

23 March 2022

**Re: EU action against abusive litigation (SLAPP)**

To the attention of the European Commission DG Justice,

We are writing to you on behalf of *The Good Lobby Profs*, a team of 60+ academic experts specialising inter alia in rule of law matters, in relation to the ongoing work done on the crucial issue of abusive litigation also known as Strategic Lawsuits against Public Participation (SLAPPs).

We are pleased to see the European Commission taking the lead on this as part of the [European Democracy Action Plan](#) (EDAP).

As rightly noted in the EDAP, “for participation to be meaningful, citizens must also be able to form their own judgements – they should be able to make electoral choices in a public space where a plurality of views can be expressed freely and where free media, *academia* and civil society can play their role in stimulating open debate ...” (emphasis added).

As a network of academics, we were pleased to see academic explicitly mentioned yet when mentioning the issue of vexatious lawsuits, the EDAP sets out that it will submit “an initiative to protect journalists and civil society against SLAPPs”, and makes no mention of academia.

**Against this background we are writing to stress the importance of making sure that EU action against abusive litigation cover not only specific entities singled out by the legislator, but anyone who may shape the public discourse, including at the very minimum academics should also be included.**

In theory as well as in practice, any ordinary citizen, any “everyday hero”, may be affected by SLAPPs, and whistle-blowers are a case in point. One may refer in this respect to the case of *Steel and Morris v. UK* (known as the *McLibel*-case) in which the ECtHR held that even small and informal campaign groups of citizens should be enabled to contribute to public debate on matters of general public interest. Any entity serving a public watchdog function disclosing cases of abuse of power should therefore be covered. Members of the academia certainly fulfils such a public watchdog role.

As [Ravo, Borg-Barthet and Kramer](#) have already noted SLAPP suits are typically directed at “journalists, human rights defenders, academics and civil society organisations” as key players in “transmitting knowledge, information, ideas and opinions on issues of public interest”.

In practice, we have already many examples of academics who have faced SLAPPs. One may e.g. mention the emblematic case of Professor Sadurski. Bayer, Bárd, Vosyliute and Luk, in a comprehensive EU-wide comparative study, asked SLAPP country experts which type of actors are most typically targeted by vexatious lawsuits. This was one of their key findings: “In 12 Member States journalists, bloggers and activists were similarly targeted (BE, BG, DE, EE, ES, F, HU, IT, LT, MT, PT, SK). In some countries, attacks are mainly limited to journalists or the media (AT, EL, HR, LV, NL)” and academics have been singled out as main targets in three countries (HU, NL, SI). But no state is entirely immune from SLAPPs directed at academics.

As the above quoted study and a [preliminary SLAPP-study](#) by the same authors reveals, vexatious lawsuits against academics are reported from many parts of the EU.



On account of the role scientists play in shaping democratic discourse, the public watchdog function of academia, and empirical evidence showing that academics are often subjected to vexatious lawsuits, we hope to see the European Commission including academics under the groups protected against SLAPPs by the forthcoming EU-wide anti-SLAPP legislation.

We remain at your disposal should you require any further information in relation to the above.

Yours sincerely,

Professors Laurent Pech, Alberto Alemanno and Dr Joelle Grogan acting on behalf of *The Good Lobby Profs*