

Wait, seriously?

CASE
COALITION AGAINST SLAPPS IN EUROPE

Ok ok, maybe not. You may or may not be surprised to learn that Buller & Belligerence is a fictitious creation of the Coalition Against SLAPPs in Europe (CASE) - though such a shamelessly predatory law firm would hardly be out of place in many European capitals.

Preposterous. MEPs can't be sued for performing our democratic duties

Try telling that to Sylwia Spurek, who was announced as a defendant in a lawsuit in 2021 for her contributions to a debate in the European Parliament about the rule of law in Poland.

Regardless, Strategic Lawsuits Against Public Participation (SLAPPs) – abusive lawsuits designed to block accountability and silence criticism – aren't so concerned with the outcome of the lawsuit, but the litigation process, which is intended to be as painful as possible for the defendant. Whether or not the lawsuit has any basis in fact or law is really beside the point. Without an early dismissal mechanism, the SLAPP claimant can keep stretching out their litigation until costs become unbearable.



Well it's a good thing the EU is about to pass an anti-SLAPP directive, right?

Yes it would be – if the directive actually included meaningful and workable anti-SLAPP protections. The reality is that, under the approach favoured by the European Council (EC), all but the most *extreme* cases of abuse would be able to easily avoid the application of the draft directive's procedural safeguards and remedies, including the proposed early dismissal of "manifestly unfounded" lawsuits targeting public participation.

But I didn't do anything! Surely this is "manifestly unfounded"?

Well no actually. Under the EC's approach, a manifestly unfounded claim is understood as being a claim which is "so obviously unfounded that there is no scope for any reasonable doubt". Yet defamation claims like the one that Buller & Belligerence threatened against you are full of ambiguities that make this level of certainty impossible. Regardless of your intention, what meaning did your words carry? Did your strongly-worded statement of opinion suggest factual knowledge? Perhaps it's obvious to you. But if a well-paid lawyer can make a half-plausible argument to the contrary, there's scope for reasonable doubt.

Ok fine – but surely they'd face penalties under the directive? Wouldn't I be able to get compensation?

Good luck with that! The EC's approach would remove the possibility of compensatory damages altogether from the directive. Penalties would remain, but even this would first require you to establish that the claimant's "main purpose" was to prevent your public participation – a notoriously difficult and costly task, given that it requires the court to conduct a subjective enquiry into the mind of the filer.

**28 November
12.00 - 13.00 CET**

**So what can I do to save
the anti-SLAPP Directive?**

CASE is organising **an urgent online discussion** for interested policy makers in a last-ditch attempt to save the anti-SLAPP directive. Join us by scanning the QR code if you're concerned about the health of European democracy and want to counter efforts to water down the directive.



SCAN ME