

**Committee of Experts on Strategic Lawsuits against
Public Participation (MSI-SLP)****MSI-SLP(2023)11
22 May 2023****3rd meeting, 18-19 Avril 2023****MEETING REPORT*****Opening, agenda, elections***

1. Ms Artemiza-Tatiana Chisca, Head of the Media and Internet Division, Council of Europe, welcomed members and participants. She remarked the importance of the work of the Committee of Experts, stressing that strategic lawsuits against public participation (SLAPPs) continue to be a pressing concern, and noted with appreciation the large participation to the meeting, held in full-presential mode. She encouraged taking a pragmatic approach in drafting the measures to provide guidance to the 46 member states of the Council of Europe, with a view to effectively addressing SLAPPs' adverse impact on public debate. She further invited the MSI-SLP to consider carefully what other organisations, national initiatives and experts in the field have proposed to address the SLAPPs practice, while remaining conscious of the peculiar Council of Europe's mandate, values and guiding principles, and its human-rights centric approach.
2. Ms Chisca also provided information on: the Organisation's fourth Summit (16-17 May, Reykjavik, Iceland); the Council of Europe [Campaign for the Safety of Journalists](#), to be launched on 5 October in Riga, at the opening of the Conference on Freedom of Expression and the Safety of Journalists, jointly organised by the Council of Europe and Latvia, under Latvia's Presidency of the Council of Europe Committee of Ministers; and, the advancement of the work of the [MSI-INF](#) (Committee of Experts on the Integrity of Online Information) and the [MSI-RES](#) (Committee of Experts on Increasing Resilience of Media).

3. Mr Taavo Lumiste, Chair of the Steering Committee on Media and Information Society ([CDMSI](#)), in his opening remarks, further stressed the importance of the topic noting that SLAPPs are prominent amongst the current and future challenges to be addressed by the Organisation. He complemented the information regarding the upcoming Council of Europe Summit and provided clarification regarding the modus of preparing the next cycle of programme and budget for the years 2024-2027. He also reminded that the next CDMSI Plenary meeting will take place on 14-16 June and invited the Chair and/or drafting rapporteurs to participate and provide updates on the work developments of the Committee.
4. The MSI-SLP members adopted the meeting agenda (Appendix 1) without amendments. The list of participants to the meeting appears in Appendix 2.
5. Ms Giulia Lucchese, Secretary to the MSI-SLP, presented the progress of the committee's work since the second meeting in October 2022. In particular, she informed that the MSI-SLP appointed Ms Beatriz Brown (United Kingdom) and Mr Željko Martyn Sampor (Slovak Republic) as drafting rapporteurs of the Explanatory Memorandum accompanying the draft Recommendation. The members of the MSI-SLP and participants to the meeting were invited to update the Committee of Experts on key developments that have bearings on the terms of reference of the Expert Committee.
6. Mindful of the working methods and procedures of expert committees, and in line with Resolution [CM/Res\(2021\)3](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods, the MSI-SLP proceeded to elections for the committee's leadership. With only one candidate proposed for each of the functions, the MSI-SLP unanimously re-elected by show of hands Ms Karmen Turk (Estonia), as its Chair, and Mr Željko Martyn Sampor (Slovak Republic), as its Vice-Chair.

Discussion on the revised draft Recommendation on strategic lawsuits against public participation (SLAPPs)

7. The MSI-SLP subsequently examined the revised draft Recommendation. Before opening the floor for discussion, the drafting rapporteurs, Ms Flutura Kusari and Mr Tarlach McGonagle, presented an overview of their work progresses, main challenges and outstanding issues. They informed on the methodology applied to integrate relevant comments and expressed gratitude for the feedbacks received.
8. As general remarks, participants praised the work of the rapporteurs and noted that the draft recommendation covers all relevant elements to address SLAPPs by means of a

Council of Europe recommendation. The experts then discussed the draft recommendation section by section, focusing on the elements necessitating further analysis and elaboration.

9. **Regarding the preamble**, the experts agreed to broaden the *ratione personae*, taking into due account the peculiar position of journalists and other media actors while also expressly acknowledging the broad range of public watchdogs targeted by SLAPPs. It was decided to ensure that all three legislative areas in which SLAPPs appear – civil, criminal and administrative – are sufficiently addressed and reflected in the preamble. The MSI-SLP agreed to add a reference to member states' negative obligations, in addition to their positive obligations, in accordance with the case-law of the European Court of Human Rights. Finally, they agreed to shorten the preamble and substantiate specific passages, operative part and appendix of the draft Recommendation, in its accompanying Explanatory Memorandum.
10. **Regarding the operative part**, the experts agreed that member states should be recommended to extend the promotion of the goals of the recommendation both at the European and at the international levels. They also discussed the benefit of illustrating in this section the different areas on which member States should adopt measures to address SLAPPs, while keeping into due consideration the overall length and structure of the text and committing to keeping the document accessible and enhancing readability.
11. **Regarding the appendix**, the MSI-SLP expressed common agreement on the need to ensure consistency in terminology throughout the text. On the structure, it was accepted to give more emphasis to the central aim of the recommendation. On substance, the MSI-SLP confirmed its agreement to provide comprehensive and inclusive definitions of the key terms, "public participation" and "public interest", and to strive for clarity in presenting the specific features of the SLAPPs indicators. Discussing the different forms of SLAPPs, the experts concurred that the section should address specific safeguards.
12. Members agreed to streamline and shorten the section on structural safeguards, with parts to be moved to the Explanatory Memorandum, and to add a structural safeguard in the form of obligation to publish decisions made by Independent judicial and regulatory bodies. They also decided to introduce a new paragraph at the opening of the part on procedural safeguards, to empower judicial authorities to manage actively the proceedings from a very early stage. The MSI-SLP also agreed that all proposed mechanisms should take into due consideration the national specific settings and procedures. The experts stressed the importance of collecting data and agreed that the Explanatory Memorandum should

provide examples of what information should be collected and elaborate on the analysis of such data.

13. Members agreed that measures proposed to support targets and victims of SLAPPs should be as pragmatic as possible. The MSI-SLP concurred on the importance to stress the principles as well as to take a concrete approach, aimed at identifying measures whose implementation is feasible. Therefore, they agreed to make the narrative more strategic, including by looking closely at relevant instruments and experiences available.
14. Further proposals to sharpen the text were made in the chapters concerning “education, training and awareness raising” and “national coordination and international cooperation”. On the latter, the MSI-SLP agreed on the importance to recommend the setting up and implementation of national action plans embedding specific actions to prevent and contrast SLAPPs.

Roadmap and date of the next meeting

15. The Committee of Experts discussed its roadmap for 2023 (Appendix 3). The MSI-SLP took note that the developments on the draft Recommendation are regularly presented to the CDMSI and that, following the Expert Group’s meeting, the revised draft will be sent to the Steering Committee with a view to enabling its discussion during their next Plenary meeting on 14-16 June 2023. On this same occasion, the CDMSI will be invited to consider whether the draft was sufficiently advanced for public consultations.
16. The MSI-SLP agreed to hold its fourth meeting on 17-18 October 2023, in the premises of the Council of Europe, in Strasbourg.

Any other business

17. In line with the established practice, the Secretariat was instructed to send the draft meeting report to the Chair and Vice-Chair for consideration. Thereafter, the draft report will be sent to the MSI-SLP, 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 and uploaded on the website of [MSI-SLP](#).

Appendix 1

3rd meeting Agenda

18-19 April 2023

Room 10, Palais de l'Europe, Strasbourg

DAY 1 - 18 April

09.30 -11:00

1. Opening of the meeting
Welcoming address by Ms Artemiza-Tatiana CHISCA, Secretary to the Steering Committee on Media and Information Society (CDMSI), Head of Media and Internet Division, Council of Europe
2. Adoption of the agenda and order of business
3. Information by the Secretariat
On relevant developments in the standard-setting, activities in the field of the safety of journalists and relevant work of the Council of Europe bodies and structure
4. Elections
Elections of Chair and Vice-Chair of the MSI-SLP

11.00 – 11.20 - Coffee break

11.20 – 12.30

5. Discussion of the draft Recommendation on Strategic Lawsuits against Public Participation (SLAPPs)

12.30 – 14.00 - Lunch break

14.00 – 15.00

6. Continuation of point 5

15.10 – 15.30 - Coffee break

15.30 – 17.00

7. Continuation of point 5

DAY 2 - 19 April

10.00 – 11.00

8. Continuation of point 5

11.00 – 11.20 - Coffee break

11.20 – 12.30

9. Continuation of point 5

12.30 – 14.00 - Lunch break

14.00 – 16.30

10. Continuation of point 5
11. Discussion of the Roadmap for the MSI-SLP
12. Any other business
13. Date and place of the 4th meeting

Appendix 2

3rd Meeting – 18-19 April 2023 / Council of Europe, Strasbourg
 3^e réunion – 18-19 avril 2023 / 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> designated by Ministry of Justice/ <i>désigné par le Ministère de la justice</i> Romania/Roumanie</p>
<p>Ms/Mme Evelyn BORG COSTANZI Human Rights Lawyer, BCGL advocates / <i>Avocat des droits humains, 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></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 (apologised/ excusé) 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></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>
<p>COUNCIL OF BARS AND LAW SOCIETIES OF EUROPE (CCBE)/ LE CONSEIL DES BARREAUX EUROPEENS (CCBE)</p>	<p>Mr/M. Andreas Alexios ANAGNOSTAKIS Barrister / <i>Avocat</i></p>

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

ESTONIA / ESTONIE	<p>Mr/M. Taavo LUMISTE Chair of the Steering committee on media and information society (CDMSI) / <i>Président du Comité directeur sur les médias et la société d'information (CDMSI)</i> Deputy Permanent Representative/ <i>Représentant permanent adjoint</i> Permanent Representation of Estonia to the Council of Europe / <i>Représentation permanente de l'Estonie auprès du Conseil de l'Europe</i></p> <p>Mr./M Varounen SAMY Intern, Permanent Representation of Estonia to the Council of Europe / <i>Stagiaire, Représentation Permanente de l'Estonie auprès du Conseil de l'Europe</i></p>
IRELAND / IRLANDE	<p>Ms/Mme Aoife BYRNE Justice Attaché / <i>Attaché de justice</i> Deputy to the Permanent Representative / <i>Adjoint du représentant permanent</i> Permanent Representation of Ireland to the Council of Europe / <i>Représentation permanente de l'Irlande auprès du Conseil de l'Europe</i></p> <p>Mr/M. Neill FITZGERALD Policy and Communications Officer / <i>Chargé de mission et de communication</i> Permanent Representation of Ireland to the Council of Europe / <i>Représentation permanente de l'Irlande auprès du Conseil de l'Europe</i></p>
SWITZERLAND / SUISSE	<p>Mr/M. Andrin EICHIN Senior Policy Advisor International Relations / <i>Conseiller politique principal en relations internationales</i> Swiss Federal Office of Communications (OFCOM) / <i>Bureau fédéral suisse de la communication (OFCOM)</i></p>

OTHER PARTICIPANTS / AUTRES PARTICIPANT.E.S

CONFERENCE OF INGOs / CONFERENCE DES OING	<p>Mr/M. Charlie HOLT Legal Counsel Campaigns / <i>Conseiller juridique</i> Greenpeace International</p>
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DELEGATION OF THE EUROPEAN UNION TO THE COUNCIL OF EUROPE / <i>DELEGATION DE L'UNION EUROPEENNE AUPRES DU CONSEIL DE L'EUROPE</i>	Ms/Mme Margot PIJNENBURG <i>Legal Affairs Trainee / Stagiaire Affaires juridiques</i>
EUROPEAN PARLIAMENT / <i>PARLEMENT EUROPEEN</i>	Mr/M. Gabriel BLAJ <i>Secretariat of the Committee of Legal Affairs (JURI) / Secrétariat de la Commission des affaires juridiques</i>
ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE (OSCE) / <i>ORGANISATION POUR LA SECURITE ET LA COOPERATION EN EUROPE (OSCE)</i>	Mr/M. Antonius VAN DEN BRANDT <i>Principal Adviser to the Head of Institution / Conseiller principal du chef d'établissement</i> <i>Office of the Representative on Freedom of the Media / Bureau du Représentant pour la liberté des médias</i>
REPORTERS WITHOUT BORDERS / <i>REPORTERS SANS FRONTIÈRES</i>	Ms/Mme Laura PRATHER <i>Lawyer / Avocate</i>
UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION (UNESCO) / <i>ORGANISATION DES NATIONS UNIES POUR L'ÉDUCATION, LA SCIENCE ET LA CULTURE (UNESCO)</i>	Ms/Mme Namara BURKI <i>Associate Project Officer, UNESCO's Section on Freedom of Expression and Safety of Journalists / Chargée de projet associée, Section de la liberté d'expression et de la sécurité des journalistes de l'UNESCO</i>

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PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE / <i>ASSEMBLEE PARLEMENTAIRE DU</i>	Mr/M. Marc GRUBER <i>Co-Secretary / Co-Secrétaire</i> <i>Committee on culture, science, education and media / Commission de la culture, de la science, de l'éducation et des médias</i>
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CONSEIL DE L'EUROPE	
EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION) / LA COMMISSION EUROPEENNE POUR LA DEMOCRATIE PAR LE DROIT (COMMISSION DE VENISE)	Ms/Mme Martina SILVESTRI Legal Advisor / <i>Conseillère juridique</i>
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EUROPEAN COURT OF HUMAN RIGHTS / COUR EUROPEENNE DES DROITS DE L'HOMME	Dr. Ali BOZKAYA Lawyer / Project manager and Article 10 Case-Law coordinator at the Registry of the ECHR / <i>Juriste / Gestionnaire de projet et coordinateur de la jurisprudence de l'article 10 au greffe de la CEDH</i>

COUNCIL OF EUROPE SECRETARIAT / CONSEIL DE L'EUROPE

INFORMATION SOCIETY DEPARTMENT / SERVICE DE LA SOCIETE DE L'INFORMATION	<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 LUCCHESI 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 Urška UMEK Secretary to the Committee of Experts on Increasing Resilience of Media (MSI-RES) / <i>Secrétaire du Comité</i></p>
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	<p><i>d'experts sur le renforcement de la résilience des médias (MSI-RES)</i></p> <p>Ms/Mme Katarzyna SZWED 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 Irina TOMOVA Assistant / Assistante</p> <p>Ms/Mme Magdalena PENEVA Assistant / Assistante</p>
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INTERPRETERS / INTERPRÈTES**Ms/Mme** Lisa WOJCIECHOWICZ**Ms/Mme** Isabelle MARCHINI

*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

2023

18-19 April MSI-SLP 3rd meeting

Discussion of the revised draft Recommendation. Election of the Chair and Vice-Chair.

Revision of the draft Recommendation and drafting of the Explanatory Memorandum

14-16 June CDMSI Plenary meeting

Report on work progress. Agreement to open consultations on the draft Recommendation. Presentation of the preliminary draft Explanatory Memorandum.

Revision of the draft Recommendation and of the Explanatory Memorandum

July Consultation phase (TBC)

Revision of the draft Recommendation and of the Explanatory Memorandum

17-18 October MSI-SLP 4th meeting

Final revision of the draft Recommendation and of the Explanatory Memorandum

November/

December CDMSI Plenary meeting

Presentation of and discussion on the draft Recommendation and accompanying Explanatory Memorandum for approval to submit the documents to the Committee of Ministers for discussion and possible formal adoption.