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

Balkan Civil Society Development Network
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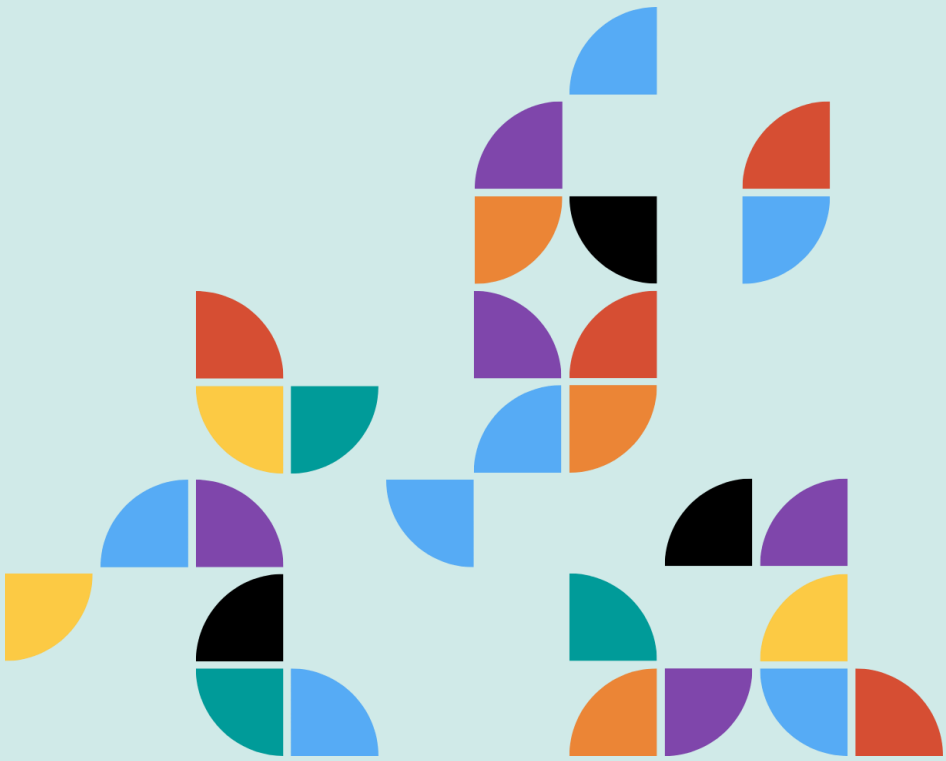

Balkan Civil Society
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Policy Paper

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

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Table of Contents

Foreword 5
Executive Summary 6
Introduction 8
Research Methodology 9
Background 11
International and EU Anti-SLAPPs Framework 12
Best International Practices for Combating SLAPPs 14
Historic and Legal Context in the Western Balkans 16
Analysis of the Legal Frameworks in the Region 18
Regional Trends and Patterns 21
Strategies and Tactics Employed by Plaintiffs 24
Strategies and Tactics Employed by Defendants 28
Impact of SLAPPs on Public Participation 31
Conclusions and Recommendations 37
Needs and Support Mechanisms for Combatting SLAPPs in the Western Balkans 37
Recommendations to Relevant Stakeholders 42
Annexes 45
ANNEX 1 – List of national focal points for SLAPPs 45
ANNEX 2 – List of Interviewed persons 47

Foreword

This document is the result of the collective effort of data gathering and input provided by the Balkan Civil Society Development Network (BCSDN) members Partners Albania for Change and Development (PA) from Albania, Kosovar Civil Society Foundation (KCSF) from Kosovo, Center for Promotion of Civil Society (CPCD) from Bosnia and Herzegovina, Center for Development of Non-Governmental Organizations (CRNVO) from Montenegro, Civic Initiatives (CI) from Serbia and Macedonian Center for International Cooperation (MCIC) from North Macedonia.

BCSDN extends a heartfelt gratitude to everyone who contributed to and supported this process. This includes the interviewees, civil society organizations, experts, and all those who provided invaluable insights and data, who's participation and expertise have been crucial to the success of this research. The commitment to safeguarding civic space and their continued dedication to promoting freedom of expression and public participation in the Western Balkans.

This collective effort reflects the network's shared commitment to understanding and addressing the challenges posed by SLAPPs, hoping this report will inspire further research and action, ultimately leading to a more robust and resilient civic space in the region.

Executive Summary

Strategic Lawsuits Against Public Participation (SLAPPs) have emerged as a formidable challenge to freedom of expression and public participation globally, with a pronounced impact in the Western Balkans in recent years. These lawsuits are typically initiated by powerful entities or individuals and are designed to intimidate, harass, and silence critics, activists, journalists, and community members engaged in public discourse on significant social, environmental, or political issues. The overarching aim of SLAPPs is not to resolve a legitimate legal dispute but to overwhelm and exhaust the defendant, thereby deterring them and others from participating in public debate.

In the Western Balkans, a region marked by political, social, and economic transitions, SLAPPs pose particular challenges to the consolidation of democratic institutions and the protection of fundamental rights. The Balkan Civil Society Development Network (BCSDN), along with its member organizations, has undertaken a comprehensive study to understand the scope and impact of SLAPPs across Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia. This pioneering research highlights the urgent need for effective strategies and legal frameworks to combat SLAPPs and safeguard civic space in the region.

The findings indicate that SLAPPs are not isolated incidents but rather a growing trend across the region, affecting an increasing number of stakeholders each year. In Bosnia and Herzegovina, Serbia, and North Macedonia, there is a notable increase in SLAPP cases, increasingly targeting activists and CSOs, with Bosnia and Herzegovina reporting 53 SLAPPs in 2023 alone. These lawsuits exploit existing legal systems to drain the financial and emotional resources of defendants, often leading to self-censorship and a chilling effect on public discourse. The impact of SLAPPs extends beyond the immediate targets, threatening the broader democratic engagement and public participation essential for a healthy society.

One of the critical issues identified is the insufficiency of current legal frameworks to provide timely and effective protection against SLAPPs. The absence of explicit anti-SLAPP legislation across these nations creates a fertile ground for the misuse of legal systems to silence critical voices. There is an urgent need for legal reforms across the Western Balkans that make the recognition and early dismissal of SLAPPs more straightforward. For example, the recriminalization of defamation in Republika Srpska, Bosnia and Herzegovina, in 2023 represents a significant setback, contrasting with broader European movements towards decriminalization.

More comprehensive and flexible legal frameworks would better protect journalists, activists, and civil society organizations from such lawsuits. As the example of Montenegro shows, the number of SLAPPs in the country, especially those with disproportionate damage claims, decreased after 2011 when libel was decriminalized in the law and judges started being educated on the practices of the European Court.

Judicial and procedural challenges further exacerbate the impact of SLAPPs. Lengthy legal battles, bureaucratic delays, and inefficiencies within the judicial system increase the burden on defendants. An outstanding example is the 11-year long case involving Klan Kosovo and the Youth Initiative for Human Rights Kosovo. Streamlining legal processes, reducing bureaucratic delays, and ensuring the consistency of judicial rulings are crucial for mitigating these challenges. Additionally, specialized training for judges and legal professionals on SLAPPs and relevant human rights standards is essential to enhance the judiciary's capacity to handle such cases effectively.

Regional and international collaboration is also vital in addressing SLAPPs. Engaging in regional and international forums to share experiences and best practices can amplify efforts against SLAPPs. Building alliances with organizations dedicated to press freedom and human rights can exert collective pressure for systemic reforms. Moreover, public advocacy and solidarity actions play a critical role in raising awareness and creating a united front against the misuse of legal systems to silence dissent.

Educational initiatives are necerssary for promoting awareness and understanding of SLAPPs among all stakeholders, including judges, legal professionals, civil rights defenders, activists, and the public. Workshops, training programs, and public campaigns can equip stakeholders with the knowledge needed to identify, prevent, and respond effectively to SLAPP cases. Strengthening media ethics and self-regulation mechanisms within the journalistic community is also important to preemptively mitigate the risk of facing SLAPPs.

Support mechanisms such as providing legal aid, financial assistance, and psychological support can help individuals and organizations withstand the pressures of SLAPPs. Flexible support systems, including crowdfunding initiatives and specialized legal defense funds, are practical measures to alleviate the financial burden on defendants. These mechanisms must be accessible and suitable for the specific needs of different genders, recognizing that female activists, journalists, and CSO workers may require distinct forms of support and protection.

Addressing SLAPPs in the Western Balkans requires a multifaceted approach that includes legal reforms, financial and support mechanisms, regional collaboration, educational initiatives, and strengthening media ethics. By implementing these recommendations, the region can build a resilient legal and societal framework that protects public participation, freedom of expression, and human rights. The comprehensive efforts outlined in this report by BCSDN and its member organizations are crucial steps toward empowering stakeholders in the Western Balkans to recognize and resist attempts to silence dissent and curtail civic engagement.

Introduction

In recent years, Strategic Lawsuits Against Public Participation (SLAPPs) have emerged as a significant threat to freedom of expression and public participation worldwide. These lawsuits, typically initiated by powerful entities or individuals, are strategically designed to intimidate, harass, and silence critics, activists, journalists, and community members who engage in public discourse on matters of social, environmental, or political importance. Beyond the immediate targets of litigation, SLAPPs send a chilling effect across civil society, stifling investigative journalism, grassroots activism, and community organizing efforts.

The impact of SLAPPs extends beyond individual cases, as they collectively endanger democratic discourse by deterring meaningful engagement on critical public issues. Internationally recognized definitions describe SLAPPs as litigation brought primarily to intimidate, overwhelm, and exhaust the defendant, rather than to resolve a legitimate legal dispute. According to the American Bar Association, SLAPPs are used to "silence and harass critics by forcing them to spend money to defend these baseless suits." In the Western Balkans, a region undergoing significant political, social, and economic transitions, the phenomenon of SLAPPs poses particular challenges to the consolidation of democratic institutions and the protection of fundamental rights.

Our monitoring on the civil society environment in the region highlights that SLAPPs are not isolated incidents confined to a specific timeframe or country but demonstrate a worrying tendency to expand across the region, affecting more stakeholders each year. In our efforts to safeguard civic space in the Western Balkans, BCSDN recognizes the urgent need for a deeper understanding of this phenomenon to be able to further develop mechanisms and strategies for civil society to combat this threat. Reflecting the specifics of the region, particularly to include governmental actors as those that initiate SLAPP lawsuits, the following adapted definition will be used for the purpose of this regional research:

"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."

This pioneering study expands the scope of research to include a broader range of defendants beyond journalists and media outlets, and a wider array of plaintiffs that encompass both private and state actors. It also presents, for the first time, comprehensive data across all six Western Balkan countries, positioning this report as an invaluable resource for ongoing research and as a foundational document for future initiatives by BCSDN to safeguard civic space.

By shedding light on the tactics, trends, and consequences of SLAPPs, this report seeks to empower stakeholders in the Western Balkans to recognize and resist attempts to silence dissent and curtail civic engagement. Additionally, the report aims to raise awareness and prompt action among policymakers, legal practitioners, civil society organizations, and partners to address the systemic factors that enable SLAPPs in the Western Balkans. By analyzing the existing legal frameworks, identifying gaps and challenges, and proposing targeted recommendations, the report seeks to support efforts to strengthen legal protections for freedom of expression, enhance access to justice for SLAPP victims, and promote a culture of open dialogue and democratic participation in the region.

Research Methodology

The proposed research methodology for investigating SLAPPs in the countries of the Western Balkans adopts a multi-method approach to ensure a comprehensive understanding of the prevalence and impact of these lawsuits. The overarching objective is to delve into the dynamics of SLAPP actions targeting activists, civil society organizations (CSOs), and media associations while identifying effective strategies for addressing the challenges posed by these legal maneuvers. The methodology consists of a clear set of research questions aimed at exploring the prevalence of SLAPPs in the region, the legal strategies employed by both plaintiffs and defendants and the overall impact of these lawsuits on public participation and freedom of expression. This approach seeks to uncover trends, correlations, and prevailing theories regarding SLAPPs while examining the existing legal frameworks and policies designed to counter them.

To gather comprehensive data, the methodology integrates desk research, literature review, and legal framework analysis establishing a robust foundation for the research. Expert interviews play a crucial role in soliciting insights from key stakeholders, including researchers, legal experts, CSO representatives, and journalists, who offer diverse perspectives on the prevalence and implications of SLAPP lawsuits in the region. In-depth interviews with activists and CSO representatives targeted by SLAPPs provide invaluable firsthand statements of their experiences, legal strategies employed, and the broader impact on their activism and organizational work. These interviews aim to capture the nuances of SLAPP cases across different fields, offering insights into the challenges faced and the innovative approaches adopted to mitigate their effects. Furthermore, the inclusion of case studies enables a detailed examination of SLAPP cases in each country, shedding light on the legal arguments, outcomes, and broader implications within the regional context. By analyzing these cases, patterns can be identified, and key insights gleaned to inform policy recommendations and advocacy efforts.

Overall, the methodology is designed to generate a comprehensive understanding of SLAPPs in the Western Balkans, offering insights into their prevalence, impact, and effective strategies for addressing them. Through rigorous data collection and analysis, the research aims to contribute to the protection of freedom of expression and public participation in the region. Nonetheless, this research also faced limitations. Firstly, the absence of public data on SLAPPs and the lack of comprehensive national reports dedicated specifically to SLAPP cases posed challenges. Secondly, the task of identifying and categorizing SLAPP cases is intricate due to the absence of clear guidelines. Thirdly, the categorization of what qualifies as a SLAPP case proved to be complex. The multifaceted nature of SLAPPs, which often includes elements of strategic intimidation, chilling effects, and the suppression of public discourse, complicates the development of universally applicable criteria for identification.

Background

Strategic Lawsuits Against Public Participation (SLAPPs) are employed primarily to intimidate, encumber, and silence critics by dragging them into expensive and lengthy legal battles. These lawsuits often do not aim for a judicial victory but seek to drain the financial and emotional resources of the defendants. SLAPPs first gained notoriety in the United States during the late 20th century when they were used by businesses and individuals to suppress dissent on public issues[1].

These lawsuits exhibit several common characteristics despite their varied use. Typically, the plaintiff does not necessarily expect to win; instead, the goal is to intimidate or punish the defendant for their opposing views, which are often related to vital public or social issues. This strategy leverages the legal system to impose financial and psychological stress on individuals or organizations, particularly those with limited resources. The consequences of SLAPPs go beyond the involved parties, affecting the broader scope of democratic engagement and public discourse. Defendants face multifaceted repercussions including substantial legal fees, stress, and a chilling effect on their freedom of speech. More broadly, SLAPPs threaten the very fabric of democratic participation by deterring individuals and organizations from engaging in public debates or activities out of fear of legal reprisals.

Globally, SLAPPs are most commonly used by powerful business entities to silence critics and suppress dissent. Between January 2015 and December 2023, research by BHHRC mapped 474 lawsuits exhibiting SLAPP characteristics, focused on business-related activities. [2] The highest number of these cases occurred in Latin America, followed by Asia and the Pacific. In these regions, criminal charges were included in 310 of the cases, with nine out of ten involving such charges occurring in the Global South. Common legal bases for these SLAPPs include libel, defamation, incitement to commit a felony, and conspiracy, often resulting in lengthy prison sentences or pretrial detentions for human rights defenders. This pattern illustrates a grave threat to the participation of defenders in peaceful public discourse, with SLAPPs often preceding or accompanied by other forms of intimidation and violence.

In Europe, SLAPPs are increasingly recognized as a significant threat to democracy. According to the Coalition Against SLAPPs in Europe (CASE), the number of recorded SLAPP cases grew from 135 in 2021, 570 in 2022 to over 820 in 2023[3]. Croatia reported over 245 new lawsuits against journalists in 2022, highlighting the intense legal pressure faced by media professionals. Similarly, countries like Malta, France, Greece, and Poland have seen significant

[1] George W. Pring & Penelope Canan, "SLAPPs: Getting Sued for Speaking Out", Temple University Press, 1996.
[2] Business & Human Rights Resource Centre, “Vexatious lawsuits: Corporate use of SLAPPs to silence critics”
[3] Coalition Against SLAPPs in Europe (CASE), "How SLAPPs increasingly threaten democracy in Europe," 2023

numbers of SLAPPs aimed at journalists, activists, and NGOs. In Malta, the number of cases per capita nearly doubled from 8 to 19.93 per 100,000 people, largely due to Freedom of Information requests filed by investigative journalists.

Most SLAPP lawsuits in Europe are civil cases (69.6%), with a smaller portion being criminal cases (20.9%) and injunctions (6.5%). These lawsuits often rely on defamation laws or similar legal provisions concerning insult or honor. Business-related public participation acts are the most frequent targets, followed by issues related to corruption, government practices, and environmental concerns. Notably, businesses and politicians are the primary filers of SLAPPs, making up 39.9% and 25% of the lawsuits, respectively.

International and EU Anti-SLAPPs Framework

While SLAPPs are well-recognized in the United States and legally regulated through specific anti-SLAPP legislation in over thirty states[4], Europe presents a different landscape. Unlike the U.S., European countries generally lack targeted laws against SLAPPs. This absence has prompted significant advocacy for the introduction of EU-wide regulations to curtail the abuse of legal systems for silencing criticism. The European Union has recognized the urgency of addressing SLAPPs, especially given the increasing instances of legal harassment against journalists, activists, and civil society groups. This concern has led to calls for robust protections that transcend national borders, ensuring a uniform defense against such abuses across member states[5].

In the UK, for example, while there is no specific anti-SLAPP law, defamation laws provide certain safeguards that can mitigate the incidence of SLAPP-like actions. These laws require plaintiffs to demonstrate the significant harm done to their reputation, which places a higher burden of proof and may deter frivolous lawsuits. Although these measures provide some level of protection, they are not a complete solution to the challenges posed by SLAPPs.

The ongoing discussions at the EU level, including the recent Council of Europe Recommendations on countering SLAPPs and Anti-SLAPP directive, are indicative of a shift towards more harmonized legal protections across Europe. The evolving legal frameworks seek to balance the rights of individuals to free expression and participation in public discourse against the need to protect public interests and ensure that legal systems are not exploited for personal or political gains[6].

[4] Freedom Forum: How Anti-SLAPP Laws Protect Your Right to Free Speech https://www.freedomforum.org/anti-slapp-laws/
[5] European Centre for Press and Media Freedom, "Anti-SLAPP Resource Centre: Strengthening Journalistic Freedom Across the EU" https://www.rcmediafreedom.eu/
[6] European Parliament, "Resolution on SLAPPs: Strengthening the Resilience of Europe's Democracy", 2021

Incorporating the recent **recommendations from the Council of Europe (CoE) on countering SLAPPs**, the evolving international discourse on protecting public participation gains additional depth and urgency. The CoE's Recommendation CM/Rec(2024)2[7], adopted on April 5, 2024, underscores the member states' obligation to ensure a safe and favorable environment for public debate, emphasizing the necessity to counteract the chilling effects of SLAPPs on freedom of expression and public participation. According to these recommendations, albeit non-binding, member states are urged to implement, as a matter of urgency, guidelines that include structural and procedural safeguards, remedies, and support for targets and victims of SLAPPs, including collecting data on SLAPPs and establishing support contact points. The CoE highlights the importance of transparency in legal proceedings and the need for educational initiatives to raise awareness about the harmful impacts of SLAPPs. The recommendation also stresses the importance of establishing a comprehensive legal framework that enables everyone to participate in public debate effectively, safely, and without fear, recognizing the diverse forms of SLAPPs and their ability to deter public participation across multiple legal and social contexts.

Another important development is the adoption of the **European Union's Directive (EU) 2024/1069**, also known as the Anti-SLAPP Directive, which was implemented by the European Union and published in the Official Gazette on April 16, 2024. This directive had been in the works since the directive was adopted by the European Parliament back in February of the same year. The aim of this directive is to protect "persons who engage in public participation from manifestly unfounded claims or abusive court proceedings", and sets a minimum standard for protecting media and public watchdogs from SLAPPs across the EU. The key safeguards introduced include an early dismissal tool, so that individuals targeted by SLAPPs can ask the court to dismiss unfounded claims at the earliest stage, as well as burden of proof placed on the plaintiff, so that claimants must prove the case is not a SLAPP, effectively shifting the burden away from defendants. The offered remedies include a possibility for victims to apply for security payments upfront, compensation for all legal costs and damages, fines for claimants, and mandatory publication of court decisions. Despite the Directive's relevance, deficiencies are noted in the wording, such as using "manifestly unfounded" instead of "abusive" claims, which significantly narrows its scope. Moreover, it only covers cross-border SLAPPs due to EU treaty limits, thus no EU court would be obliged to enforce decisions from other courts.

The Anti-SLAPP Directive came into force on May 6, 2024, after which Member States have a window of two years to transpose the Directive into their respective national legislation and uphold the new standards with regards to mitigating SLAPP procedures and protecting journalists, activist and other parties exercising their right of freedom of speech. Both the Directive and the CoE Recommendations, considered the EU's Anti-SLAPP Package, provide

[7] Council of Europe, Recommendation CM/Rec(2024)2 of the Committee of Ministers to Member States on countering the use of strategic lawsuits against public participation (SLAPPs), April 2024

a good starting point for training judges and lawyers, and for creating a more enabling legal environment. The impact of the EU Anti-SLAPP Directive on Enlargement countries is crucial, as the countries aspiring to join the EU must align their legal frameworks with EU standards, and their compliance can be a benchmark in assessing a country's readiness for EU membership. Demonstrating adherence to the Directive and introduction of anti-SLAPP provisions in the national legal frameworks following the model of the Directive can positively influence the negotiation/accession process, showcasing a commitment to protecting freedom of expression and civil society, which are key EU values.

Best International Practices for Combating SLAPPs

Effective defense against SLAPPs hinges on a combination of educational initiatives, legislative reforms, and procedural safeguards. Each of these elements plays a crucial role in equipping individuals and organizations with the means to resist such lawsuits.

- **Educational and legal training programs** are essential for legal professionals who defend against SLAPPs. Initiatives like the PATFox project have led the way in developing structured training materials focused on combating SLAPPs[8]. These comprehensive educational efforts ensure that defenders are well-versed in both international human rights principles and the intricacies of local legal systems.
- **Legislative reforms** are critical in reducing the prevalence of SLAPPs. By decriminalizing defamation and implementing laws that facilitate the quick dismissal of baseless lawsuits, jurisdictions can significantly diminish the leverage that SLAPP filers have over their targets. Examples from various countries, such as the reforms undertaken in Thailand as highlighted by the United Nations Development Programme, demonstrate the effectiveness of legal adjustments in protecting human rights defenders from judicial harassment[9].
- **Procedural safeguards** are instrumental in curtailing the impact of SLAPPs. Implementing mechanisms for the early dismissal of such lawsuits helps preserve the integrity of public discourse and protects individuals from the undue burdens associated with lengthy legal battles. These safeguards, advocated by bodies like the Council of Europe, are designed to quickly identify and terminate SLAPPs, minimizing their chilling effects on free speech and public participation.

Support systems for those targeted by SLAPPs provide critical legal, psychological, and moral assistance. Establishing strong support networks and public advocacy initiatives raises awareness about the nature and dangers of SLAPPs, fostering a community of resistance and

[8] PATFox project, Anti-SLAPP Curriculum Hub: https://www.antislapp.eu/curriculum-hub
[9] United Nations Development Programme, "Laws and Measures Addressing Strategic Lawsuits Against Public Participation (SLAPPs) in the Context of Business and Human Rights," UNDP Thailand, UNDP Report

solidarity. These systems ensure that affected individuals and organizations receive the necessary support to continue their advocacy work without fear of reprisal.

The establishment of specialized legal defense funds has proven essential in providing the necessary financial backing for those targeted by SLAPPs. These funds alleviate the significant financial pressure that SLAPP defendants often face, ensuring that the threat of overwhelming legal costs does not deter their participation in public discourse. For example, initiatives like the Protect the Protest task force have set precedents in the United States for how such funds can support activists and organizations under legal duress[10].

Technological advancements also play a critical role in enhancing legal defenses against SLAPPs. Tools that automate legal processes, such as document analysis and case management, reduce the burden on legal teams and allow for more efficient handling of cases. Furthermore, online platforms facilitate a global exchange of strategies and information, enabling defenders from various jurisdictions to collaborate more effectively and develop robust defense mechanisms against SLAPPs[11].

Transparency and public reporting are pivotal in combating the misuse of legal systems for SLAPPs. By documenting and publicizing cases, including the identities of plaintiffs and the nature of the accusations, organizations can deter the use of SLAPPs through societal pressure and public scrutiny. This level of transparency helps to expose the often punitive intent behind SLAPPs, discouraging their use through potential reputational damage to the plaintiffs. For instance, the case of Chevron vs. Steven Donziger reveals how public support and media coverage can influence the outcomes and perceptions of legal battles that bear the hallmarks of SLAPPs[12].

On the international front, advocating for the adoption of global legal standards against SLAPPs is crucial. Such efforts aim to integrate anti-SLAPP protections into international human rights frameworks, providing a more unified and formidable legal basis for defense. Engagement with international bodies, such as the United Nations, to recognize and legislate against the use of SLAPPs could lead to broader, more effective protection for free speech and public participation globally[13].

Lastly, the power of community and network building cannot be underestimated in the fight against SLAPPs. Strong networks that span various sectors—including media, academia, and civil society—enhance mutual support and collective advocacy. These networks not only share critical resources and knowledge but also mobilize to influence public policy and legal reforms, thereby fortifying defenses against SLAPPs and advocating for systemic changes. The formation of coalitions like the UK Anti-SLAPP Coalition and the Coalition Against

[10] Protect the Protest, "Legal Defense Fund Initiatives," Protect the Protest
[11] Legal.io, "Leveraging Technology in Legal Defense," Legal.io
[12] Simon Taylor, "Chevron vs. Donziger: A Case Study of Legal Strategies," Journal of Legal Advocacy, 2021
[13] United Nations Human Rights Office, "Advocacy for International Legal Standards Against SLAPPs," UN Human Rights

SLAPPs in Europe (CASE) underscores the effectiveness of collaborative efforts in fostering legislative changes and enhancing public awareness about the risks and repercussions of SLAPPs. The CASE coalition works to raise awareness about the dangers of SLAPPs, lobby for stronger legal protections, and offer support to those affected by such lawsuits. By pooling expertise and resources, the coalition strengthens the ability of its members to mount effective defenses and promote reforms at both national and European levels[14]. Similarly, the Anti-SLAPP Coalition functions as a vital support network, focusing on enhancing legal protections and advocating for policy changes that discourage the filing of SLAPPs[15].

Historic and Legal Context in the Western Balkans

In the Western Balkans, the SLAPPs phenomenon is a relatively recent development, which is increasingly observed with concern. Although SLAPPs as a distinct concept do not have deep historical roots in this region, the practice of obstructing public participation does. Those practices are primarily due to the period of the socialist system, the transition period, and the transition to parliamentary democracies with remnants of the socialist period, primarily in the institutional memory of the countries of the region. Each of these historical phases has left its imprint on the current practices of enabling or restricting public engagement.

The Western Balkans' unique position during the Cold War, especially within Yugoslavia—distinct from the direct Soviet influence and yet under a socialist system—created a complex environment for public discourse. Unlike in Western Europe and the USA, where freedom of expression has been more consistently protected, the region witnessed fluctuating censorship practices influenced by ongoing political shifts. What might have been tolerated at one moment could become taboo in the next, reflecting the volatile political climate.

Yugoslavia, the socialist federation uniting the countries in the region (except Albania) until its dissolution in the early 1990, positioned itself as "socialism with a human face" and implemented censorship not through direct institutional mechanisms but rather through self-governing cultural institutions. This created a landscape where censorship was pervasive yet not always visible, by delegating it to self-governing cultural institutions, unlike its Eastern European counterparts[16]. Unlike the decentralized censorship of Yugoslavia, Albania imposed a highly centralized form of state control under the strict communist ruling of Enver Hoxha, employing severe and often punitive measures to suppress dissent and control public discourse.[17] The legacy of decades of state control over information continues to influence Albania's media landscape and freedom of expression to this day.

[14] CASE Coalition, "Our Mission," Coalition Against SLAPPs in Europe
[15] UK Anti-SLAPP Coalition, "Who We Are"
[16] Dragović-Soso, J. (2002). Saviors of the Nation: Serbia's Intellectual Opposition and the Revival of Nationalism. McGill-Queen's University Press
[17] Human Rights Watch (1996). Human Rights in Post-Communist Albania, https://www.refworld.org/reference/countryrep/hrw/1996/en/33471

Historically, the range of censorship practices in the Western Balkans[18] included:

- Direct Censorship: This was enforced not only by government bodies but also by regional and local authorities, and even theatre managers who navigated the complex web of political expectations and the potential repercussions of dissent.
- Indirect Censorship: Economic pressures such as the control of subsidies, sponsorships, and advertising revenues by public and private entities served as tools for indirect censorship, influencing which voices were amplified or silenced.
- Street Censorship: Manifested through public protests, often spurred by media campaigns, it created an environment where critical artists faced intimidation, including threats of violence—practices observed by groups such as the Serbian branch of Women in Black.
- Self-Censorship: The fear of losing employment, financial support, or standing within the community led many within the cultural sector to self-censor, a practice that continues to influence the dynamics of public discourse in the region.

In fact, everything that in the period between the 60s and the 80s came under any kind of censorship, including self-censorship, in the modern context is subject to enormous exposure to the risk of SLAPP. In the nineties and 2000s, in some cases late into 2010s, pressure on public participation was channeled through threats of physical violence, smear campaigns, abuse of power, counting on the bias of the law enforcement and judiciary in order to exert influence without legal repercussions. Many cases of attacks against journalists were recorded, many of whom were critical of the government, its alleged connections to the criminal structures, clientelist relations with wealthy businessmen, and conducted investigative work in order to shed more light on corruption and abuse of power.

An important role in transition from physical violence to more subtle “legal violence” and pressure is played by the failure of the elites to subdue the critics with threats of physical harm. Reports have repeatedly outlined the attacks on journalists and critics coming from the civil society as a fail by the government to protect those who critique the government and connected elites. The judicial systems in a captive state - unduly influenced or controlled by private interests, political elites, or other powerful entities - further create favorable conditions for the implementation and prosecution of court proceedings that target journalists and activists and stifles freedom of speech and investigative journalism. Despite professionals, activists, and CSOs in the Western Balkans being vocal about the risks associated with SLAPPs, the term and its implications are largely unrecognized in national legislation.

[18] Theatre Censorship in Modern Europe, Milena Dragicevic Šešic and Aleksandra Jovicevic, https://shorturl.at/cgCMW

Analysis of the Legal Frameworks in the Western Balkans

Freedom of expression is a foundational right guaranteed by the constitutions of all six Western Balkan countries, reflecting their commitment to democratic principles and alignment with European human rights standards, as well as the legal opinions and judicial practice of the European Court of Human Rights. Limitations introduced by the laws involve prohibition of hate speech and inciting hostility based on race, nationality, ethnicity, or religion, or limitations that are 'necessary in a democratic society', such as protecting public security or maintaining order.

This foundational right of expression is bolstered by the countries ratification of the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (European Convention). Article 19 of the ICCPR, mirrored by Article 19 of the Universal Declaration of Human Rights, extends the right to freedom of expression to include the freedom to seek, receive, and impart information and ideas of all kinds, across any medium, and without frontier constraints. The European Convention highlights the essential role of freedom of expression while acknowledging that this right may be subject to certain restrictions that are necessary in a democratic society, such as maintaining national security or protecting public order and morals.

However, besides the constitutional guarantees, Western Balkan countries grapple with a complex interplay of legal frameworks and societal values concerning freedom of expression. Each country's journey through the post-socialist and/or post-conflict landscape has shaped its legal ethos, reflecting some kind of balance between upholding fundamental rights and navigating the nuances of political and social dynamics. While EU integration has been a driving force for democratic reforms, prompting the WB6 countries to align their regulatory frameworks with EU standards, there is yet no specific legislation directly targeting SLAPPs in the region. These lawsuits, therefore often exploit existing defamation or insult laws.

Defamation is considered a criminal offence in two out of six WB legislations – Albania and as of recently in the Republika Srpska entity in Bosnia and Herzegovina, while insult is a criminal offence only in Serbia. In Albania, despite the withdrawal of the controversial 'draconian' anti-defamation package in 2022, defamation is still a criminal offense. Although not punishable by imprisonment, the fines for defamation range from 440 EUR to 12.500 EUR or 25.000 EUR when committed in public and to the detriment of several persons or more than once. Revisions of the Criminal Code in Albania about insulting, and defamation need to be repealed or fully harmonised with international standards, and civil law provisions on publishing fraudulent or inaccurate information need to be aligned with European standards on freedom of expression and media.

The recriminalisation of defamation in the Criminal Code of Republika Srpska (BiH) in 2023 represents a severe setback of over two decades[19], contrasting with broader European movements towards decriminalization. The new law has serious potential to stifle freedom of expression and media independence, potentially leading to self-censorship, arbitrary judicial proceedings, fines of up to 25.000 EUR and even imprisonment. This development is ever more significant because BiH does not allow private criminal charges, meaning that in this case criminal defamation cases are treated with the same severity as murder cases, thus impacting job applications, visa requests, state financial support etc. In addition, in the Sarajevo Canton (BiH), amendments to the local public order laws, considering the internet and social networks as a public area, that would penalise the spread of 'fake news' and criticism of state authorities were introduced[20], but were later withdrawn for modifications due to the public outcry it caused.

Bosnia and Herzegovina's complex administrative and political structure has led to a diverse legal landscape, as each entity has the autonomy to enact its legislation. Therefore, in the Federation of BiH (FBiH), the Law on Protection Against Defamation, particularly noteworthy for its Article 7, details exemptions from liability, crucial for media and public figures. It allows statements made in the performance of a duty or for matters of public interest, provided they are not made maliciously. The FBiH law also emphasizes the urgency of legal proceedings in defamation cases, ensuring they are handled swiftly to minimize harm to reputation.

A notable ongoing development in FBiH involves environmental associations submitting a draft anti-SLAPP law to parliamentary procedures. Aimed at safeguarding citizens, activists, and journalists from silencing lawsuits, the proposed Law on Citizens' Initiative and Protection of Citizens and Activists[21] seeks to establish a legal framework for protecting individuals engaged in environmental activism. This initiative tackles concerns such as discriminatory regulations for citizens' initiatives and includes anti-SLAPP provisions. The most important segment is the possibility of early dismissal of a lawsuit by the court on the first review, where the burden of proving guilt is on the plaintiff. If enacted, this law could provide vital protections against legal actions intended to stifle public engagement.

In Kosovo, Montenegro, North Macedonia, and Serbia defamation and insult have been decriminalized since more than ten years ago, aligning the countries' legal frameworks with international standards on freedom of expression and human rights. The amendments to the Criminal Codes removed defamation as a criminal offense and reclassified it as a civil matter, allowing individuals to pursue defamation claims through civil lawsuits rather than criminal prosecution, however often demanding extremely high compensation.

[19] https://seenpm.org/new-red-line-law-against-freedom-of-expression-in-republika-srpska/
[20] https://balkaninsight.com/2023/05/11/bosnian-cantons-move-to-penalise-fake-news-worries-critics/
[21] https://objavi.ba/anti-slapp-u-fbih-predlozen-prvi-zakon-protiv-strateskih-tuzbi-u-europi/

Criminal acts of defamation and insult in **Montenegro** were decriminalized in 2011, which significantly reduced the risks faced by journalists and media outlets in reporting on sensitive issues. The Criminal Law still recognises various "crimes against honour and reputation" as felonies, such as publishing personal and family affairs, harming the reputation of Montenegro or ethnic groups, and similar offenses, but prescribes an exemption from prosecution in certain cases, given there is no clear intent to harm and no factual basis for the claims made. In 2021, the Law on Amendments to the Criminal Code in Montenegro entered into force, aiming to safeguard a stronger protection of journalists, and introduced new categories of criminal offenses against persons performing public information work.

Similarly, the new Law on Civil Liability for Insult and Defamation in **North Macedonia**, amended in 2022, offers essential safeguards for journalists and media entities, encouraging the reporting of matters significant to public discourse. The amendments introduced notable reduction of the maximum amounts that the court can award as compensation for non-pecuniary damage, caused by insult or defamation. The Law places a unique burden of proof on defendants, requiring them to demonstrate the truth of their statements in defamation cases, contrasting with the plaintiff-proof standard commonly found in jurisdictions like the US and the UK. Articles 6 and 7 of the law specify that statements made in the public interest are protected from defamation claims if they are made without malice and with due diligence in verifying their truthfulness, in a manner much similar to the defamation laws in Montenegro and Kosovo. Nonetheless, the Macedonian legal system generally gives the benefit of the doubt to the party bringing a lawsuit until the fact-finding stage and prosecutes almost all lawsuits, which hinders the effective protection from SLAPPs.

In **Kosovo**, the Law against Defamation and Insult aligns with the Law on Freedom of expression, balancing the need to protect individuals' reputations with the imperative to uphold freedom of speech, by stipulating that defamation and insult do not occur where the expression pertains to matters of public concern and is made in good faith. Specifically, it emphasizes that "no one shall be liable for defamation and insult for a statement on a matter of public concern" in cases where "reasonable publication" is acknowledged. Moreover, Kosovo has the Law on Obligational Relationships, which sets out the general rules for both material and non-material damage compensation, while the Law on Contested Procedure clearly defines the procedural requirements for filing and arguing defamation cases. Legal experts generally evaluate the current legislation in Kosovo for preventing and addressing SLAPP lawsuits sufficient[22].

Despite the existing protections within the overall conditions of positive law, the absence of procedural mechanisms for the early dismissal of SLAPP lawsuits, leaves individuals vulnerable to prolonged legal battles. For example, although in Serbia, similar to North Macedonia, the domestic legal system recognizes the institution of the prohibition of abuse of procedural powers, **Serbia** also experiences the highest number of SLAPP cases in the

[22] Interview with Arrita Rezniqi, Kosovo Law Institute, 30.01.2024.

region. The Serbian' Law on Civil Procedure provides foundational measures to prevent the abuse of legal rights, crucial for addressing potential misuse in defamation cases. Specifically, Article 9 mandates that parties must conscientiously use the rights recognized by law, and it charges courts with the responsibility to prevent and sanction any abuse of these rights effectively. The Code of Criminal Procedure complements these provisions by stipulating the obligation of courts to conduct proceedings expeditiously and to prevent any rights abuses that might delay the legal process. These measures, though, primarily focus on general principles rather than specifically targeting SLAPPs.

Addressing the challenges posed by SLAPPs within the Western Balkans requires a nuanced understanding of both the regional legal landscape and the specific vulnerabilities within each country's judicial framework. Despite the constitutional protections for freedom of expression, the absence of explicit anti-SLAPP legislation across these nations creates a fertile ground for the misuse of legal systems to silence critical voices. This misuse not only stifles public debate but also undermines the democratic processes by instilling fear and self-censorship among journalists, activists, and civil society at large. The challenge of the legal systems not distinguishing SLAPPs from other lawsuits is compounded by judicial systems that may lack the independence or the specific protocols necessary to quickly identify and dismiss such cases, thereby allowing SLAPPs to drain resources and deter engagement in public discourse. Moreover, certain deficiencies are observed in both the existing legislation and its execution. Awareness and sensitivity to human rights standards on the part of the administration, the judiciary and law enforcement authorities need to be reinforced.

For the Western Balkans to truly safeguard the freedoms fundamental to democratic governance, a concerted effort is needed to reform existing frameworks. This should include the adoption of specific anti-SLAPP provisions, enhanced judicial training to handle such cases adeptly, and stronger enforcement of existing rights to free speech. As the example of Montenegro shows, the number of SLAPPs in the country, especially those with disproportionate damage claims, decreased after 2011 when judges started being educated on the practices of the European Court, and libel was decriminalized in the law. Additionally, fostering a judiciary that operates independently from political pressures is crucial to ensuring that laws are not misused to protect powerful interests at the expense of public dialogue. The establishment of clear, robust mechanisms for the early dismissal of SLAPPs would not only protect individuals and entities engaging in vital public issues but would also reinforce the rule of law and democratic resilience in the region.

Regional Trends and Patterns

In the Western Balkan region, SLAPPs are utilized for intentional targeting of individuals or entities whose public influence or reputation is perceived as a threat to the interests of powerful parties. The engagement in orchestrated efforts to undermine the credibility and integrity of those involved indicates a deliberate, and calculated strategy to suppress investigative reporting, limit freedom of expression, and create a climate of intimidation and fear of punishment for searching for the truth and informing the public.

The absence of national anti-SLAPP regulation or prescribed criteria upon which courts can rule whether a case is a SLAPP[23], poses a challenge in pinpointing cases related to SLAPPs. This lack of formal acknowledgment complicates the identification of legal actions involving allegations against human rights defenders, journalists, civil society organizations, and citizens. Consequently, these cases are often examined in isolation without a comprehensive consideration of the broader context of SLAPPs. This regulatory vacuum leaves activists, journalists and media organizations vulnerable to protracted legal battles, navigating a complex legal terrain.

Across the region, most commonly targeted by SLAPPs are environmental activist, watchdogs, journalists and media organizations, raising awareness, investigation or reporting about environmental challenges and threats, spending of public funds, and other sensitive topics for the entire society. The most vulnerable targets remain the activists, freelance journalists, and CSOs that lack legal expertise and access to support resources. On the plaintiff side, most commonly present are big companies, powerful businessmen or politicians, and public insitutions that are under critique or accountability requests. In terms of connections between SLAPPs in the region, it is evident that one large regional company operating in BiH and Serbia, Prointer, is often a plaintiff, especially in BiH due to its political connections with the government.

While SLAPPs have been present in the region for much longer, there has been a notable increase in the past couple of years in almost all countries, with the exception of Montenegro. The decrease in number of SLAPP cases in Montenegro has been more evident after the change of government in 2020, but mostly due to the intense education of judges about the European Court practices and significantly lowering the amounts of damages awarded in such cases. SLAPPs in Montenegro are nowadays wider in variety, i.e. not the typical defamation lawsuits based on critical speech, rather, for example, targeting activists for their protests or performances. In BiH, too, activists have been SLAPPed by politicians after

[23] Teodora Đurnić. “Mediji vide SLAPP tužbe, za sudove ne postoje” Portal Autonomija, 11.10.2023. URL: https://autonomija.info/mediji-vide-slapp-tuzbe-za-sudove-ne-postoje/

protests, initiatives and signatures collecting, showing that these lawsuits are increasingly used as tools to suppress civic engagement.

On the other hand, SLAPP lawsuits have increased in all the rest of the WB countries. In Albania, Kosovo and North Macedonia this has affected mostly journalists and media, while in Bosnia and Herzegovina and Serbia there has been a troubling increase in SLAPP lawsuits against activists and human rights defenders, mainly initiated by big corporations and members of national and local authorities. The latest CASE report for 2023 places Bosnia and Herzegovina, Serbia and North Macedonia among the top ten countries with highest number of cases recorded for every 100,000 people.[24]

SLAPPs in Bosnia and Herzegovina have marked 2022 and 2023 as one of the biggest threats to freedom of expression, evidenced by groundless lawsuits against media and activists, that have been prolonged for as long as possible or perceived as threatening. Civic space in BiH witnessed serious shrinking in 2023, with SLAPP cases being among the worst problems facing civil society, mainly due to the recriminalization of defamation in Republika Srpska where 53 SLAPPs were initiated only in 2023. One media reported that out of 60 defamation lawsuits they have received since 2015, more than 10 were only in 2023. Currently, there are 50, out of approximately 70, lawsuits against one civil society organization and its online portal.In North Macedonia, the Association of Journalists recorded twice as many lawsuits for insult and defamation in 2022 compared to 2021 in its research and analysis of court cases against journalists and activists. In Serbia, the reliable number of SLAPP lawsuits is not known. However, to illustrate the prominence of the issue in the country, in the period from March to May 2021, only the construction company Millennium team d.o.o., submitted a total of 34 lawsuits to the High Court in Belgrade, 27 of which were directed against the media, journalists and editors, while the rest were filed against political parties and politicians who referred to that company in public addresses.

The latest EC Country reports for Serbia, Kosovo, and Albania have also confirmed the increased presence of SLAPP cases in the countries, both against journalists and activists.[25] As noted in the report for Albania, there were 19 criminal court cases against journalists and media, and 11 civil cases initiated for alleged dissemination of fraudulent or inaccurate information. Due to a lack of data on Kosovo, there is no accurate information on the prevalence of SLAPP lawsuits among journalists or civil society activists, but it is estimated that over 20 per year are filed against journalists. Notable Kosovar journalists such as Saranda Ramaj and well-established organizations such as the Kosova Law Institute (Alb. IKD) are targeted after challenging the work of justice officials in their reporting on corruption, poor governance, misuse of public funds, and abuse of power. It is reported that Ramaj has 10 lawsuits with damages totalling about alarming 1 mil EUR.

[24] https://www.the-case.eu/wp-content/uploads/2023/08/20230703-CASE-UPDATE-REPORT-2023-1.pdf
[25] https://balkancsd.net/novo/wp-content/uploads/2023/12/143-3-BCSDN-Background-Analysis-2023.pdf

Considering that SLAPPs is a phenomenon that is not regulated by law and that the courts do not identify procedures according to that criterion, the number such lawsuits in all of the countries is expected to be higher than the provided information. While the term/acronym is not unheard of across the region, it is generally reserved for a small group of professionals within civil society and media, particularly those involved in more publicized cases. In Kosovo, for example, SLAPPs became recognized only after the case of environmental activist Shpresa Loshaj who was sued by Austrian-based Kelkos Energy in 2020, requesting compensation of 100.000 EUR. While there have been several major cases across the region that received significant media coverage and reached a wider audience, numerous troubling cases have gone under the radar, yet still had profound consequences for both the targets and society at large, particularly by obstructing public participation.

A comprehensive understanding of the dynamics surrounding these lawsuits is essential for developing effective strategies to counteract and prevent their chilling effects. Therefore, the following chapters depict and analyse strategies and tactics used by both plaintiffs (those who file a SLAPP lawsuit) and defendants (those who are targets of a SLAPP). Finally, an analysis of the impact of SLAPPs on public participation is provided, based on the challenges and needs identified through the research.

Strategies and Tactics Employed by Plaintiffs

Across the region, various common tactics and strategies are employed by plaintiffs mainly seeking to impose financial strain and deter continued engagement. This chapter explores the multifaceted nature of SLAPP cases across the region, examining commonalities and peculiarities that shed light on the intricate dynamics of these legal maneuvers.

The plaintiffs' tactics aimed at suppressing dissent and intimidating defendants take place both **within and outside of the courtroom**, and in some cases **even before the lawsuit is actually filed**. One of the tactics applied before a lawsuit is the reliance on threats and warnings towards the subject, with the aim to dissuade them from continuing engaging in the case. While the plaintiff seeks to stop the activity that is the subject of a potential dispute, often they do not want to engage directly with the target of the SLAPP. In the case of the lawsuits filed against the KRIK portal in Serbia, the plaintiff refused to talk to the KRIK journalists before the actual publication of the text, which was disputed before the court later. In North Macedonia, on the other hand, plaintiffs have used aggressive legal threats before initiating the procedure, or have refused settlement through alternative dispute resolution (mediation, arbitration, etc.) without reasonable justification.

Once the parties enter the courtroom, it becomes evident that the plaintiffs intention is to use the imbalance of power in their favor, either financial or political, to exert pressure on the defendant or financially exhaust them into settlement. As noted in several cases in Albania and North Macedonia, plaintiffs often employ aggressive allegations of defamation or false

statements, forcing defendants to spend extensive resources defending themselves against accusations that lack substantial merit.

One prevalent method in all the WB6 is **demanding disproportionately high compensation** to financially burden defendants and deter their engagement in public discourse. These exaggerated damage claims, such as those seen in Montenegro's "Telekom scandal[26]," amounting to 300.000 EUR, are not only about winning substantial monetary awards but also about creating a chilling effect to discourage similar criticisms. The case of the SLAPP lawsuit against Serbia's JugPress portal when the plaintiff reduced the claim to a "symbolic 100 euros" in order for the lawsuit not to be considered a SLAPP, further proves that the requested compensation claims are not brought to genuinely assert a right, rather are baseless claims. Another significant practice inherent in SLAPPs involving large corporate plaintiffs in Bosnia and Herzegovina is their tendency to claim substantial damages by presenting evidence such as terminated contracts purportedly due to defamation, alleging losses in the millions.

Within the region, there is a **specific form of a SLAPP that involves state-issued fines**, which serve the same purpose as SLAPPs: to prevent and disable public participation. These fines are carefully selected to inflict the maximum possible damage on the defendant. The aim is to hinder their activities for the longest period, cause substantial financial strain, or provoke the defendant into counter-suing the state, thereby opening the door to further legal procedures. This tactic of imposing fines is not merely about enforcing compliance with regulations but is strategically designed to stifle dissent and discourage further public engagement by making the consequences of activism prohibitively severe. The state leverages its authority to issue fines that could be most damaging, ensuring that the financial burden or the legal entanglements serve as a significant deterrent.

Illustrating this are the cases of Mekić and Čogurić, Montenegrin activists that engaged in peaceful protests, where the party suing them opted for charges that fit the specific case the best. In the case of Mekić, the plaintiffs filed a lawsuit for "endangering the safety of the plaintiffs". In Čogurić case, the Communal Police of Nikšić issued a fine of 500 euros to Čogurić for improper disposal of waste, which is the maximum amount under the local legislation and eventually, took Čogurić to court over that fine. Highlighting the misuse of police and private security to protect corporate interests, these examples further demonstrate the peculiarities and unique challenges in the region, particularly the ties between government entities and business owners, and the related abuse of power, when understanding and defining SLAPPs in the local and regional context.

As part of the legal tactics, **procedural delays** are commonly used, with plaintiffs filing incomplete claims or engaging in legal maneuvers that require additional court sessions, such

[26] Predrag Tomović. "Ana Kolarević i afera "Telekom": Tužba protiv Monitora odbačena" Radio Slobodna Evropa, 18.10.2013. URL: https://www.slobodnaevropa.org/a/ana-kolarevic-i-afera-telekom-tuzba-protiv-monitora-odbacena/25140968.html

as plaintiffs disqualifying judges on charges of impartiality, filing appeals with little or no prospect of success, not appearing on trials, submitting excessive requests of information to increase the workload, etc. This tactic prolongs the litigation, drains the defendants' resources, and increases emotional stress, thus overwhelming them and diverting their focus from their activism, advocacy or journalistic work. These actions are often timed to coincide with significant public or professional events involving the defendant, maximizing disruption and stress. The most notable example of such tactic was noted in Kosovo through the case of Klan Kosovo Vs. Youth Initiative for Human Rights, where the court procedure has been ongoing for 11 years.

Case Study #1

*An illustrative case involves the lawsuit filed by private broadcaster **Klan Kosovo** against the **Youth Initiative for Human Rights Kosovo** (YIHR). Klan Kosovo accused YIHR of reputational damage after YIHR published a report alleging ties between Klan Kosovo and the Kosovo Democratic Party, demanding 285.000 eur as compensation. The lawsuit dragged on for 11 years before the Court of Appeals ruled in favor of YIHR, having failed to provide evidence, and considered Klan Kosova's lawsuit for defamation as unfounded. This prolonged legal battle underscores the systemic issue of lengthy judicial processes in Kosovo, which hampers the effective resolution of SLAPP cases.*

In addition to prolonging court proceedings, plaintifs also utilize other legal mechanisms. In Serbia, it was noted that plaintiffs use the possibility to temporarily suspend court proceedings, while in North Macedonia, plaintiffs in the analyses cases usually seek interim measures to prohibit a certain research, story, book, or similar from being made public, during the court proceedings. In Albania plaintiffs have initiated legal actions not with the primary goal to win, but to exploit all court instances (first instance, appeal court, etc.), prolonging the litigation and causing reputational damage for the defendats. A specific case in Serbia, which targeted KRIK, was the filing of multiple lawsuits in a very short period, arriving within an interval of several days, obviously intended to exhaust the defendant. Most often the problem with these lawsuits are not the verdicts as such, but the frequency of procedures that imply financial burdens. While the expenses per court proceedings usually are not high, if there are many cases for proceedings, the total amount becomes large and thus especially problematic for activists and organizations.

Case Study #2

*In response to investigative journalism conducted by the **KRIK** newsroom on alleged offshore activities involving former Minister of Innovation and Technological Developmen **Nenad Popović**, a series of legal actions ensued. Popović's reaction included a swift onslaught of lawsuits, each demanding substantial compensation. Despite court summonses, Popović frequently failed to appear, prolonging the legal process. Attempts to dismiss judges further delayed proceedings. While Popović later sought to withdraw the lawsuits, the defendants contested, maintaining pressure on the editorial office.*

Forum shopping is another insidious legal tactic prevalent in SLAPP cases, and noted in cases in Bosnia and Herzegovina, wherein plaintiffs choose a legal jurisdiction that maximizes inconvenience and expense for the defendant or is perceived to be more favorable to their case. This tactic not only exploits geographic and jurisdictional disparities to increase the defendants' costs but also complicates their defense strategies by forcing them to fight the case in an unfamiliar landscape, often far from where the disputed issue occurred. The manipulation of venue in such cases often aims not just at securing a favorable outcome but at leveraging the legal process as a punishment or deterrent in itself[27].

A notable **misuse of the legal framework** outside the litigation procedures as such involves the strategic manipulation of the General Data Protection Regulation (GDPR). Plaintiffs file lawsuits under the pretext of protecting personal data, yet their true intent is often to delay or prevent the publication of critical information, effectively silencing the defendant. An illustrative example of this tactic is seen in Serbia, where the news portal KRIK faced a lawsuit for naming individuals who had sued the outlet. The case highlighted how GDPR could be weaponized to impose significant fines and potentially stifle investigative journalism under the guise of data protection[28].

Beyond courtroom maneuvers, plaintiffs often initiate **targeted disinformation campaigns** to malign defendants and sway public opinion. Another notable instance of such tactics can be observed in Serbia, where KRIK faced allegations from government representatives and was subjected to a targeted disinformation campaign by pro-government media. In one instance, "Srpski telegraf," a pro-government tabloid, published articles that misrepresented the actions of a KRIK journalist, falsely accusing him of stalking and harassing the family members of a government official, claiming that the journalist was part of a secretive operation intending to destabilize the government.

Negative public campaigns include spreading false narratives and negative stereotypes through various media channels to discredit the defendants and their work, such as in the case of Hajrija Cobo, but also isolate them and erode their support networks. For example, in Kosovo, intimidation campaigns, including attempts to control the

Case Study #3

***Hajrija Čobo**, an environmental activist from Kakanj, faced a SLAPP lawsuit from the British mining company "**Adriatic Metals**", a company that granted a concession for ore exploration and extraction in the Vareš region of FBiH. The company accused Hajrija of spreading false information about pollution and health risks associated with their activities, demanding compensation for the damage of company's reputation in the amount of 2.000,00 BAM, for non-material damages. This lawsuit directly targeted Hajrija's advocacy efforts to protect forests and watercourses in Kakanj from the environment risks and health threats posed by Adriatic Metals. Despite receiving a request to publish a denial prior to the lawsuit, Hajrija defended her stance. On June 17th, Municipality Court in Kakanj rejected the lawsuit.*

[27] European Parliament, "Strategic lawsuits against public participation (SLAPPs)," Briefing, February 2024
[28] "KRIK Found Guilty in a SLAPP Case for Naming the Persons Who Sued the Outlet," KRIK

narrative on social media, have not targeted only the defendent, but also the local community they operate in, to scare the community away from communicating with and supporting the defendant. Offensive campaigns not only harass and intimidate individuals involved in public debate but also distract the public from the core issues at hand. A blatant example is the Lykos Balkans Metals lawsuit in Bosnia and Herzegovina, which led some activists to cease their work and others to become supporters of such companies.

Case Study #4

***Amela Šabić Ahmečković**, an environmental activist from the small municipality of Jezero, was sued by the company "**Lykos Balkans Metals**" for defamation. Her activism was related to the conservation of nature and opposition to geological research, which aims to exploit heavy metals, possibly leading to the destruction of nature and pollution. The company requested 4.000,00 BM of compensation claiming that the defendant was guilty for the decrease of company shares on the stock exchange. Even though it was clear that the claims in the lawsuit were hard to prove, Amela was under big pressure and fear, affecting her health in such a manner that she ended having surgery that cost almost equally as the requested compensation, and stepped down from her activism. Eventually, the lawsuit was withdrawn.*

Considering the above, it becomes evident that legal maneuvers represent a **systematic effort to suppress dissent and intimidate defendants**. From threats and warnings aimed at dissuading engagement to aggressive litigation tactics designed to exhaust resources and prolong court proceedings, plaintiffs deploy a wide array of methods to achieve their objectives both inside and outside the courtroom. The prevalence of disproportionate damage claims, forum shopping, procedural delays, and misuse of legal frameworks underscores the need for robust legal safeguards and institutional reforms to prevent the abuse of judicial processes for retaliatory purposes. Furthermore, the manipulation of public opinion through disinformation campaigns and negative publicity highlights the broader societal implications of SLAPPs, including the erosion of trust in democratic institutions and the chilling effect on free speech and public participation.

Strategies and Tactics Employed by Defendants

As a natural reaction to an action, SLAPP defendants have also employed a range of tactics in responding to and dealing with such lawsuits. They seek legal assistance, build public support through media and social networks, and often mobilize collective resources from civil society. Legal countermeasures such as filing counterclaims for abuses of process or malicious prosecution are also employed to shift some legal burden back onto the plaintiffs and expose the retaliatory nature of the SLAPPs.

Defendants respond to SLAPP lawsuits by first seeking competent **legal assistance**, crucial for navigating the complex and often intimidating landscape of such legal battles. Legal professionals play a pivotal role, not only in forming robust defense strategies but also in

educating defendants about their rights and the nuances of SLAPPs. Lawyers specializing in media and public advocacy laws often suggest filing counterclaims against the plaintiff for abuses of process or malicious prosecution. This not only helps shift some of the legal burdens back onto the plaintiffs but also highlights the retaliatory nature of the SLAPPs, challenging their validity in court.

A defense against a SLAPP lawsuit is not only built on the legal argument, but also depends on the **public support**. Considering that a part of the lawsuits is initiated by the public prosecutorial bodies under pressure from the elites, the same pressure coming from the public can play a part in the legal outcome. The purpose of publicizing the cases is not only to inform the public and make the legal fight transparent, but also to give the message to other activists, journalists or CSOs that such lawsuits are not to be feared.

Case Study #5

*Environmental activist **Shpresa Loshaj** was sued with 100.000 EUR by Austrian-based **Kelkos Energy** due to her activism condemning the exploitation of natural resources and questioning Kelkos's license validity. Shpresa Loshaj's case gathered civil society activists for mobilization, and her case received media attention both locally and internationally. Amnesty International issued public statements asking for the lawsuit to be withdrawn, and international media, such as Der Spiegel, also reported on the case, exposing the SLAPP lawsuit as a legally baseless and deliberate attempt to silence and intimidate civic voices that demand accountability. The lawsuit has been found baseless by the authorities and officially dropped in 2021. Sadly, Loshaj is not the only victim of Kelkos who filed similar lawsuit in 2020, demanding EUR 10,000 in reputational damages from environmental activist Adriatik Gacaferi, over a Facebook post that also criticized the company's hydropower plant operations in the Deçan region.*

The public support and publicity can also play a positive role by gaining the attention of law firms and CSOs who can provide free legal representation, which in turn can reduce the financial burden on the defendant and contribute to a more favourable outcome.

Public relations campaigns are a critical aspect of the defense strategy. Defendants use media articles and social media platforms to inform the public about the nature of the lawsuit and its implications for free speech. By portraying the legal action as an unjust assault on their freedom to express and engage, defendants work to garner public support and mitigate potential reputational damage. For example, in Bosnia and Herzegovina, young environmental activists faced baseless defamation charges from a Belgian-owned hydropower company. Their response included public advocacy to highlight the misuse of defamation laws to silence legitimate environmental concerns, drawing attention from international organizations like Amnesty International[29].

[29] Amnesty International. "Bosnia and Herzegovina: Young environmental activists face baseless defamation charges from Belgian-owned hydropower company." October 2022

Case Study #6

A significant SLAPP case that raised a lot of attention and awareness in Bosnia and Herzegovina was the lawsuit against two environmental activists, ***Sara Tuševljak and Sunčica Kovačević****, because of their engagement to save the Kasindolska river from the damage caused by small hydro plants. They have received support from more than 140 organizations and nonformal groups. Sunčica and Sara were sued by* ***Green-Invest****, an Belgium company that owns concessions for building three mini hydropower plants. As of June 2024, the proceedings are ongoing.*

In addition to garnering public and media support, defendants consider it very important to seek **support from fellow activists and CSOs**, including those working in the same field and others that address human rights and other violations related to a respective lawsuit. In Kosovo, cases were noted where defendants sought the support also through mobilizing activists and organisations with signatures for support and organizing public conferences deeming defamation lawsuits as SLAPPs. The public demonstrations of support or attendance at court hearings in the cases in Serbia proved to be invaluable, offering the vital psychological support that SLAPP defendants require.

To **mobilize community support and finance their legal defenses**, KRIK adopted an innovative strategy by selling T-shirts featuring satirical illustrations that directly referenced the cases against them. These illustrations often depicted public figures involved in the corruption scandals KRIK had uncovered, transforming complex legal and political issues into accessible and engaging content. The T-shirts served dual purposes: they were a critical fundraising tool to support KRIK's ongoing legal battles and acted as a mobile awareness campaign. Each T-shirt worn in public became a symbol of protest and solidarity, effectively turning supporters into advocates for free speech and press freedom. This method not only enhanced KRIK's financial capacity to contend with legal challenges but also strengthened communal ties, ensuring that the public remained informed and engaged with the issues at stake. Through such creative engagement strategies, KRIK was able to fortify its defense against SLAPPs, highlighting the power of community support in upholding democratic values and resisting legal intimidation.

There are other means through which activists and CSOs have successfully managed to finance their legal response, such as through obtaining flexible donor funding or by pooling funds together. Esuring private funding support for civil CSOs, as well as developing a response Hub for SLAPPed activitists, the European Fund for the Balkans (EFB) has been providing micro-grants and flexible support under a zero-visibility policy, which has futher helped in community trust-building.

Furthermore, defendants often **engage in national coalitions, regional and European networks**, joining forces with similar entities across borders to strengthen their defense against SLAPPs. These networks provide a platform for sharing resources, legal strategies, and support, enhancing the collective capacity to resist such lawsuits. Collaborative efforts

are vital for fostering a united front against attempts to use the legal system as a tool for suppression. An example from the region is the Kosovo Initiative Against SLAPPs, an informal group consisting of activists and civil society experts. Prominent examples of international networks are the Daphne Caruana Galizia Foundation, which promotes justice and supports efforts to protect journalists and activists from legal harassment, and the CASE (Coalition Against SLAPPs in Europe) coalition, which brings together various organizations committed to combating SLAPPs across the continent. As defendants navigate the complexities of SLAPP lawsuits, their strategic responses and collaborative efforts underscore the ongoing battle against threats to free speech and public participation.

Impact of SLAPPs on Public Participation

According to EU's Anti-SLAPP Directive, public participation 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 thereto, and which concerns a matter of public interest". The patterns analysed above suggest a strategic use of SLAPP lawsuits not necessarily to win the cases in court, but to create a chilling effect and silence public debate. Such a situation not only affects the immediate targets but also has a broader impact on freedom of expression, democratic discourse, and public participation. This chapter analyses the existing and potential impact of SLAPP lawsuits, illustrated through various examples of how SLAPPs hinder activists, journalists, and CSOs, and their work.

Financial Strain and Resource Drain

Defending against SLAPP lawsuits requires significant financial and human resources, which many activists and small organizations do not have. These lawsuits are not only financially draining, but cause substantial stress and loss of time and resources, especially when facing numerous legal battles at the same time. This financial strain can lead to a significant reduction in the activities of the organizations or, in severe cases, force smaller organizations to shut down. The constant threat of costly litigation makes it challenging for these organizations to plan and execute long-term projects, thereby hampering their effectiveness and sustainability.

A specific case illustrating this is the SLAPP filed by "Hydro Logistics" in Montenegro against activists Denis Mekić and Vasilije Ivanović. The lawsuit was initiated after the activists protested the construction of a mini hydroelectric plant on the Skrbuša river, alleging corruption in the land concession process. The financial burden of hiring a private lawyer and bearing court expenses without support from NGOs or other legal entities significantly

strained their resources. Despite pleading not guilty, the activists had to deal with substantial legal costs, demonstrating how SLAPPs can financially cripple those who stand up against powerful interests. Although both remained active in the public discourse, the lack of support, especially in terms of legal support, has prompted both to be more careful, wary of being openly critical, and giving less reasons to their target of criticism to file a lawsuit.

Reduced Productivity and Self-Censorship

SLAPP lawsuits significantly reduce productivity by forcing activists and journalists to divert their time and energy from their primary work to legal defenses. This diversion of resources results in decreased productivity, as those affected must allocate substantial amounts of time to gather evidence, attend court hearings, and consult with legal counsels, among other. The need to prepare legal defenses detracts from the time and energy activists and journalists can dedicate to their primary work. Moreover, SLAPP lawsuits have far-reaching dangerous consequences as they foster a climate of self-censorship, suppression of activism, and social organization. Activists and journalists may hesitate to raise awareness about or publish critical information, fearing legal repercussions. KRIK representatives stated that activists are wondering if something is worth publishing if it will potentially lead to a lawsuit and thus, SLAPP lawsuits inherently block the work of civil society organizations. Especially affected are smaller organizations, whose budgets are smaller, and which are based at the local and regional level, as a potential major disturbance like a SLAPP lawsuit may completely inhibit their work or close the organizations down. This self-censorship stifles free speech and limits the flow of important information to the public.

Critical Social Effect

An often overlooked factor in SLAPP cases is their social effect. Activists, journalists, and CSO representatives who face SLAPPs report major social pressure to quit their activism. The pressure comes both from the general public and from acquaintances, friends, and family, who are also often targets of threats and intimidation. The lack of understanding from all social circles for the victim can discourage them from continuing their work. The stigma of having a lawsuit is also further reinforced by the local culture in small countries, where it is common for people to know each other.

SLAPP lawsuits also affect the very community in which activists and civil society organizations operate and produce additional negative consequences for those facing a lawsuit. The stigma of having a lawsuit is also further reinforced by the local culture in a small country,

Case Study #7

*During the Novi Pazar COVID-19 crisis, protests arose over General Hospital mismanagement. Director **Meho Mahmutović** filed 37 lawsuits against critics, including activist **Aladin Paučinac**, who facined 9 defamation charges. Paučinac claimed accountability, but was fined despite some acquittals. The court upheld Mahmutović's defamation claims, underscoring tensions between public scrutiny and legal action in crises. The lawsuits not only impacted those directly involved but also created a climate of fear and skepticism within the local community, exacerbating pressure on activists and civil society organizations.*

where it is common for people to know each other. According to activist Aladin Paučinac, who has vocally opposed local health authorities for their poor handling of the pandemic in 2020 in Novi Pazar, the news about the lawsuits spread quickly in his local community, whose members were skeptical about the outcome of the court proceedings. This created additional pressure on all those affected.

Conversely, SLAPPed targets may find additional motivation to continue their work if the case garners sufficient support from their community. According to Boban Batrićević and Ivana Čogurić, the overwhelming support received from the general public, media, activists, lawyers and CSOs has contributed to their determination to continue advocating as before. They see the push-back from their target of criticism as an indicator that they are "digging" in the right place and further gather strength from the wide support they receive.

Case Study #8

Amidst his ongoing critique of the Serbian Orthodox Church's involvement in Montenegro's politics, historian Boban Batrićević faced a SLAPP lawsuit over an article questioning the church's commitment to peace and love. Despite invitations for dialogue, SOC officials remained unresponsive. The lawsuit, initiated by the Higher Prosecutorial Office, accused Batrićević of religious insult and disturbing public order. Support poured in, with legal experts and organizations offering assistance. Ultimately, the Prosecutor dropped the case, marking a victory for free speech and critical inquiry.

In the case of Ivana Čogurić, to respond to the threats and intimidations endured, the initial step she undertook was to educate herself about her rights, the legal boundaries and protections available. Furthermore, the establishment of connections with the wider community, including fellow activists, CSOs, and media, was deemed essential for raising awareness about the case and similar situations targeting activists. Through the formation of this informal network, support and solidarity was fostered, which are crucial for resisting social pressures and continuing vital work in advocacy and reporting.

The anti-SLAPP response of a wider community has been particularly loud and clear in the case of Kelkos Energy vs. Shpresa Loshaj, inspiring local mobilization, attracting both local and international media, and expanding the debate around democracy and free speech in Kosovo. Another activist from Kosovo, Adriatik Gacaferi, also faced a similar lawsuit for criticizing the same company on Facebook. Loshaj

Case Study #9

*Environmental activist **Ivana Čogurić** from Nikšić faced backlash for her efforts to improve waste management. Despite attempts to cooperate with local authorities, she was accused of sabotaging their work. In protest, she placed collected waste in front of the Communal police premises, leading to a fine of 500 euros. Refusing to pay, she was sued by the **Communal police**, sparking public support and offers of legal representation. Despite facing pressure to halt activism and criticism, Čogurić remains determined and buoyed by widespread community backing. Čogurić succeeded to gain public support and trust towards her fight for the public interest, obtaing free legail aid by the Human Rights Action, as well. With first trial in May 2024, the legal procedure of Ivana's legal battle is still ongoing.*

described the lawsuit, as well as the various intimidation tactics accompanying it, as emotionally draining and stressful. Gender played a significant role, with Loshaj facing additional barriers as a woman in a conservative community. Despite the challenges, overwhelming local and international support led to the withdrawal of both lawsuits in October 2021, demonstrating the power of solidarity and activism in defending freedom of speech and environmental rights.

A similar experience that is being highlighted as a success has been shared by Dragana Arsic active in the environmental sector by informing the public about and fighting against the usurpation of land by private investors in theFruska Gora National Park, as well. She noted that her case, along with those of her fellow activists, had garnered regional attention, with individuals from various areas seeking to share experiences and strategies for addressing such lawsuits. This exemplifies a successful instance of cross-border solidarity and support in combating SLAPPs.

Case Study #10

*In Novi Sad, activist **Dragana Arsić** led efforts to protect Fruška Gora's forests. During protests against environmental irregularities, Arsić and others cut a fence hindering access to natural corridors. Media coverage ensued, leading to legal action from landowners like **Sanja Petrić**. Petrić filed lawsuits alleging property interference and reputational damage. Despite legal pressure, the court rejected the claims, emphasizing public interest. Arsić argued the lawsuits were SLAPP tactics aimed at silencing activists. Through these processes, Dragana Arsić obtained three acquittals, one case in which she was sentenced to a fine of approximately 600 EUR.*

Psychological Pressure and Stress

SLAPP lawsuits also inflict significant psychological harm. Those targeted experience high levels of stress and anxiety, not just from the legal battles but also from the accompanying threats and intimidation. The detrimental threats and pressures related to their advocacy or investigative work is leading many to fear for their safety and that of their families. Activists like Dragana Arsić have reported feeling immense pressure, although she noted that the support from other activists and organizations can provide some relief. Other activists from the region have reported even higher stress-related health issues and increased mortality rates among activists who have been involved in long-term legal battles with corporations, due to the continuous use of intimidation tactics.

Defendants have reported struggling for their mental health and well-being while and after facing SLAPPS. That is another important aspect of keeping at least somewhat engaged civil society actors. Sunčica and Sara in many media appearances explained how Green Invest tried to intimidate them and to use pressure measures in order to frighten them to stop with their activism. Moreover, after receiving first lawsuits, Sunčica and Sara faced anxiety and insomnia, which resulted in therapy. The inevitable burnout that follows mental exhaustion

can only be prevented with the availability and accessibility of mental health services and functional psychological support mechanisms. The Journalists Association of Macedonia (ZNM), in addition to providing free legal support to SLAPP targets, has also been providing psychological support, which has been invaluable to those targeted.

Erosion of Public Trust and Civic Engagement

SLAPP lawsuits have far-reaching implications that extend beyond the immediate legal and psychological impacts on individual defendants. One of the most detrimental effects is the erosion of public trust and the consequent decline in civic engagement. When individuals and organizations are afraid to speak out or participate in public discourse due to the threat of legal reprisals, the diversity of voices in the public sphere diminishes. This reduction in diversity undermines the foundations of democratic governance and weakens the ability of society to hold powerful entities accountable.

Paired with the era of information disorders, additional challenges are posed in disseminating accurate information to the public concerning activism and the truth-telling efforts of activists, journalists, and CSOs. Particularly within smaller and more conservative communities at the local level, public perception becomes more susceptible to manipulation by powerful companies and their connections with local institutions and decision-making bodies. As a result, individuals and organizations operating within such communities are rendered more susceptible to silencing.

The fear of legal repercussions can lead CSOs and media organizations to become more cautious, avoiding stories that could provoke SLAPPs. This caution can result in less investigative reporting and a shift towards safer, less controversial content. When the media fails to address significant issues due to the fear of lawsuits, the public's trust in civil society and media's role as watchdogs diminishes. People may start to perceive them as compromised or hesitant, which undermines their integrity and objectivity. Furthermore, the manipulation of non-independent media by the authorities further stifles public participation and distorts the portrayal of societal issues reported by independent media outlets.

For instance, in North Macedonia, the combination of defamation lawsuits and public relations offensives against journalists creates a perception of bias and manipulation. When influential figures use SLAPPs to silence critical reporting, it sends a message that the media cannot freely report on matters of public interest, such air quality in the particular case of IRL.

Case Study #11

Former vice-premier Kocho Angjushev filed a lawsuit against journalists from the ***Investigative Reporting Lab (IRL)*** *network over their documentary on issues related to air pollution and environmental concerns, "Conspiracy against the air." Despite initial dismissal, the case was retried, setting a precedent by excluding journalists from the courtroom. Judge Jovanka Spirovska-Paneva's verdict condemned the journalists, sparking outcry over censorship and media freedom. The judge's directive to censor the media and close the editorial office underscores the chilling effect of SLAPPs on freedom of expression. The trial has been concuded in November 2023, in favour of the plaintif.*

Threats to Freedom of Expression and Association

As a worrying example, a defamation lawsuit against a prominent investigative journalism outlet in North Macedonia, the Investigative Reporting Lab (IRL), culminated in a troubling verdict that not only threatens freedom of expression but also affects freedom of association in the country.[30] In the reading of her verdict, the judge made remarks based on personal interpretation of the Law on Associations and Foundations, stating that only Organizations of public interest can engage in public activities and inform the public about their work using classic and contemporary means of communication. With IRL being operational under the National Law for Foundations and Associations, an internationally well-established practice, the judge focused on the media outlet not having a formal status of a media, and thus cannot publish investigative stories through its public information channels. According to her interpretation, organizations that have not acquired this status can produce and disseminate content only among their members for information and educational purposes.

Such a verdict jeopardizes future awareness-raising campaigns, outreach activities, research presentations, or mobilization efforts by all types of non-governmental organizations regulated under the Law on Associations and Foundations, setting a dangerous precedent if accounted as court practice.

[30] https://balkancsd.net/bcsdn-reaction-to-the-attack-on-freedom-of-expression-and-association-in-north-macedonia/

Conclusions and Recommendations

The overall impact of SLAPP lawsuits on public participation is multifaceted and far-reaching, extending beyond legal confines to encompass social, psychological, and civic dimensions. These lawsuits not only impede the work of activists, journalists, and civil society organizations but also exert a chilling effect on free speech and democratic discourse. The fear of legal reprisals prompts self-censorship, stifling the diversity of voices essential for a vibrant democracy and eroding public trust in media reporting. Moreover, SLAPPs instill fear among individuals and organizations seeking to actively engage in public affairs, diminishing the vibrancy of civic participation and limiting its effectiveness. Despite the anti-SLAPP responses witnessed in some cases, the prevalence of SLAPPs underscores the need for systemic education and awareness-raising initiatives to safeguard active voices advocating for the public good. Without concerted efforts to address this issue, the manipulation of public perception by powerful entities through SLAPPs will persist, silencing critical voices and undermining democratic principles.

While SLAPPs are a pervasive issue across the Western Balkans, the specific contexts, legal frameworks, and strategies employed by plaintiffs vary from country to country. Commonalities include the targeting of journalists and activists, the chilling effect on free expression, and the lack of effective legal protections. However, differences in legislative environments, the extent and frequency of SLAPPs, and the types of defendants and plaintiffs highlight the need for tailored approaches to counter SLAPPs in each country. Robust regional cooperation, exchange and learning and development of comprehensive and effective legal protections are essential to safeguarding freedom of expression and public participation across the Western Balkans.

Needs and Support Mechanisms for Combatting SLAPPs in the Western Balkans

Overall, across the region, there is a notable lack of familiarization with the SLAPP phenomenon but also a lack of available and suitable resources for the activists, journalists, and CSOs dealing with SLAPPS. The absence of a robust legal framework in the Western Balkans exposes individuals and organizations to SLAPPs, necessitating external support mechanisms. Lawyers and judges emphasize the need for procedural safeguards and continuous education on SLAPPs within the legal system. Nonprofit organizations play a vital role, offering pro bono services, monitoring violations, and providing legal aid to those targeted by SLAPPs. Additionally, public advocacy and solidarity actions raise awareness and create a united front against the misuse of legal systems. Systemic education and awareness-raising are crucial, ensuring that all stakeholders understand SLAPPs and their impact. A collaborative approach, uniting organizations, media, and activists, is essential for effective advocacy and defense. Mental health support and gender mainstreaming in support mechanisms are also critical, addressing the unique challenges faced by defendants, especially female activists and journalists. Finally, the availability of legal aid and emergency legal aid funds is vital for ensuring robust legal defense and enabling continued advocacy efforts.

Introduction of Robust Legal Strategies

The absence of a robust legal framework in the Western Balkans leaves individuals and organizations exposed to the pernicious effects of SLAPPs. This vulnerability underscores the necessity for external support mechanisms to defend against these abusive legal tactics. Improved regulations should provide for early dismissal of such lawsuits, minimize costs incurred by the defendant, and provide punitive measures for filing SLAPP lawsuits, such as a fine for the plaintiff. However, legal experts in the region have emphasized the need for caution when creating additional legislation or procedural mechanisms for SLAPP prevention within the legal system, pointing out that in some cases the existing legal framework may be satisfactory, however the key problem is its ineffective implementation and even misuse.

Self-organization in creation and provision of support mechanisms

Nonprofit organizations aiming to facilitate access to justice through pro bono services, as well as those engaged in monitoring violations and providing practical support, are essential in this fight. These organizations, which cover legal expenses and are licensed to provide primary and secondary free legal aid, offer indispensable support and solidarity to those targeted by SLAPPs. They emphasize the collective strength required to counteract attempts to stifle free speech. By pooling resources and expertise, these nonprofits help ensure that

individuals and groups can continue their advocacy and public participation without the fear of debilitating legal repercussions, thereby reinforcing the educational efforts within the judicial system.

Another strategy that might help provide civil society organizations and activists with a sense of safety and support, is crowdfunding. Crowdfunding for SLAPPs would not only help individuals and organizations handle the stress of the lawsuit, but it would help with raising awareness amongst organizations with less access to resources.

Civil society has also provided critical support to counter SLAPP cases through various forms of solidarity and public advocacy. This support is mainly displayed through letters of support, protest letters, protest gatherings, and joint press releases. These actions not only raise public awareness but also create a united front against the misuse of legal systems to silence dissent. In practical terms, a small number of well-staffed organizations, such as Human Rights Action, have gone further by offering free legal representation through their own or affiliated lawyers to the victims of SLAPPs in Montenegro. This direct legal assistance is crucial for the defendants, providing them with the necessary resources to contest these cases effectively. By combining legal support with public advocacy, these organizations play a vital role in maintaining the momentum of activism and safeguarding the right to free speech.

Within the implementation of the research on national level, BCSDN member organizations have mapped focal points facilitating the above mentioned support in SLAPP cases; the list of the organizations and the contact points are available in the Annex section of the document *(Annex 1)*.

Systemic Education and Awareness Raising

A comprehensive understanding of the dynamics surrounding these lawsuits is essential for developing effective strategies to counteract and prevent SLAPPs. Giving these lawsuits a name is considered one of the fundamental steps towards advocating for free speech, for issues related to public interest and concern, and for a more sustainable democratic society. In addition, mainstreaming the term may help substantially in not only helping individuals and entities receive the support they need, but also in educating the wider public. Systemic education and awareness raising are crucial in combatting SLAPPs. Effective education ensures that all stakeholders, including judges, prosecutors, journalists, activists, and civil society organizations, understand the nature of SLAPPs and their impact on public participation and free speech.

Across the region, there is a significant lack of adequate education about SLAPPs within the judiciary. This lack of knowledge hampers the judiciary's ability to handle SLAPP cases

effectively. Therefore, it is imperative to raise the levels of awareness and understanding among judges, prosecutors, and the entire judicial system. This comprehensive understanding, including education on the practices of the European Court of Human Rights especially through the existing Academies for Judges and Prosecutors across the region, is essential for creating a judicial system capable of identifying and rejecting SLAPPs. To ensure fairness in SLAPP proceedings and mitigate the impact of SLAPPs, all involved parties must be sensitized and educated. A legal commentary on SLAPPs would be a valuable resource, offering detailed information and guidance to justice officials. Such a document could help judges understand SLAPPs' implications and guide them to reject these cases at the outset. By implementing these educational and awareness-raising measures, the judicial system can become more adept at protecting individuals and organizations from abusive SLAPPs tactics.

A Collaborative Approach to Combatting SLAPPs

Organizations and media must unite and work jointly, sharing experiences, fundraising, and organizing joint payments for lawyers and legal experts, to efficiently address the issue of SLAPPs. National initiatives against SLAPPs, spearheaded by key anti-SLAPP advocates, with active participation from more activists, CSOs and journalists, including in the systemic monitoring and structural addressing of SLAPP cases, would provide a coordinated effort to tackle the issue comprehensively. Understanding SLAPPs and their implications, through gathering and sharing more accurate data about the cases, will lead to stronger cooperation and support networks. One of the most useful assets through those struggles has been the exchange of information among SLAPPed entities. By sharing their experiences, they have been able to identify what has worked, what strategies are worth employing, which tactics are to be excluded, and how to reach out to constituencies and gain public support. Smaller organizations and activists that are not part of bigger structures do not have access to those contacts nor the possibility to easily familiarise themselves with ways to connect with potential allies. Hence, there is a need for greater regional streamlined networking among different stakeholders.

Mental Health Support for SLAPP Defendants

Defendants facing SLAPPs often report significant struggles with their mental health and well-being, both during and after the litigation process. Addressing this critical need is essential for sustaining the engagement of civil society actors. The inevitable burnout and mental exhaustion that accompany such legal battles can only be mitigated through the availability and accessibility of comprehensive mental health services and robust psychological support mechanisms. Implementing these supports is crucial to ensure that activists, journalists, and other targeted individuals can continue their advocacy work without succumbing to the debilitating effects of prolonged mental stress.

Gender Mainstreaming in Support Mechanisms

A significant need that has repeatedly emerged is the integration of gender mainstreaming in support mechanisms for activists, CSOs, and journalists. Female activists and journalists frequently encounter unique challenges, including specific intimidation tactics, smear campaigns, and threats that their male counterparts typically do not face. Due to deeply rooted gender roles within the region's cultures, it is imperative to consider and appropriately address the specific needs of women. Ensuring that these gender-specific requirements are met facilitates women's active and equitable participation in public discourse and advocacy, thereby protecting them from gender-based threats and intimidation and promoting a more inclusive public sphere.

Availability of Legal Aid and Emergency Legal Aid Funds

Availability of legal aid and emergency legal aid funds is one of the most critical needs for defendants facing SLAPPs. These resources are invaluable in ensuring that defendants can access robust and suitable legal defense, which would otherwise be unattainable. The flexibility of donors and their recognition of the importance of these funds are essential in providing timely and effective legal assistance. Without adequate legal aid and emergency funds, defendants are left vulnerable and unable to adequately defend themselves against these strategic lawsuits, undermining their ability to continue their advocacy and public participation efforts. Establishing a pooled funding mechanism in the region for SLAPP cases and other human rights violations, sourced from various donors, is a good practice to ensure timely and efficient support for those targeted by SLAPPs.

Establishing National Response Mechanisms, Regionally Connected

Building coalitions between journalists, CSOs and activists on national level, and extending this regionally, is crucial to combat SLAPPs. A comprehensive SLAPP database should be created to record instances and identify patterns, informing the mechanisms' strategic responses. An immediate response network could facilitate rapid information sharing and mobilize support through social media, organizing solidarity actions like court attendances to support SLAPP victims. Involving public figures and celebrities will help highlight SLAPP issues and educate both the public and professionals. These actions will provide immediate support to SLAPP victims, raise awareness, and promote a robust response mechanism, enhancing protection for freedom of expression and public participation at national and regional levels.

Recommendations to Relevant Stakeholders

To National Institutions:

- **Review the relevant national legal framework** to map and assess the gaps and challenges in creating an enabling legal environment for recognizing and effectively addressing SLAPPs. Collaboration with all relevant stakeholders (as outlined below) is crucial for this process.
- **Define SLAPPs in the local context** through case studies from the country and from other Western Balkan countries, to encourage learning and exchange, as well as identifying legal recommendations and improvements relevant to the local context.
- **Introduce legislative reforms** that include specific safeguards (e.g. expedited procedures, early dismissal or *prima facie rejection*, and burden of proof placed on the plaintiff) and remedies (e.g. compensation for legal costs and damages, fines for plaintiffs, mandatory publication of court decisions, etc.), to mitigate the effects of SLAPPs, including amendments of the Laws on free legal aid, following the model of the EU Anti-SLAPP directive, the practice of the ECtHR, and in line with the European standards for human freedoms and rights.
- **Ensure laws are implemented effectively and appropriately on all levels**, and enfore the rule of law, so that public prosecution and inspectorate police are not abused by businesses for their own purposes.

To Judicial Institutions:

- **Introduce legal education initiatives** aimed at judges and prosecutors (e.g. through the national Academies for Judges and Prosecutors) to enhance their understanding of SLAPPs and equip them with the necessary tools to address such cases judiciously.
- **Streamline legal processes** to mitigate the challenges posed by lengthy legal battles, by introducing measures such as reducing bureaucratic delays and addressing issues related to judicial reshuffling that can contribute to expeditious resolutions.
- **Enhance the efficiency of the legal system** also by introducing provisions of urgency, and ensuring unification of court practices in procedures that have a SLAPP character.
- **Develop guidelines** outlining the expedited procedure and the criteria upon which judges can recognize these lawsuits and immediately reject them.
- **Establish a special department** in larger courts for judges specializing in defamation and insult, and SLAPP cases.

To Legal Practitioners:

- **Provide capacity-building opportunities** (regular training sessions and workshops) to strengthen the professional skills of legal practitioners tasked with handling SLAPP cases, and the knowledge needed to identify, prevent, and respond effectively to SLAPP cases.
- **Provide a legal commentary for judges and prosecutors** of the law against defamation and other related laws and legal provisions that address SLAPPs.
- **Establish and/or promote free legal aid services** to ensure equitable access to justice, particularly for female activists, journalists, and CSOs who may lack financial resources to defend against SLAPP lawsuits.

To Civil Society Organizations:

- **Build alliances** with other actors and organizations dedicated to press freedom and human rights, both locally and internationally, to amplify the voice against SLAPPs, increase publicity and awareness of the cases and their implication, to exert coordinated and collective pressure for both the specific cases and systemic reforms.
- **Participate in regional and international forums** to share experiences and best practices in addressing SLAPPs.
- **Engage in rigorous monitoring** of SLAPP lawsuits, gathering evidence, documentation, and data from those SLAPPed in order to substantiate claims and timely react.
- **Advocate for systemic reforms** in legislation and practice at both the national and international levels.
- **Promote greater awareness** of SLAPPs among all stakeholders, especially journalists, activists, and citizens in order to help avoid intimidation and fight the stigma that comes from receiving a lawsuit and being labelled with it.
- **Provide other mechanisms of support** to targets of SLAPPs (e.g. psychological support, crowdfunding, community support) in order to reduce the financial, legal and social risk.

To EU Institutions:

- Support Enlargement countries to apply the recommendations and Anti-SLAPP directive in adapting national level legislation, and include this in the accession process/negotiation documents.
- Council of Europe should make a special commitment in protecting journalists, activists and CSOs from SLAPPs, by raising awareness, providing education opportunities for legal experts in the region, and developing clear guidelines for the prevention of SLAPPs.

To Others:

- **Media and journalistic community** to strengthen reporting ethics and self-regulation mechanisms by upholding high ethical standards, and establishing and adhering to industry-wide ethical guidelines that contribute to a more responsible and resilient media landscape and can preemptively mitigate the risk of facing SLAPPs.
- **International and regional donors** to provide financial support for anti-SLAPP initiatives and flexible and gender-inclusive funding to allow for providing legal aid and engaging in advocacy and public awareness campaigns.
- **Business associations and chambers of commerce** to advocate for responsible business practices, commit to zero-toleration of attacks against those speaking in the public interest, and mediate between businesses and civil society, especially in the development, adoption and implementation of anti-SLAPP initiatives.

Annexes

ANNEX 1 – List of national focal points for SLAPPs

Name of Organization	Description
ALBANIA	
Res Publica	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.
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.
Albanian Helsinki Committee	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.

Alliance for Ethical Media	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.
PRO – FREX "Protecting Freedom of Expression and of the media in Albania"	It is a program by the Council of Europe 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.
KOSOVO	
Kosovo Initiative Against SLAPPs	An informal initiative formed by Flutura Kusari, media lawyer and anti-SLAPP advocate, along with other civil society activists and local organizations.
Association of Journalists in Kosovo	An NGO that not only advocates for the rights and safety of journalists, but also provides them with capacity building opportunities.
FOL Movement	An NGO that monitors SLAPPs and is part of the Kosovo Initiative Against SLAPPs. Through its organized network of legal experts, FOL also provides free legal aid for activists, journalists, and CSOs on issues related to free speech. Currently, it lists six lawyers who are willing to provide free legal aid to individuals and organizations facing a SLAPP lawsuit.
Kosovo Law Institute	An NGO, which out of a big number of staff members, 80% are lawyers and 20% journalists, that provides free legal assistance to citizens, activists, and CSO.
MONTENEGRO	
Human Rights Action	An NGO that provides support, legal advice, and facilitation of free representation to victims of human rights violations, which includes SLAPP targets.
Society of Professional Journalists	An NGO gathering professional journalists and media workers in Montenegro. The organization provides legal and psychological support to journalists, which includes journalists who were targeted by SLAPPs.

ANNEX 2 – List of Interviewed persons

Albania

Kristina Voko, Executive Director, BIRN Albania

Dorian Matliaj – Executive Director of Res Publica

Artan Rama – Freelancer

Bosnia and Herzegovina

Aleksandar Jokić, lawyer

Emina Veljović, Executive Directress, Aarhus Center

Azra Berbić, ACT Foundation

Eldin Karić, director, Centar za razvoj medija i analize

Đorđe Vujatović, journalistAleksandar Trifunović, BUKA

Siniša Vukelić, Editor in Chief, Capital

Kosovo

Rina Kika, Human Rights Lawyer, 24.01.2024

Arrita Rrezniqi, Researcher at Kosovo Law Institute, 30.01.2024

Shpresa Loshaj, Environmental Activist, 01.02.2024

Mexhide Demolli, Executive Director at FOL Movement, 08.02.2024

Getoarbë Mulliqi, Executive Director at the Association of Journalists of Kosovo, 14.02.2024

Rron Gjinovci, Executive Director at ORCA, 16.02.2024

North Macedonia

Dragan Sekulovski, Executive Director, Association of Journalists of Macedonia

Goce Kocevski, Program Director, Macedonian Young Lawyer Association

Saska Cvetkovska, Investigative reporter, Founder and President of IRL

Montenegro

Dalibor Tomović, Lawyer, Prelević Law firm

Jovana Davidović PhD, Teaching assistant, University of Montenegro

Vesna Rajković Nenadić, member of the Montenegrin Media Institute

Ivana Čogurić, environmental activist

Boban Batrićević, historian, professor at the Faculty of Montenegrin language and literature, activist and columnist

Denis Mekić, environmental activist

Serbia

Aladin Pauicnac, activist

Dragana Arsić, activist

Bojana Jovanović, KRIK

Ana Zdravkovic, legal researcher