing their own regulations protecting journalists and activists. But as far as I know, nothing like that is happening.”

A briefing prepared for the European Parliament found that only three countries (Lithuania, Ireland and Malta) are considering introducing anti-SLAPP solutions.<sup>11</sup> All but six EU countries criminalise defamation, a key law used to target journalists and media in Poland and the Balkans.

#### **Case study 4: Aleksander Gurgul, journalist, *Gazeta Wyborcza*, Poland**

“I came to the newsroom very early, maybe 7.30am? I saw information from Watch Dog Poland that the State Forests wouldn’t release documents related to the sale of timber cut in national forests. I immediately emailed a forestry spokesperson for comment.

“Despite their refusal to reply, this became the lead story of the day. The next day, I reminded the press officer that I was still keen to know their position. He wrote back something along the lines of, ‘Now it’s for the lawyers to deal with’.

“They sent a correction, but *Gazeta Wyborcza* ruled it did not meet the criteria. After a few weeks, we got a criminal lawsuit. They demanded 50,000 zlotys for charity, a year’s ban on practising journalism, and a year in prison.<sup>12</sup> The lawsuit was 150 pages long. I was not a very experienced journalist – four years on the job. My legs gave out on me. I thought, ‘It’s over, my career is over.’

“The trial went on for almost five years, and... we won! At the end, the lawyer representing National Forests came up to me when he had already taken off his robe and congratulated me on my closing speech.”

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<sup>11</sup> European Parliament: [Briefing. EU Legislation Progress. Strategic Lawsuits Against Public Participation \(SLAPPs\)](#)

<sup>12</sup> ERRATUM: An earlier version of this case study incorrectly referenced a year’s ban on practicing law and a two-year prison sentence. Text updated on 9 August 2024.

## The individual journalist response: confronting the shame of litigation

The average journalist is woefully unprepared for receiving a SLAPP. Even though they are keenly aware of the importance of the information they are exposing about powerful interest groups, for the journalist on the receiving end of a SLAPP, it can feel extremely personal – as if their competency has been called into question.

“When I first started looking into this there was a lot of nervousness,” said Susan Coughtrie, co-founder of the [UK Anti-Slapp Coalition](#). “Many journalists didn’t want to talk about it because it had been traumatic. There was a shame element there that was quite strong.”

Croatian TV journalist Domagoj Novokomet said you can tell by their response whether a journalist is receiving a SLAPP for the first time.

Aleksander Gurgul, a Polish journalist who writes about environmental issues, provided a good illustration of this: “I was a young journalist when I was sued demanding the equivalent of my annual income. I knew it was wrong, but I still couldn't get rid of the feeling that I had failed. For a few weeks I couldn't get myself together to write another word on National Forests.”

Such a frank confession is extremely rare to come by; journalists usually put on a brave face and claim the lawsuits do not affect their enthusiasm to uncover more inconvenient facts. As Primož Cirman, a Slovenian journalist for the investigative portal Nencenzurirano, said: “If they want to sue you, they will sue you. You have no control over that. You have to do your job.”

Media researchers Tanja Kerševan and Melita Poler from the University of Ljubljana [studied the impact of SLAPPs](#) on journalists and their colleagues.<sup>13</sup>

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<sup>13</sup> Kerševan, T. & Poler Kovačič, M. (2023) 'Silencing journalists in matters of public interest: Journalists and editors assessments of the impact of SLAPPs on journalism', ResearchGate. Available

After more than a dozen interviews, they found that journalists often exhibit reluctance to fully acknowledge the impact of SLAPPs on their work. Despite experiencing significant pressures, many journalists downplay the influence of these legal threats on their reporting. However, they were quick to recognise the significant chilling impact these lawsuits had on their peers.

**Case study: Dora Krsul, Telegram Media Group, Croatia**

“I am a journalist covering the education field. I discovered that the University of Zagreb has a venue in Dubrovnik, mainly for seminars and science stuff. But guess what? The rector and his wife had been using it as their vacation spot!

“I heard about it, investigated, got three confirmations, and even neighbours saw them there every summer in their holiday gear. We published the story in 2019, and got no response from the rector. In 2020, I dug into the guy managing the place, turns out he's related to the rector. That was the story for a SLAPP. The lawsuit hit me personally, not the newsroom. One for reputation damage, and another for slander, which is a criminal offense here. I won the first case, but he's appealing. Criminal verdict? Still waiting.

“It wasn't a happy moment getting a lawsuit, I was scared for maybe 12 hours until the newsroom had my back. But I was extremely angry at how it made my mom tremble. She saw me as a suspect in a criminal court and felt awful.

“The worst part? I went to the hearing in the summer. It was hot, and I wore a white dress. Standing there among 15 other [defendants], all in handcuffs on their wrists and ankles. I imagined watching myself from above: white dress and sandals, surrounded by others charged for robbery, maybe killing, maybe rape. I said to myself: ‘I'm standing here only because I did my job and I did it well’. Crazy, right?”

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at:

[https://www.researchgate.net/publication/375241647\\_Silencing\\_journalists\\_in\\_matters\\_of\\_public\\_interest\\_Journalists\\_and\\_editors\\_assessments\\_of\\_the\\_impact\\_of\\_SLAPPs\\_on\\_journalism](https://www.researchgate.net/publication/375241647_Silencing_journalists_in_matters_of_public_interest_Journalists_and_editors_assessments_of_the_impact_of_SLAPPs_on_journalism) (Accessed: 18 July 2024).

# The newsroom response: A six-step plan for countering SLAPPs in newsrooms

**Step one: Make your stories bulletproof** This goes without saying, but everyone in the newsroom is responsible for working together on this. Check your sources, consult the lawyers before you publish, and double-check even minuscule facts or procedural issues so that you do not create loopholes.

Behind every claimant is an excellent team of lawyers who not only know how to navigate the maze of procedures but are determined to show inaccuracies or undermine the credibility of the journalist. Sloppy editorial procedure works to their advantage.

“Collect evidence and documents and store them securely,” said Marija Vucić, a journalist from the Serbian portal KRIK. “Record and save your conversations, encrypt your communications, and take good care of your sources’ confidentiality.”

It’s important to be meticulous here: documents should not only be collected, but carefully catalogued so that you are never in doubt where to find them again (and not digging through a folder of screenshots, hoping for the best).

Dragana Obradović from the Balkan investigative network BIRN offers this advice: make sure one person is assigned to taking care of evidence collection and storage. “In one of our SLAPP cases we had the documentation spread among different journalists and in the moment of hearing we had problems with the reconstruction of all the events and steps we pursued.”

**Step 2: Prepare your team** Tell your staff that lawsuits don’t mean they are poor journalists. Political journalists are fairly accustomed to getting lawsuits, they know what the rules of that play. But in recent years in Poland, SLAPPs targeted journalists covering fields you’d never expect: theatre reviews, nature conservancy, education.

“When we started getting SLAPP lawsuits en masse, we realised that they were targeting people who would never have thought that they would be sued,” said Roman Imielski, first deputy editor-in-chief of *Gazeta Wyborcza* from Poland. “We

had to hold meetings immediately to explain what the situation was due to and that the lawsuits were probably not going to end any time soon. The team was also assured that newsroom would provide them with legal protection, regardless of whether the lawsuits were against them personally or if *Gazeta Wyborcza* was sued – whether they were civil or criminal complaints.”

The same legal protection extended to employees was also given to associates working for smaller editions and regular freelancers.

**Step 3: Provide expert support** This is easier said than done in small newsrooms, who don't have money for legal battles. But look for external help from lawyers working pro bono, or for money from NGOs.

Speaking with journalists from different countries, I know that there is no universal scheme. In Serbia, they have a journalists' association that provides legal support in the form of pre-publishing consultations and sometimes court representation.

You can also reach out to international organisations like TrustLaw, working for the sake of press freedom. Sometimes civil rights organisations put on workshops: Prague Civil Society Centre trains journalists and activists in anti-SLAPP practices.

Remember that emotional support may be required, too. And not just from the editor: larger newsrooms extend professional counselling services to those enduring exhausting legal battles.

**Step 4: Be loud** Inform your audience once you get a SLAPP, report from the court, and make that story go global by seeking publicity from other media organisations and other newsrooms.

This is the very conscious strategy for Serbian investigative portal KRIK. They shout from the rooftops about every legal battle they face, dragging their readers into the fight through colourful reporting. “So many journalists from other media organisations who have also received SLAPPs won't report about it, because they're saying, ‘I don't want to be the news; I report the news’,” said KRIK project manager Jelena Vasić. “But that's the problem. That mindset is keeping you away from the next investigation because you are not telling your readers about the harsh circumstances you are facing, and they cannot offer support.!”

Vasić said being vocal was the most important action. “Every journalist we send to court is shadowed by another reporter, capturing everything on camera and in writing. We document every detail, from arrivals to courtroom proceedings, because transparency is non-negotiable. Our readers deserve to know what’s happening, and we’re not afraid to be judged in the public eye.”

Domagoj Novokomet agreed: “They don't want witnesses [to injustice], they don't want to be analysed. And this reporting makes you stronger.”

A court case is more than just a place where you defend what you have already reported, but a chance to follow the story and make it even more meaningful. “At KRIK we use the fact that the judge has much higher authority than us to request information that is usually only available to state institutions or at the demand of state representatives,” said Serbia’s Vasić. “When we investigated offshore companies owned by our minister we said in court: ‘OK, these are the documents we collected about his businesses. Can you, as a judge, ask for ownership certificates so we can see who is wrong and who’s right?’ After this request, the minister withdrew his lawsuit.”

She also said: “When somebody sues us, we officially state that we are now going to further investigate the offending story. We want to make the point: ‘No, you did not silence this; you pissed us off!’ If the lawsuit is for a bulletproof story, we know for sure there is something additional they’re hiding. We always succeed in finding additional dirt about that person.”

Dora Krsul, a Croatian journalist from the Telegram portal, agrees with this approach: “After the story about private usage of University of Zagreb properties by the rector, which we were SLAPPED for, we launched a huge investigation into the cover-up of sexual harassment at the University. Let them see they didn’t succeed in shutting your mouth.”

**Step 5: Don’t forget about solidarity** As with step 4, pay attention to what is happening in the newsrooms around you. Support your colleagues fighting parallel battles, report from the court, and engage your readers.

Mutual support is a huge investment that will yield returns. “You should be brave, but it’s also important to be brave when your colleagues are under pressure. It is very important for them to see that they are not alone. I was fairly disappointed by the silence of my colleagues,” said Croatian Domogoj Novokomet.

**Step 6: Show your determination and sue them back.** If you are a well-resourced newsroom with moxie and grit, engage in strategic litigation of your own.

According to Jennifer Robinson, a barrister from Doughty Street Chambers, if they said you lied, were careless, or acted against journalistic rules – these are defamatory statements and you can seek compensation. Robinson acknowledged that counter-suing is a very American practice, but said it could be used more broadly in Europe.

Consider organisations like [Reporters Shield](#), a U.S.-based nonprofit, funded by membership fees and donations. They provide members with training and fund the legal protection of investigative reporting. One of their slogans: “Are you ready to SLAPP back?”<sup>14</sup>

To quote barrister Gallagher: “The enemies of media freedom are creative so we need to get creative too.”

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<sup>14</sup> <https://www.reporters-shield.org/>

## The media industry response: the potential power of collective bargaining

By now we have seen that policymakers can interrupt SLAPPs by passing legislation to protect public participation. Individual journalists can deal honestly with each other about the fallout caused by a SLAPP. Newsrooms can follow the six-step plan outlined in the previous chapter.

What about the media industry as a whole? We touched on this idea on the previous idea: we should be loud when an obvious SLAPP suit is being prosecuted – even if it is being faced by a competitor outlet, or journalists in other countries.

Andrijana Pisarević is a journalist and editor at multiple outlets in Bosnia & Herzegovina. There, she said, “everything is problematic due to corruption”.

“Journalists can face a lot of trouble just for doing a good job,” she said. And there is the additional need to educate judicial authorities about journalism, especially investigative journalism. “Having a judge unfamiliar with the forms of pressure on journalists can lead to serious problems.”

Here, reporting from across the borders can be particularly effective: there’s nothing like international attention paid to the objectivity of the judiciary to move matters along in Eastern Europe.

At a national level, outlets can also work together to educate their readers and mobilise public opinion about the implications of SLAPPs. Building public understanding and support for press freedom helps create a more resilient environment against legal threats.

Finally, advocate together for legislation that will protect public participation of journalists, environment activists, artists and others. Support the policymakers, legal associations, advocacy groups, and press freedom organisations that are working towards this by given platform to their efforts.



### **Case study 5: Jelena Vasić, project manager at investigative portal KRIK, Serbia**

“In the last two years KRIK has been sued 13 times. One of the lawsuits was launched by the current minister of police Bratislav Gašić. Two years ago he was head of the Serbian Secret Service. He sued us after reporting on the trial of a criminal group from Kruševac, Gašić's hometown. During the trial and among the prosecution's evidence were wiretapped conversations in which Gašić was mentioned. More specifically, the persons recorded used a slang phrase ‘to be on the cauldron’, implying to get money from somebody. The journalist reported what was presented in the court.

“We lost on the first instance, which is crazy because we only covered what was said in the trial. We made an international awareness campaign about it: that Serbian journalists are now being silenced, that they don't have the right to report about the trials when officials are mentioned. Luckily, the case was referred to the appeal court.

“We were also sued by the director of an electricity company – who also happens to be godfather of Serbian president Vucic. He sued us for writing that Nikola Petrović was the owner of an offshore company in Luxembourg and that, through it, he secretly entered into various businesses in Serbia, including one with criminal connections. The president's godfather claims in the lawsuit that KRIK journalists illegally used his personal data. There is no such data in the text; information about those companies comes from official documents. He is not asking for fines, but prison sentences.

“Finally, a popular pro-government tabloid from Serbia has sued us twice (or, more precisely our fact-checking portal *Raskrikavanje*) for exposing how many fake news stories they publish. In 2020, they published 163 stories with false, unfounded or manipulative content on the front page. It sued us in the Commercial Court in Belgrade for unfair competition and damage to its reputation. The tabloid is asking for 11 million dinars in damages.”

## Conclusion

The persistent use of SLAPPs against journalists in Poland and the Balkans poses a severe threat to press freedom and democracy. The case studies and research presented here demonstrate the profound impact these lawsuits have on individuals and newsrooms, often leading to self-censorship, financial strain, and diversion of resources from critical reporting.

Despite these challenges, journalists and media organisations continue to resist through various means. This includes making stories legally robust, providing support to journalists, being vocal about ongoing legal battles, and advocating for stronger anti-SLAPP legislation.

At an industry level, collective efforts to educate the public about SLAPPs and advocate for protective legislation are crucial. Media outlets must collaborate, not only to defend themselves but to uphold the fundamental rights of free speech and public participation.

An international focus on the issue, combined with national efforts, can help to make SLAPPs a very unappealing option to those who would silence us, and protect the integrity of journalism.

A commitment to transparent and fearless reporting remains vital, even in the face of legal harassment. By sharing experiences and strategies, journalists can build resilience and continue their essential role in holding power to account.

The fight against SLAPPs is a collective struggle, requiring solidarity and concerted action from the entire media industry.