

# ANTI-SLAPP MECHANISMS MONITORING STUDY



**Estonia**  
**Justice and Environment 2021**

## Introduction

Justice and Environment (J&E) is participating in a European anti-SLAPP NGO coalition called CASE ([www.the-case.eu](http://www.the-case.eu)) in order to investigate legal challenges faced by environmental activists and other watchdogs throughout Europe. Significant research has been published on this topic already (e.g. by the [Law Clinic of the University of Amsterdam](#)) but J&E would also like to contribute to the analysis of SLAPPs via its own means.

A SLAPP case consists of four components:

- \* legal proceedings (generally civil lawsuits but also criminal complaints where these can be pursued privately)
- \* filed by a private party (generally corporations or wealthy individuals, including government officials acting in a private capacity)
- \* with the intent to silence another private party (generally activists, journalists, NGOs, or other public watchdogs)
- \* in response to acts of public participation (including advocacy or criticism).

Our targets are the anti-SLAPP mechanisms enacted in Member State legislation or case law. We are not researching SLAPP cases. We are researching anti-SLAPP mechanisms in the law (or case law). We are looking for procedural rules or decisions, not limited to environmental ones.

## Questions and Answers

1. Has law or case law defined SLAPP cases in any way? (e.g., by a court judgment calling a case frivolous or vexatious for having certain features, etc.)? If yes, in what way?

Not to our knowledge.

2. Is there any law or case law that puts limits on cases with SLAPP characteristics (e.g., by defining lawful causes or capping the amount of compensation, etc.)? If yes, in what way?

No.

3. If there are anti-SLAPP mechanisms in law or case law, are they effective, i.e., do they slow or stop the filing of lawsuits with the intention of silencing private parties?

4. Is there law or case law to protect whistle-blowers? If yes, does that contain any reference to SLAPP cases and if yes, in what way?

There is currently no such law in force in Estonia. Due to the EU directive, the law is currently at the draft level. Theoretically, this should prevent SLAPP complaints, but at the moment it is too early to make an assessment, as the final wording is not in place.

5. If, as mentioned above, there is law or case law to protect whistle-blowers, does this law in practice actually stop or slow SLAPP lawsuits?

It is too early to tell.

6. Are there any additional laws in your jurisdiction which might protect parties against SLAPP suits, even if they were not designed for that specific purpose?

According to the case law, the costs that the losing party has to pay in administrative court cases cannot be overly burdensome especially if a private individual or an environmental NGO is the losing party. That applies to all cases, not just SLAPP cases.

7. Which laws in your jurisdiction, civil or criminal, are commonly weaponized as SLAPPs to silence parties? Do you have any notable examples where these laws have been abused?

Under civil law: libel provision. The parties interested in silencing the activists can and have had a lawyer send a civil claim (usually demanding to pay damages and rebuttal of statements) to, for example, people condemning a specific case of animal cruelty.

Criminal law provision of wrongful testimony could be weaponized if the administrative body investigating a crime alleges that a witness has lied in their testimony, and might have been at least once, but more investigation would be needed into this to say that with more certainty.

We do not have many SLAPP cases. Even if there are a few instances of retaliation for environmental activism, these have not quite made it to the court.

Here are news items that cover two examples:

- 1) <https://epl.delfi.ee/artikkel/73104993/kodanikuaktivisti-sonul-uritab-kalaranna-arendaja-teda-kohtu-kaudu-vaigistada> (in Estonian) - was eventually settled out of court.
- 2) this one might be a SLAPP occurrence in a way, but an investigation would be needed to determine if that really were the case there. <https://kodu.geenius.ee/rubriik/lemmik/draama-eesti-loomakaitsja-kodus->

ametnikud-korraldasid-labiotsimise-pere-on-enda-sonul-sokis/ (in Estonian) - potentially excessive and unsubstantiated use of force in searching an animal welfare activist's home, allegedly threatening to shoot their pet dogs and scaring their children in the process. The same activists might have previously complained about the forest cutting activities that left a few bear cubs orphaned in their habitat that should have been protected.

We do not know what has become of that case.

8. Has international legislation played a role in SLAPP lawsuits in your jurisdiction? (e.g., European Union GDPR) If yes, to what end?

Not to our knowledge.

9. In SLAPP cases, do litigants tend to invoke due process rights? If yes, how do judges weigh the right to due process when balanced against concern about frivolous suits?

We have not had known SLAPP cases that have made it to the court.

10. Is there a need to reform legislation on a national level to prevent frivolous or SLAPP cases? If yes, what might that look like?

There might be a need for legislation against SLAPP cases, but since there are not many notable cases, it is difficult to suggest at the moment how it should look like.

11. Are there rules codified into professional or bar association codes of conduct which could prevent or punish lawyers from filing SLAPPs? If yes, are these rules typically enforced?

Not specifically.

12. What are the broad takeaways from SLAPP lawsuits in your jurisdiction? Are there unwritten norms or patterns which the cases tend to follow?

Not enough SLAPP cases to see a pattern.

There is a well-known attorney in Estonia, specializing in libel cases. He is known to often send out damages claims to people alleging, on behalf of his clients, that the addressee of the claim has committed libel. That has also happened to people in other areas of life that are not connected to environmental/animal welfare activism, but recently people criticizing on social

media a perpetrator of animal cruelty has received compensation claims sent by the same attorney.

13. Based on your experience, what types of advocacy action can best prevent the initial filing of SLAPPs? What types of advocacy actions can be best for getting such suits dismissed once they are filed?

Maybe media attention or letters to the chancellor of justice.

## Contact information

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