

**Committee of Experts on Strategic Lawsuits against
Public Participation (MSI-SLP)****MSI-SLP(2022)08
22 November 2022****2nd meeting, 18-19 October 2022
Hybrid meeting via KUDO****MEETING REPORT****Opening, agenda, elections**

1. Patrick Penninckx, Head of the Information Society Department, Council of Europe, opened the meeting and welcomed members and participants. He mentioned the tragic fifth anniversary of the assassination of Daphne Caruana Galizia and provided information about recent SLAPPs-related alerts on the Platform for the Protection of Journalism and the Safety of Journalists to emphasise the danger that these attacks represent for both journalism and democracy.
2. Penninckx reminded members about the importance of their task, to draft a Council of Europe recommendation on SLAPPs, with a view to pushing back a phenomenon greatly impacting information on matters of public interest. In this context, he stressed the importance of providing guidance to member States in their effort to set up legal frameworks and implement concrete measures against SLAPPs to protect public watchdogs. Penninckx reminded the chilling effect of SLAPPs, aimed at silencing their targets while also endangering the right of everyone to be informed. He invited members to find guidance in the relevant judgements of the European Court of Human Rights and in previous relevant standard-setting instruments of the Council of Europe. He also recalled the recently unveiled European Union package on SLAPPs and encouraged the Committee to ensure coherence and maximise synergies between these instruments and their work.
3. The agenda of the meeting (Appendix 1), chaired by Karmen Turk (MSI-SLP Chair), was adopted without amendment. The list of participants to the meeting appears in Appendix 2.
4. Giulia Lucchese, Secretary to the MSI-SLP, presented the relevant work at the Council of Europe level since the first meeting of the Committee in April. In particular, the Committee

of Ministers adopted recommendations: [CM/Rec\(2022\)11](#) on principles for media and communication governance; [CM/Rec\(2022\)12](#) on electoral communication and media coverage of election campaigns; [CM/Rec\(2022\)13](#) on the impacts of digital technologies on freedom of expression; [CM/Rec\(2022\)16](#) on combatting hate speech; and, [CM/Rec\(2022\)4](#) on promoting a favourable environment for quality journalism in the digital age. Information was provided with regards to participation in relevant meetings and upcoming events of interest, including the European anti-SLAPP Conference, organised by the European Centre for Press and Media Freedom (ECPMF) and the Coalition Against SLAPPs in Europe (CASE), taking place on 20 October, as well as the Public Service Media for Democracy Conference, co-organised by the Council of Europe and the European Broadcasting Union, to be held on 22 November.

5. The new member of the MSI-SLP, Anne-Sophie Sirinelli (France), and representatives of the two new observers to the MSI-SLP, Amnesty International and the Council of Bars and Law Societies of Europe (CCBE), introduced themselves and shared their expectations from the work of the Committee.

Discussion on the draft Recommendation on the protection of journalists and other public watchdogs from strategic lawsuits against public participation (SLAPPs)

6. The discussion focused on the structure and content of the deliverable under the MSI-SLP mandate, a future draft recommendation on strategic lawsuits against public participation (SLAPPs), that is expected to be finalised and submitted to the CDMSI for approval before the end of December 2023.
7. The drafting rapporteurs, Flutura Kusari and Tarlach McGonagle, provided an overview of the work elaborated, developing on the general structure, scope and objectives of the outline and resulting in a preliminary draft of the recommendation. The MSI-SLP members welcomed the first draft, as prepared by the rapporteurs, commending their effort to build on the agreed outline, elaborate on the issues discussed at the first meeting and integrate the relevant comments and feedbacks received.
8. The experts discussed the draft recommendation section by section. They commented first on the Preamble and then the Operative part, followed by the Appendix (“Scope”, “Strategic lawsuits against public participation”, “Safeguards, remedies and transparency”; “Support for targets and victims of SLAPPs”; “Education, training and awareness-raising”; “National coordination and international cooperation”), focusing especially on the elements that were still to be included or further elaborated.

Conclusions and decisions

9. **As general remarks**, the experts agreed on the wide scope of the draft Recommendation. They reiterated the importance to avoid duplication and inconsistency with the proposed EU anti-SLAPP package when addressing matters of common interest. The experts assured to address the gender dimension of SLAPPs, as appropriate, and highlighted their willingness to adopt a clear, consistent, and accessible language.

10. **Regarding the preamble**, the experts' discussion focused on the implications that SLAPPs have on the rights safeguarded by the European Convention on Human Rights. They agreed to set out key priority issues and to highlight the added value of the Council of Europe work on anti-SLAPP in the Preamble. It was agreed that Council of Europe's instruments proving instrumental for a better understanding and application of the draft Recommendation should be listed in the Preamble. To keep the Preamble concise, there was common agreement to make use of the Explanatory Memorandum to provide a broader overview of other relevant standard-setting instruments, as well as to clarify the context and background of the draft recommendation.
11. **Regarding the operative part**, the experts clarified relevant terminology issues and raised the opportunity to add an invitation to member States to consider sharing, on a voluntary basis, information, or national reports, on developments on SLAPPs, in line with the established practice of the Council of Europe.
12. **Regarding the appendix**, the experts held a lively debate on the different sections of the draft recommendation; discussed in details outstanding issues and made proposals to improve the text and further concretise the proposed measures. **On the first section concerning the scope**, the experts agreed to propose a broad definition of "matters of public interest"; to consider the list of public watchdogs and contributors to public debate as open; and, to reproduce the terminology of relevant case-law of the ECtHR, as appropriate. **On the second section**, the experts decided to strive for consistency with the definition of SLAPPs proposed in the EU anti-SLAPP package; they reaffirmed the added value of providing a list of definitional criteria as well as of SLAPPs indicators; they emphasised the necessity to deter the abuse and misuse of criminal proceedings; and they considered envisaging tailored measures for the distinctive features of the different types of SLAPPs.
13. **Regarding the section on safeguard, remedies and transparency**, the experts discussed the structural safeguards and noted that the section should be further articulated, also with a view to addressing the role and responsibilities of relevant stakeholders other than State authorities. Addressing the procedural safeguards, the experts held a throughout discussion on the measures proposed highlighting, *inter alia*, the need for clarity for an effective application of the early dismissal procedure and the importance to align guidelines pertaining to the burden of proof with settled case-law of the European Court of Human Rights. On the same line, the experts agreed that further reflection is needed to clarify measures related to the stay of proceedings, discontinuation of the proceedings upon the death of the defendant, remedies, and publicity of cases, with a view to avoid any conflict with set rules of procedural laws and public policies.
14. **Regarding the support for targets and victims of SLAPPs**, experts decided to build on the vast experience of relevant international and regional organisations and to aim at providing guidelines which are both specific to SLAPPs' targets and victims and that can be effectively implemented by the member States. **On the section regarding education, training and awareness-raising**, the experts agreed that trainings should bring together a variety of participants and be aimed at enhancing interdisciplinary communication and mutual understanding. **On the last section**, experts remarked the opportunity to address international cooperation and national coordination in connection with CM/Rec(2016)4.

15. As to the **timelines and follow-up**, a deadline of 10th November 2022 was set for written comments on the draft recommendation. The experts were informed that the draft recommendation will be presented alongside the meeting report to the CDMSI for discussion at the next Plenary meeting (7-9 December). The work on the future explanatory memorandum will start early next year, with the aim of proposing a preliminary draft explanatory memorandum to the expert committee at its 3rd meeting in April 2023, together with the draft recommendation, as revised in the light of the feedback received from the CDMSI and MSI-SLP members.

Any other business

16. In line with the established practice, the Secretariat will prepare a draft meeting report to be sent to the Chair and Vice-Chair for consideration. Thereafter, the draft report will be sent to MSI-SLP members, allowing for comments within five full working days. In the absence of comments, the report will be deemed finalised and will be transmitted to the CDMSI for information.

Date and place of next meeting

17. The third MSI-SLP meeting will be held on 18-19 April 2023. The format and length of the meeting will be communicated in due course.

Appendix 1

2nd meeting Agenda

18-19 October 2022

Room 11, Palais de l'Europe, Strasbourg / Online

DAY 1 - 18 October

9.30-10.00 KUDO testing

10:00 – 11:00

1. Opening of the meeting by Karmen Turk, Chair of the MSI-SLP
2. Welcoming address by Patrick Penninckx, Head of Information Society Department, Council of Europe
3. Adoption of the agenda and order of business
4. Information by the Secretariat
On relevant standard-setting and reference work of the Council of Europe
5. Information by the participants
On key developments that have bearings on the terms of reference of the MSI-SLP

11.00 – 11.20

Coffee break

11.20 – 12.30

6. Discussion of the Draft Recommendation on the protection of journalists and other public watchdogs from Strategic Lawsuits against Public Participation (SLAPPs)

12.30 – 14.00

Lunch break

14.00 – 15.00

7. Continuation of point 6

15.00 – 15.20

Coffee break

15.20 – 16.30

8. Continuation of point 6

DAY 2 - 19 October

9.30-10.00 KUDO testing

10.00 – 11.00

9. Continuation of point 6

11.00 – 11.20

Coffee break

11.20 – 12.30

10. Continuation of point 6

12.30 – 14.00

Lunch break

14.00 – 16.30

11. Continuation of point 6
12. Discussion of the Roadmap for the MSI-SLP (2022-2023)
13. Any other business
14. Date and place of next meeting

Appendix 2

2nd Meeting – 18-19 October 2022 / Hybrid meeting, Council of Europe, Strasbourg
 2^e réunion – 18-19 octobre 2022 / Réunion hybride, Conseil de l'Europe, Strasbourg

List of participants / Liste de participant(e)s

COMMITTEE MEMBERS / MEMBRES DU COMITÉ

<p>Ms/Mme Alina BARBU Legal advisor / <i>Conseillère juridique</i> Directorate for European Affairs and Human Rights / <i>Direction des affaires européennes et des droits de l'homme</i> Ministry of Justice / <i>Ministère de la Justice</i> Romania/Roumanie</p>
<p>Ms/Mme Evelyn BORG COSTANZI Human Rights Lawyer, BCGL advocates / <i>Avocat des droits de l'homme, BCGL advocates</i></p>
<p>Ms/Mme Beatriz Maja BROWN Policy Lead – Strategic Lawsuits Against Public Participation (SLAPPs) / <i>Responsable des politiques – Poursuites stratégiques contre la mobilisation publique (SLAPPs)</i> Ministry of Justice / <i>Ministère de la Justice</i> United Kingdom / <i>Royaume-Uni</i></p>
<p>Mr/M. Peter COE Associate Professor in Law, Birmingham Law School, University of Birmingham / <i>Professeur agrégé de droit, Birmingham Law School, Université de Birmingham</i> Senior Visiting Research Fellow, School of Law, University of Reading / <i>Chercheur invité principal, Faculté de droit, Université de Reading</i> Associate Research Fellow, Institute of Advanced Legal Studies and Information Law and Policy Centre, University of London / <i>Chercheur associé, Institute of Advanced Legal Studies and Information Law and Policy Centre, Université de Londres</i> / <i>Pays-Bas</i></p>
<p>Mr/M. Burkhard HESS Director / <i>Directeur</i> Max Planck Institute Luxembourg for Procedural Law / <i>Institut Max Planck Luxembourg pour le droit procédural</i></p>
<p>Ms/Mme Flutura KUSARI Legal Advisor and Media Lawyer / <i>Conseiller juridique, avocat spécialisé en médias</i> European Centre for Press and Media Freedom / <i>Centre européen pour la liberté de la presse et des médias</i></p>

<p>Mr/M. Hrvoje LISIČAR Chair of Information Technology Law / <i>Président du droit des technologies de l'information</i>, Faculty of Law, University of Zagreb / <i>Faculté de droit, Université de Zagreb</i> Croatia / <i>Croatie</i> Estonia / <i>Estonie</i></p>
<p>Mr/M. Tarlach MCGONAGLE Professor of Media Law and Information Society / <i>Professeur de droit des médias et société de l'information</i> University of Leiden / <i>Université de Leiden</i> Senior researcher, Institute for Information Law (IViR) / <i>chercheur principale, Institute for Information Law (IViR)</i> University of Amsterdam / <i>Université d'Amsterdam</i> The Netherlands / <i>Pays-Bas</i></p>
<p>Mr/M. Željko Martyn SAMPOR Senior State Counsel / <i>Conseiller d'État principal</i> Ministry of Culture, Office of the state secretary / <i>Ministère de la culture, Bureau du secrétaire d'État</i> Slovak Republic / <i>République Slovaque</i></p>
<p>Mr/M. Dragan SEKULOVSKI Executive Director, Association of Journalists of Macedonia <i>Directeur général, Association des journalistes de Macédoine</i></p>
<p>Ms/Mme Anne-Sophie SIRINELLI Magistrate / <i>Magistrate</i> Vice-president of the judicial court of Paris / <i>Vice-présidente au tribunal judiciaire de Paris</i> France / <i>France</i></p>
<p>Ms/Mme Karmen TURK Lecturer, University of Tartu / <i>Conférencière, Université de Tartu</i> Partner at the Law Firm TRINITI / <i>Associé du cabinet d'avocats TRINITI</i> Estonia / <i>Estonie</i></p>
<p>Mr/M. Dirk VOORHOOF Professor emeritus / <i>Professeur émérite</i> Ghent University and Copenhagen University / <i>Université de Gand et Université de Copenhague</i></p>

OBSERVERS TO THE MSI-SLP/ OBSERVATEURS AUPRES DU MSI-SLP

<p>AMNESTY INTERNATIONAL</p>	<p>Mr/M. Daniel JOLOY Senior Policy Advisor / <i>Conseiller principal en politiques</i></p>
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COUNCIL OF BARS AND LAW SOCIETIES OF EUROPE (CCBE) CONSEIL DES BARREAUX EUROPÉENS (CCBE)	Ms/Mme Indra BULE Senior Legal Advisor / <i>Conseiller juridique principal</i>
	Ms/Mme Elisabeth SCHEUBA Chair of the Access to Justice Committee <i>Président du Comité de l'accès à la justice</i>

COUNCIL OF EUROPE MEMBERS STATES / ÉTATS MEMBRES DU CONSEIL DE L'EUROPE

CYPRUS / CHYPRE	Ms/Mme Natassa AVRAAMIDES-HARATSI Press and Information Officer / <i>Attaché de presse et d'information</i> Ministry of Interior / <i>Ministère de l'intérieur</i>
GREECE / GRÈCE	Ms/Mme Christina VRETTOU Lawyer of the Bank of the Greece and expert of the European Commission on SLAPP issues <i>Avocat de la Banque de Grèce et expert de la Commission européenne sur les questions SLAPP</i>
SWITZERLAND / SUISSE /	Ms/Mme Livia WALPEN Policy advisor International Relations / <i>Conseiller politique en relations internationales</i> Swiss Federal Office of Communication / <i>Office fédéral de la communication</i> Ms/Mme Isabel LOIS Academic Intern International Relations / <i>Stagiaire académique en relations internationales</i> Swiss Federal Office of Communication / <i>Office fédéral de la communication</i>
TÜRKIYE / TÜRKIYE	Mr/M. Yusuf DEMIRTAŞ Deputy Head of Department / <i>Chef de département adjoint</i> Radio and Television Supreme Council of Türkiye / <i>Conseil suprême de la radio et de la télévision de la Türkiye</i> Mr/M. Çağlayan ÇAĞLAR Expert / <i>Expert</i> Radio and Television Supreme Council of the Republic of Türkiye / <i>Conseil suprême de la radio et de la télévision de la Türkiye</i>

NON-MEMBER STATES / ETATS NON-MEMBRES

MOROCCO / MAROC	<p>Ms/Mme Chanaz EL AKRICH Head of Division of Cooperation / <i>Cheffe de Division de la Coopération</i> Department of Communication / <i>Département de la Communication</i> Ministry of Culture, Youth and Sports / <i>Ministère de la Culture, de la Jeunesse et des Sports</i></p> <p>Ms/Mme Meriem KHATOURI Director of Studies and Media Development, / <i>Directrice des Études et du Développement des Médias</i> Department of Communication / <i>Département de la Communication</i> Ministry of Youth, Culture and Communication / <i>Ministère de la Jeunesse, de la Culture et de la Communication</i></p>
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OTHER PARTICIPANTS / AUTRES PARTICIPANT.E.S

CONFERENCE OF INGOS / CONFERENCE DES OING	<p>Mr/M. Charlie HOLT Legal Counsellor / <i>Conseiller juridique</i> Greenpeace International</p>
EUROPEAN BROADCASTING UNION (EBU) UNION EUROPÉENNE DE RADIO- TÉLÉVISION (EBU)	<p>Mr/M. Florian FEILLET EU Policy Adviser / <i>Conseiller politique de l'UE</i></p>
EUROPEAN COMMISSION COMMISSION EUROPÉENNE	<p>Mr/M. Georg HAIBACH Legal and Policy Officer / <i>Chargé des affaires juridiques et politiques</i> DG Justice and Consumers / <i>DG Justice et Consommateurs</i></p> <p>Ms/Mme Caterina D'OSUALDO Legislative Officer / <i>Chargé de la législation</i> DG Justice and Consumers / <i>DG Justice et Consommateurs</i></p> <p>Ms/Mme Ilaria SAVOIA Policy Officer / <i>Chargée de mission</i> DG Justice and Consumers / <i>DG Justice et Consommateurs</i></p>
EUROPEAN PARLIAMENT	<p>Mr/M. Gabriel BLAJ Secretariat of the Committee of Legal Affairs (JURI) / <i>Secrétariat de la Commission des affaires juridiques</i></p>

<p>PARLEMENT EUROPEEN</p>	<p>Ms/Mme Ines DE MATOS PINTO Political Advisor / <i>Conseiller politique</i></p> <p>Ms/Mme Tara HADVIGER Assistant to EP Rapporteur on the SLAPP proposal / <i>Assistant du rapporteur du Parlement Européen sur la proposition sur SLAPP</i></p>
<p>ORGANIZATION FOR SECURITY AND CO- OPERATION IN EUROPE / ORGANISATION POUR LA SECURITE ET LA COOPERATION EN EUROPE</p>	<p>Mr/M. Ton VAN DEN BRANDT Principal Adviser to the Head of Institution / <i>Conseiller principal du chef d'établissement</i></p> <p>Office of the Representative on Freedom of the Media / <i>Bureau du Représentant pour la liberté des médias</i></p>

**COUNCIL OF EUROPE DEPARTMENTS AND BODIES / DÉPARTEMENTS ET ORGANES
DU CONSEIL DE L'EUROPE**

<p>OFFICE OF THE COMMISSIONER FOR HUMAN RIGHTS / BUREAU DE LA COMMISSAIRE AUX DROITS DE L'HOMME</p>	<p>Mr/M. Stefano MONTANARI Adviser / Head of Communication Unit <i>Conseiller / Chef de l'unité communication</i></p>
<p>DEPARTMENT FOR THE EXECUTION OF JUDGMENTS OF THE ECHR / SERVICE DE L'EXÉCUTION DES ARRÊTS DE LA CEDH</p>	<p>Ms/Mme Khrystyna FEDUNYSHYN Legal Officer / <i>Juriste</i></p>

COUNCIL OF EUROPE SECRETARIAT / CONSEIL DE L'EUROPE

<p>INFORMATION SOCIETY DEPARTMENT / SERVICE DE LA</p>	<p>Mr/M. Patrick PENNINGCKX Head of Department / <i>Chef du Service</i></p>
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<p>SOCIETE L'INFORMATION</p>	<p>DE</p> <p>Ms/Mme Artemiza-Tatiana CHISCA Head of Media and Internet Division / <i>Chef de la Division médias et internet</i> Secretary to the Steering committee on media and information society (CDMSI) / <i>Secrétaire du Comité directeur sur les médias et la société d'information (CDMSI)</i></p> <p>Ms/Mme Giulia LUCHESE Secretary to the Committee of Experts on Strategic Lawsuits against Public Participation (MSI-SLP) / <i>Secrétaire du Comité d'experts sur les poursuites stratégiques contre la participation publique (MSI-SLP)</i></p> <p>Ms/Mme Emma GRUDEN Secretary to the Committee of Experts on the Integrity of Online Information (MSI-INF) / <i>Secrétaire du Comité d'experts sur l'intégrité de l'information en ligne (MSI-INF)</i></p> <p>Ms/Mme Urška UMEK Secretary to the Committee of Experts on Increasing Resilience of Media (MSI-RES) / <i>Secrétaire du Comité d'experts sur le renforcement de la résilience des médias (MSI-RES)</i></p> <p>Ms/Mme Irina TODOROVA-TOMOVA Assistant / Assistante</p> <p>Ms/Mme Joanna SZELEZNIAK Assistant / Assistante</p> <p>Ms/Mme Marie GASSER Trainee / <i>Stagiaire</i></p> <p>Ms/Mme Lauren GLASS Study visitor / <i>Visiteur d'étude</i></p>
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INTERPRETERS / INTERPRÈTES

Ms/Mme Elisabetta BASSU

Ms/Mme Katia DI STEFANO

TECHNICIAN KUDO / KUDO TECHNICIEN

Mr/M. Julien LUTZ

**All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.*

** Toute référence au Kosovo mentionnée dans ce texte, qu'elle concerne le territoire, les institutions ou la population, doit se comprendre en plein conformité avec la Résolution 1244 du Conseil de Sécurité de l'Organisation des Nations Unies et sans préjuger du statut du Kosovo.*

Appendix 3

ROADMAP MSI/SLP

2022

4-5 April	MSI/SLP 1 st meeting Introduction to working methods and discussion of the Terms of Reference. Preliminary agreement on the main issues to be addressed in the recommendation, the general approach and a possible outline. Election of the Chair and Vice-Chair, appointment of drafting rapporteur(s) and Gender Equality Rapporteur.
7 April	CDMSI Bureau meeting Report on work progress
1-2 June	CDMSI Plenary meeting Report on work progress
18-19 October	MSI/SLP 2 nd meeting
November/December	CDMSI Plenary meeting

2023

March/April	MSI/SLP 3 rd meeting
May/June	CDMSI Plenary meeting
July/August	Consultation with CoE bodies and public consultation with and external stakeholder
September/October	MSI/SLP 4 th and final meeting
November/December	CDMSI Plenary meeting Discussion and possible approval of the draft Recommendation on SLAPPs by the CDMSI with a view to its submission to the Committee of Ministers for adoption for adoption.