

# ANTI-SLAPP MECHANISMS MONITORING STUDY



**Hungary**  
**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?

SLAPP cases are not defined in Hungarian domestic law, neither by legislation nor by case law. There are examples where bad faith litigation was established by the court, but those disputes have nothing to do with SLAPP issues, but they are rather private law, company law and tax law disputes.

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?

There is no law (legislation or case law) that puts limits on cases with SLAPP characteristics in Hungary.

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?

Since there are no anti-SLAPP mechanisms either in legislation or case law, their effectiveness obviously cannot be evaluated.

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 an Act of Parliament No. 165 of 2013 on Complaints and Public Interest Reports. Section 4 (Articles 13 to 16) regulate whistleblowing and the protection of those who report breaches in a work-related context or a work-based relationship. The act does not contain any references to SLAPP cases.

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?

The Act on Complaints and Public Interest Reports 2013 has no impact whatsoever on the initiation of lawsuits that would be characterized as SLAPP cases. Therefore, the law does not stop SLAPP cases.

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?

The Civil Procedure Code 2016 establishes the principle of good faith litigation. Its Art. 5 stipulates that parties and other participants of the case are obliged to act in a good faith when exercising their procedural rights or performing their procedural duties. The foreseen sanction for breaching this principle is a pecuniary fine that can be imposed by the judge, in addition to other restrictive measures that affect procedural rights. Since this principle only applies within the procedure and does not say anything about the reason or the cause that made rise to the filing of the lawsuit, plus the procedural restricting that can be applied by the judge against bad faith litigation, it is totally incapable of protecting parties against SLAPP suits, let alone this principle was not designed for the latter purpose.

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?

In fact, there are not many cases in Hungary that can be characterized as SLAPP. In the recent collection of such cases, there are 8 or 9 entries for Hungary but in fact, these are rather 5 and

even 4 out of these are interconnected. The domestic law used in such cases is usually the Civil Code 2013 that guarantees the protection of personality and integrity. An example: Atlatzo.hu and Magyar Hang as media outlets published an investigation in May 2020 about the phenomenon that while "the average amount of one percent donations to the Faith Congregation is far below that of other Churches" the Faith Congregation is "still prospering spectacularly". Revealed how Faith Congregation and Sándor Németh gained decisive influence over ATV television channel. A total of six proceedings was launched on three grounds, including one case under the GDPR based on drone footage of his villa.

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

GDPR is heavily weaponized in those few Hungarian SLAPP cases that exist, in fact, most of the cases are based on GDPR. It is so much of an obvious fact that the International Press Institute published an article about it (<https://ipi.media/in-hungary-gdpr-is-the-new-weapon-against-independent-media/>). Cases that were based on GDPR are the following:

Applicant	Description	Year	Defendant
Hell Energy Ltd.	The owners of Hell Energy Ltd. decided to initiate an administrative complaint procedure with The National Data Protection and Freedom of Information Authority (which is responsible for handling the data protection complaints) against Forbes Hungary. Forbes was fined 12.000eur for its handling of the Barabás' and another family's (likely from the case above) data in relation to the article. The decision of the DPA was challenged in court and is currently pending before the Supreme Court. Further, the owners of Hell Energy filed for injunctive relief at a civil court as well, invoking the GDPR. The court ruled in their favour, granting the injunction and requiring Forbes to recall its issue and for the Barabás' name to be removed from the article. The injunction was upheld Both by the appellate court and the Supreme Court; it is currently before the Constitutional Court. Hell's owners launch a civil lawsuit as well, alleging unlawful handling of personal data, currently pending before the first-instance court.	2020	Forbes Hungary
The owners of Hell Energy Ltd	The article was partly focused on special personal data of the members of the family that owns Hell Energy Ltd., of direct relevance to the family's current economic prosperity and their wealth accumulation with the aid of state subsidies.	2020	Magyar Narancs

	<p>Furthermore, Magyar Narancs' article contained information on the business endeavours and the personal wealth of the family. Injunction was granted with regard to the special personal data; the article had to be published omitting the data concerned and their relationship to state subsidies and wealth accumulation; other parts of the article could be and were published. The injunction prohibited Magyar Narancs from revealing the exact nature of the special personal data concerned. Both parties appealed. In the meantime, the preparatory phase of the case continued and there were 2-3 court hearings held in 2021 and 2022. However, the attorneys of the applicants did not show up at the last hearing of the case on 3 February 2022. According to the Civil Procedural Code, the case was consequently dismissed. No information if the dismissal was appealed due to force majeure giving reason for the abstention of the applicants' attorneys.</p>		
Péter Futó and Gábor Futó	<p>In January 2020, Forbes Hungary was about to issue its annual list of the most successful family-owned companies and the richest Hungarians. These lists are always compiled by local Forbes magazines in their home countries, using a unified system. Journalists from Forbes Hungary contacted Péter Futó and his son, Gábor Futó who owns Futurama Ltd. to inform them that he will appear on the aforementioned list. Péter Futó and Gábor Futó decided to issue an administrative complaint procedure at The National Data Protection and Freedom of Information Authority (which is responsible for handling the data protection complaints) against Forbes Hungary. But the DPA was ordered by the court of first instance to conduct a new procedure regarding the fine imposed. We challenged the decision before the Supreme Court, the Constitutional Court as well. The Supreme Court ordered the court of first instance to open the case again, as the court of first instance failed to provide reasons for rejecting our request for a preliminary ruling by the CJEU (we still have not received the written court judgment).</p>	2020	Forbes Hungary

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 no first-hand experience about this issue, but we tend to believe that due process rights (or good faith litigation) are not an effective tool against SLAPP cases. First of all, this principle applies inside a lawsuit and does not limit the filing of a lawsuit. Secondly, applicants do not breach good faith litigation within the lawsuit, i.e., their actions are reasonable and fair within the context of the case at the court, it is the very existence of the case that is against fairness, however, that issue is not yet regulated in Hungary.

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?

As numerical data show, there is no urgent need in Hungary now to regulate the issue. However, knowing that the emerging trend of SLAPP cases will reach Hungary as well, our understanding is that there is a need to reform legislation. This reform should follow the framework set by the European Commission and should make it possible that the judges refuse in a summary procedure those claims that are targeted at public participation and that aim at silencing critical voices and freedom of expression.

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?

The Act of Parliament No. 78 of 2017 on Attorneys regulates (Art. 39.4) that attorneys must refuse instructions of clients of those would result in breaching or circumventing the law.

The National Bar Association has published the Code of Ethics for Attorneys 2018. It stipulates the following:

Section 2.1.: The attorney is obliged to apply all legal means to implement its client's rights and legitimate interests.

Section 5.8.: An attorney cannot accept a contract that would require it to breach rules of the Act on Attorneys or would go against public morals.

These rules first of all set the primacy of the interests of the client, and only very vaguely and weakly prohibit unlawful conduct by the attorney without even defining what is meant by unlawful conduct. Logically, these provisions are not sufficient to limit the contribution of attorneys to SLAPP cases and these rules are typically not enforced, mostly due to their vague and weak character.

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

There are a few characteristics of SLAPP cases that are possibly typical for Hungary. These are: the threat of starting a lawsuit is more significant than the actual starting of these cases, i.e. in many instances, these cases never reach the court; GDPR is heavily relied on, especially against the media because Hungary has not introduced the media exception allowed by the GDPR; a number of cases end with the withdrawal of the claims of the applicant, and do not result in very high court fees on the side of the defendant, so the mental chilling effect is more significant than the material one. Apart from these, there are no specificities of SLAPP cases in Hungary, especially because there are only a few of them still, but this may change in light of new upcoming cases in the future.

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?

The best advocacy action against SLAPP cases would be a public awareness and consciousness campaign that establishes that public participation is a human, and a constitutional right and freedom of expression is enshrined in a number of international and domestic legal instruments, therefore those who exercise their rights can in no way be made liable for their related actions that constitute public participation.

Given the small number of cases and their specific features (see above) there is no need yet for any advocacy campaign to achieve the dismissal of these cases in Hungary.

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