

ENNHRI submission to the roadmap on the EU package against abusive litigation (SLAPP) targeting journalists and rights defenders

As part of the [European Democracy Action Plan](#), the European Commission has launched [an initiative](#) to protect journalists and human rights defenders in strategic lawsuits against public participation (SLAPP). While NHRIs play a crucial role in protecting human rights defenders from SLAPPs, as human rights defenders themselves NHRIs can also face SLAPPs in fulfilling their mandate.

The [ENNHRI](#) submission to the initiative's roadmap provides a basis for a more detailed submission to the formal consultation. We remain available to cooperate with the European Union on this initiative, activities under the European Democracy Action Plan, the implementation of the Charter of Fundamental Rights and the rule of law instruments to support and protect human rights defenders and civil society in the EU.

NHRIs are human rights defenders and need EU support when facing threats such as SLAPPs

As independent state-mandated bodies, with a broad mandate to protect and promote human rights at the national level, National Human Rights Institutions (NHRIs) [are human rights defenders](#). This is recognised by the [EU Fundamental Rights Agency](#), the [Council of Europe](#) and the [United Nations](#). NHRIs are referred to as 'rights defenders' in [the Strategy to strengthen the application of the Charter of Fundamental Rights in the EU](#) (Charter Strategy), and in the [Council Conclusions on Strengthening the application of the Charter](#),

NHRIs are internationally accredited actors that act across their broad functions in defence of human rights and bring their findings and recommendations to the European and international level to bring about change nationally.

NHRIs as institutions and their individual staff [may face threats](#) such as defamation, intimidation, harassment, personal attacks and attacks that constitute SLAPPs in the context of their activities that seek to protect public interests. For example, in 2018, the Polish Commissioner for Human Rights [faced civil action](#) for a statement made in his professional capacity as head of the institution, in a wider context of actions seeking to undermine the NHRI.

Effective and independent NHRIs are indicators of a healthy environment for democracy and the rule of law, as recognised by the [European Commission and the European Parliament](#). Thus, litigation targeting NHRIs and their staff for their work compromises public debate and the functioning of checks and balances, which are essential for respect for rule of law and fundamental rights.

In line with the Charter Strategy, [Council conclusions on strengthening the application of the Charter of Fundamental Rights in the European Union](#) and [the Council conclusions on building a sustainable Europe 2030](#), all EU member state should establish an NHRI in compliance with the UN Paris Principles.

SLAPPs against NHRIs are incompatible with the [UN Paris Principles](#), which outline that the decision-making body and staff of NHRIs must enjoy protection from criminal and civil liability for official actions and decisions undertaken in good faith, in order to guarantee that the NHRI can carry out its human rights mandate effectively and independently.

ENNHRI recommends the EU should:

- include explicit reference to NHRIs as rights defenders in the legislative proposal, thereby ensuring consistency with EU policies, including the Charter Strategy and the Council Conclusions on application of the Charter;
- cover legal harassment, such as SLAPPs, targeted at NHRIs, and put forward uniform safeguards in the legislative proposal regarding the personal and material scope, which should offer protection to all those engaging in public participation including rights defenders;
- create and maintain a mechanism in the EU for rights defenders to report attacks, register risks, map trends and activate timely and targeted support (building on the example of [protectdefenders.eu](#)) and working with ENNHRI [in support of NHRIs facing threats](#).

The EU should further support NHRIs' work in protecting human rights defenders

In line with [the Charter Strategy](#) and the Council Conclusions, the EU commits to protect rights defenders and recognises NHRIs' and ENNHRI's role in empowering rights defenders.

NHRIs [monitor, report, and raise awareness](#) on SLAPPs in their countries, engage in strategic litigation to protect journalists and other human rights defenders subject to SLAPPs, and [issue recommendations on legislation relating to SLAPPs](#). This information is included in annual ENNHRI submissions on the rule of law in the EU.

ENNHRI recommends that the EU should:

- recognise and support the role of NHRIs in countering attempts to silence pluralistic public debate and protect journalists and other rights defenders in line with the Charter Strategy and the Council Conclusions on application of the Charter;
- ensure synergies and complementarity of the SLAPP initiative with the Commission's policies and instruments on the rule of law and fundamental rights, in particular;
 - the relevance of rule of law monitoring to better map and monitor the SLAPP phenomenon;
 - the possibility to address SLAPPs also as part of the implementation of the Charter Strategy (for example cases of SLAPPs which are based on abuse of EU law such as GDPR or intellectual property rights);
 - the opportunity to devote specific CERV funding to support actors, like NHRIs, that can provide assistance to SLAPP victims;
- further support ENNHRI's role to enable NHRIs' across the EU to address SLAPPs via:
 - best practice exchange on assistance provided to SLAPP victims;
 - best practice exchange on resilience against SLAPPs;
 - dialogue among NHRIs on legislative and other measures to counter SLAPPs;
 - monitoring and data collection on SLAPPs by NHRIs.

About ENNHRI

ENNHRI is the European Network of National Human Rights Institutions. We bring together over 40 National Human Rights Institutions (NHRIs) to enhance the promotion and protection of human rights in Europe. Our network provides a platform for collaboration and solidarity in addressing human rights challenges and a common voice for NHRIs at the European level.

