

CASE STUDY

SLAPP IN ROMANIA



CENTER FOR
**INDEPENDENT
JOURNALISM**



Co-funded by
the European Union

Author:

@ Center for the Independent Journalism Romania

For further information related to this publication, please contact the authors:

contact@cji.ro

DISCLAIMER

This report was developed for the Pioneering anti-SLAPP Training for Freedom of Expression (PATFox). The PATFox project has received funding from the European Union under grant agreement n° 101051559.

Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union. Neither the European Union nor the granting authority can be held responsible for them.

Detailed information about the project can be found on: <https://www.antislapp.eu/>

Table of Contents

1. INTRODUCTION	3
What is SLAPP?	3
The Romanian context	4
2. Mayor v Journalism	9
3. Impact of the case and conclusions	21

1. INTRODUCTION

What is SLAPP?

On 17 May 2022, the Commission Recommendation (EU) 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation') has been published in the Official Journal of the European Union L138¹ (herein after 'Recommendation').

The Recommendation's recitals underline the role of journalists and human rights defenders in initiating and conducting the public debate, essential in fostering pluralistic and democratic societies, as well as the need to provide them with an enabling environment. Recital (7) of the Recommendation defines human rights defenders as "*individuals or organisations engaged in defending fundamental rights and a variety of other rights, including environmental and climate rights, women's rights, LGBTIQ rights, the rights of the people with a minority racial or ethnic background, labour rights or religious freedoms*".

According to Recital (9) of the Recommendation, journalists and human rights defenders should be protected against SLAPPs and court proceedings which are considered SLAPPs are "*either manifestly unfounded or fully or partially unfounded proceedings which contain elements of abuse justifying the assumption that the main purpose of the court proceedings is to prevent, restrict or penalise public participation*". Criteria on which a proceeding qualifies as SLAPP are:

¹ [Commission Recommendation \(EU\) 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings \('Strategic lawsuits against public participation'\)](#)

1. The disproportionate, excessive, or unreasonable nature of the claim or part thereof
2. The existence of multiple claims asserted by the claimant in relation to similar matters.
3. Intimidation, harassment, or threats on the part of the claimant or their representatives prior to the initiation of the court proceeding.

Recital (10) of the Recommendation states that the abusive court proceedings are mainly civil or criminal matters but can also take the form of administrative law matters and their grounds can vary, therefore not being limited to “classic” defamation cases against journalists.

Besides the target and the nature of the proceedings, another element to be taken into consideration when qualifying procedures as SLAPP, even if not indispensable one, is the position of their initiator. Recital (11) of the Recommendation explains that SLAPPs “are often initiated by powerful individuals or entities (for example lobby groups, corporations and state organs) in an attempt to silence public debate” and “often involve imbalance of power between the parties with the claimant having a more powerful position than the defendant for example financially or politically”.

The Romanian context

Applying the above-mentioned definitions to the Romanian context, it can be concluded that several types of cases have the potential to be SLAPPs. In many cases, SLAPPs are civil defamation cases, brought either under the general provisions on tort (*răspundere civilă delictuală*) or under the special provisions of the Civil Code on the protection of non-pecuniary subjective rights (the right to private life, the right to personal dignity, the right to one’s image, the right to protection of personal data). Such proceedings can be on the merits and/or for temporary measures and aim at obtaining moral or material damages and/or put an end to the alleged violations of the non-pecuniary

subjective rights. In practice, in many cases the claimants specifically aim at silencing the targets by asking the courts to forbid the targets to make further public statements in their respect. Such claims are manifestly abusive as the Romanian Civil codes expressly forbids gag orders for future manifestations of freedom of expression, either on the merits or as a temporary measure.

There are no statistics on the number of defamation cases in Romania in general, as such cases are registered by the courts under general provisions on tort, temporary measures etc. Therefore, it is even more difficult to estimate what proportion of these cases fall under the definition of SLAPP, but particular cases can be identified. For example, in 2017, a large IT company initiated a tort case for damages for commercial reputation against a human rights NGO representative who was also publishing a blog on issues of public interest. The human rights defender published a short video on social media, which showed the hardware chaos in the data centre of the National Health Insurance Fund. The IT company, who had software public procurement contracts with the Fund, was briefly mentioned in the video, through an excerpt from a previously published news piece. In court, the company was claiming the erasure of the video, the publishing of the court decision in social media and the online media which re-published the video and 225,000 lei (around 49,500 euro at the material time) in damages. It also claimed 76,430 lei (around 16,800 euro at the material time) in legal fees. The court case has been dismissed on the merits, awarding the respondent full costs and the company did not appeal the decision².

Examples of civil cases against public participation are not limited to defamation cases. For example, three NGOs initiated litigation against developers of a building project in Bucharest. They sought the suspension and the annulment of the construction permit for the development, cases which were in the end dismissed by the administrative courts, which awarded litigation costs to the respondents. In the summer of 2022, one of the

² [Civil sentence no.1918/15 December 2017](http://www.rejust.ro) of the Bucharest Tribunal, Fourth Civil Section, available on www.rejust.ro

developers started enforcement proceedings against the three NGOs for the costs and, as the claims could be enforced, immediately introduced court requests for the insolvency of the NGOs based on their insolvency, claiming that the NGOs do not have funds to cover costs so they can introduce ill-founded court actions against developers without any consequence. The case against one of the NGOs has been allowed in a speedy procedure, as the NGO was not able to cover the court costs amounting to 48,081.11 lei (around 9,800 euro)³ The NGOs defense that the disbanding procedure is abusive, as it is a mean to punish it for acting in the public interest have been dismissed and so was the NGO's appeal⁴. Consequently, the NGO has been disbanded by final court decision. The case against the second NGO has also been allowed for a debt of 41,587,75 lei (around 8,450 euro)⁵ and the appeal is still pending. The case against the third NGOs is still pending in administrative procedure before the first instance court.

As regards criminal matters, in Romania defamation is no longer incriminated since 2007. Nevertheless, journalists reported being harassed based on various other provisions of the criminal law, although most cases remain unreported as they are closed during the criminal investigation stage, which is not public. One of the recent cases which was reported regards a local journalist from Brăila who has published a video documenting the bullying of a 17 years old boy by an adult. The video, which was published in a local online publication, showed the boy (whose identity was not disclosed and whose face was burred) being humiliated, and then left undressed in an open field. The article resulted in the arrest of the aggressor. Nevertheless, immediately after the arrest of the perpetrator, the Brăila Office of the Directorate for Investigating Organized Crime and Terrorism (DIICOT) opened a file against the journalist and his publication for child pornography and raided the newsroom and the journalist's parents' home, seizing phones and computers on 13 February 2022. According to the journalist, the procedure was a consequence of him

³ Judgment of 28 September 2022 of the Local Court of the 3rd District of Bucharest, available on www.rejust.ro

⁴ The appeal judgement is not drafted at the time of the publication of the present case-study.

⁵ Judgment no.12973/2022 of 18 November 2022 of the Cluj Napoca Local Court, available on www.rejust.ro

publishing an editorial against the chief of local police in December 2021. The next day after the publication, a prosecutor of the Brăila Office of DIICOT contacted the journalist to criticize him for the editorial. On 29 November 2022, the case against the journalist was closed by the Brăila Tribunal, based on the lack of criminal intent⁶. It has to be noted that initially, the Brăila Office of DIICOT closed the case on a different ground, the lack of social danger of the criminal deed. The case has been reported on the Council of Europe platform for the safety of journalism⁷.

Administrative means, such as complaints to the National Supervisory Authority for Personal Data Processing, are also reported to be used to put pressure on journalists. For example, in November 2018, a Romanian investigative reporting outlet published information regarding the then head of one political party and his business connections, based on documents received from a source. A week after the publication, on 8 November 2018, the media outlet received a letter from the Romanian National Supervisory Authority for Personal Data Processing, requested them to disclose, among others, the source of information, other information they held or the support for the published information, under the threat of a 20 million euro⁸. After the request became public and raised concerns of civil society and the public, the National Supervisory Authority for Personal Data Processing issued a press released in which it explained the investigation was started following a complaint from a natural person.

The case further presented is different than the examples above as it involved multiple proceedings, civil, criminal, and administrative of the same claimant against the

⁶ Judgment of 29 November 2022 of the Braila Tribunal, the Criminal Division, available on www.rejust.ro

⁷ Alert no.60/2022

⁸ Rise Project: The Data Protection Authority is asking us to reveal the sources in the case #TeleormanLeaks (*Rise Project: Autoritatea pentru protecția datelor ne cere divulgarea surselor în cazul #TeleormanLeaks*), Digi24, 8 November 2018



same target. Based on our research and public reports, it is the only case of such extent in Romania.

2. Mayor v Journalism

The claimant in the proceedings presented below is Daniel Băluță, a politician, the mayor of the 4th district (*sector*) of Bucharest and the president of the local structure of the Social Democratic Party in the same Bucharest district. He has been elected mayor in 2016 and re-elected in 2020 for another four years. The target of the proceedings initiated by the mayor is a national newspaper, *Libertatea*, its editorial coordinator, Cătălin Tolontan, and several journalists of the same publication.

During the electoral year 2020, between 8 June and 6 July, *Libertatea* published several articles on connections between the local administration and the alleged members of the local criminal gangs. The first article⁹ exposed the friendship between the head of the local police, placed under the mayor, and the leader of a criminal gang, documented by a photograph of the two at the pool at the house of the later. The article also indicated that the head of the local police was the son of the head of the public domain administration of the same district, considered the right-hand of the mayor. It quotes sources from inside the administration who indicate that the local administration, the local police and the local mafia are cooperating, as well as previously published press investigations.

A second article, of 17 June 2020, contains the reply of the head of the local police, which includes the request to remove the photograph in the previous article. It also includes more photographs documenting the connections between the local police and the local criminal gang. The mayor is only briefly mentioned, in connection to his relation with the father of the head of the local police¹⁰. Also on 17 June 2020, another article informs on

⁹ <https://www.libertatea.ro/stiri/goleac-baluta-mafia-sef-politia-locala-piscina-lider-clanul-sportivilor-3026825>

¹⁰ <https://www.libertatea.ro/stiri/antonio-goleac-polita-locala-fotografii-interlopi-3041317>

the head of the public domain administration, “the right-hand of the mayor” being prosecuted for using fake faculty diplomas for being hired in his position¹¹.

On 24 June 2020, following public statements of the mayor on the decrease of the criminality rate in the district he is running, another article is publishing documenting connections between the local police and the local criminal gang¹². On 26 June 2020, a fifth article is published on the promotional articles regarding the activity of the mayor in an online publication which attacked *Libertatea*¹³. The mayor is mentioned only as the subject of the articles in question.

On 6 July 2020, *Libertatea* published two articles¹⁴ based on an investigation on the property of the head of the of the public domain administration on a Greek island. The investigation included filed work in Greece, including photographs of the property in question, with outdoor ashtrays the same as ones bought for the Bucharest 4th district and a car registered by the company providing waste management services to the same district, out of which construction materials were unloaded on the property. The articles contain the position of the mayor that he has no connection with the property.

After the mayor was re-elected in September 2020, on 2 December 2020 a civil lawsuit on the 7 above-mentioned articles have been filed against *Libertatea*, its editorial coordinator, Cătălin Tolontan. Daniel Băluță complained that he has been associated to criminals and mafia and the articles represent unfounded accusations which affected his dignity and reputation including as a mayor and his family. He asked for 100 lei as moral compensations (around 20 euros), the deletion of the articles and the obligation to publish

¹¹ <https://www.libertatea.ro/stiri/seful-adp-sector-4-mana-dreapta-a-primarului-baluta-trimis-in-judecata-3037685>

¹² <https://www.libertatea.ro/stiri/cum-au-devenit-interlopilor-lui-bebino-membri-psd-ai-lui-baluta-si-apoi-politisti-locali-3044397>

¹³ <https://www.libertatea.ro/stiri/site-silviu-manastire-apara-clanurile-sector-4-3048499>

¹⁴ <https://www.libertatea.ro/stiri/marian-goleac-adp-sector-4-eghina-grecia-vila-duba-rosal-3056474> and <https://www.libertatea.ro/stiri/sector-4-scrumiere-tigarere-vila-grecia-goleac-baluta-3056919>

the court decision after it becomes final. The case was heard on 16 April 2021 and the court adjourned the deliberation¹⁵.

The same seven articles were the subject of a complaint of 4 January 2021 before the National Council for Combating Discrimination, for discrimination against a mayor. The complaint was communicated for a defence in February 2021. The case was heard in September 2021 and a decision finding in favour of the journalists and freedom of expression was issued on 8 December 2021¹⁶ and communicated in May 2022. It was not appealed before the courts.

At the same time, on 15 March 2021, another publication, *Newsweek Romania*, published an article on a public procurement procedure of the 4th district city hall¹⁷, mostly based on information on exiting judicial procedures. The mayor is only briefly mentioned as the one managing the city hall in expressions like “the city hall ran by Daniel Băluță”. The next day, *Libertatea* republished the article from *Newsweek*. It has also tried to expand the topic by asking additional information from the city hall, but in the absence of a reply to the request for information, it just quotes *Newsweek*¹⁸.

As it later resulted, on 30 March 2021, based on the publishing of these two articles of 15 and 16 March 2021, Daniel Băluță, in his capacity as a mayor of the 4th district of Bucharest, has filed a criminal complaint with the Directorate for Investigating Organized Crime and Terrorism (DIICOT) for setting up an organized crime group and blackmail. The criminal complaint indicated the authors of the two articles and Cătălin Tolontan as well representatives of the companies appealing the public procurement procedures as the perpetrators. Mihai Toma, the *Libertatea* journalist signing the article of 16 March 2021

¹⁵ https://portal.just.ro/300/SitePages/Dosar.aspx?id_dosar=30000000000572660&id_inst=300

¹⁶ Decision no 851 of 8 December 2021, available on www.cncd.ro

¹⁷ <https://newsweek.ro/investigatii/contract-de-276-milioane-lei-cu-dedicatie-de-la-primaria-lui-baluta>

¹⁸ <https://www.libertatea.ro/stiri/cum-se-lupta-primaria-condusa-de-daniel-baluta-sa-inscrie-un-singur-competitor-la-licitatia-pentru-un-contract-de-276-milioane-de-lei-3452707>

and Cătălin Tolontan have been summoned to DIICOT as witnesses on 20 May 2021. They were waited by several news stations in front of the DIICOT and while the hearings were taking place their summoning was presented as breaking news in live broadcasts. While the hearings were still taking place, excerpts from the criminal complaint were also published by one media outlet¹⁹. At the same time, a non-disclosure obligation had been imposed to Cătălin Tolontan by the prosecutor for one month, which made it difficult for him to fight the smear campaign. A Level 1 alert was subsequently issued on the Council of Europe's Platform for the Safety of Journalists²⁰. The case was also mentioned in the 2021 Rule of Law Report by the European Commission²¹ and in media NGOs' reports, such as Reporters without Borders and Active Watch²² or the Centre for Independent Journalism²³.

On 24 May 2021 the decision in the defamation case started in December 2020 was also made public. It found in favour of Daniel Băluță in full, including ordering the erasure of all seven articles²⁴. This gave rise to another set of articles against *Libertatea* and Cătălin Tolontan, either immediately²⁵ or after the sentence was drafted²⁶. The decision was nevertheless appealed and later reversed in full by the Bucharest Tribunal on 7 February 2022²⁷. The tribunal found that the articles regarded issues of public interest and they had

¹⁹ <https://www.gandul.ro/dezvaluiri/primarul-daniel-baluta-plangere-impotriva-lui-catalin-tolontan-si-altor-patru-jurnalisti-exista-suspiciuni-rezonabile-ca-au-acceptat-promisiuni-foloase-necuvernite-19632867>

²⁰ <https://fom.coe.int/en/alerte/detail/100310820;globalSearch=false>

²¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021SC0724>

²² <https://activewatch.ro/articole/romania-intr-o-scrisoare-deschisa-reporteri-fara-frontiere-si-activewatch-denunta-presiuni-judiciare/>

²³ <https://cji.ro/wp-content/uploads/2021/06/Jurnalismul-in-2021.-O-cursa-cu-obstacole-si-cu-tot-mai-putini-castigatori-raport.pdf>

²⁴ Civil sentence no.5589 of 24 May 2021 of the Local Court of the 2nd District of Bucharest, available on www.rejust.ro

²⁵ https://www.realitatea.net/stiri/politica/catalin-tolontan-obligat-sa-stearga-articole-despre-daniel-baluta_60ac7bd28ac126418b6ce912

²⁶ <https://www.capital.ro/motivare-in-cazul-procesului-baluta-tolontan-de-ce-trebuie-sterse-articolele-document.html>

²⁷ Decision no 262 of 7 February 2022 of the Bucharest Tribunal – the 3rd Division, available on www.rejust.ro

sufficient factual basis. The appeal on points of law is currently pending before the Bucharest Court of Appeal, with the next hearing scheduled for 16 February 2023²⁸.

As regards the criminal case, the DIICOT closed the case on the accusation of setting up an organised crime group on 7 June 2021, finding that the deed does not exist, and send the case on blackmail to the Local Prosecutor Office of the 4th District of Bucharest due to the lack of material competence to decide on this accusation. Daniel Băluță appealed the DIICOT decision to terminate the investigation before the head prosecutor of the DIICOT and then before the Bucharest Tribunal the Criminal Division, which upheld the termination decision on 20 October 2021²⁹, by final decision. The blackmail case was sent before the National Anticorruption Department, which heard Cătălin Tolontan as a witness on 22 July 2021³⁰. At a later date the case was also closed but this time the decision was not communicated to the journalists. It results from the portal of courts that Daniel Băluță appealed this decision before the court as well, his complaint being dismissed on 12 May 2022³¹.

The criminal complaint on was not the only procedure steaming from the article published by *Libertatea* on 16 March 2021. On the very day the DIICOT decided to terminate the case, 7 June 2021, Daniel Băluță filed a civil claim for damages with the court³² and a discrimination complaint before the National Council for Combating Discrimination. The mayor had the same claims as in the previous civil case: he asked for 100 lei as moral compensations (around 20 euros), the deletion of the articles and the obligation to publish the court decision after it becomes final. In all civil defamation

²⁸ https://portal.just.ro/2/SitePages/Dosar.aspx?id_dosar=3000000000572660&id_inst=2

²⁹ Decision of 20 October 2021 of the Bucharest Tribunal – the First Criminal Division, available on www.rejust.ro

³⁰

https://www.google.com/search?q=catalin+tolontan+dna&rlz=1C1JZAP_enRO906RO906&oq=catalin+tolontan+dna&aqs=chrome..69i57j69i61j69i60j69i61.4376j0j15&sourceid=chrome&ie=UTF-8

³¹ Decision of 12 May 2022 of the Bucharest Tribunal – the First Criminal Division, available on www.rejust.ro

³² https://portal.just.ro/300/SitePages/Dosar.aspx?id_dosar=3000000000589535&id_inst=300

proceedings, which will be further detailed the claims were the same. The case initiated on 7 June 2021 was dismissed by the Local Court of the 2nd District of Bucharest on 17 December 2021³³. In December 2022, the mayor appealed the decision and the case shall be sent to the Bucharest Tribunal to decide on the appeal. As regards the discrimination claim, the National Council for Combating Discrimination dismissed the complaint on 31 August 2022³⁴. The decision has not been appealed in court.

The criminal case filed against the editorial coordinator of *Libertatea* was the subject of several articles exposing the harassment and smear campaign, published by various authors in May-June 2021 in the same newspaper. For these articles, on 10 June 2021, Daniel Băluță filed a discrimination complaint before the National Council for Combating Discrimination, which dismissed it on 16 March 2022³⁵. The decision was appealed before the Bucharest Court of Appeal – the 9th Administrative and Fiscal Matters Division, where the case is currently pending, with the next hearing scheduled for 13 March 2023³⁶.

On 16 June 2021, Cătălin Tolontan published an editorial in *Libertatea* on the risks that the money to be received by Romania from the European Commission as part of the recovery and resilience plan would feed the corruption due to insufficient democratic mechanisms of control³⁷. Daniel Băluță is mentioned once in a list of individuals which do not understand such mechanisms. The mention was based on the interest shown by the mayor in administering such funds and his recent history with the press. The editorial was

³³ Civil sentence no.13845 of 17 December 2021 of the Local Court of the 2nd District of Bucharest, available on www.rejust.ro

³⁴ Decision no.500 of 31 August 2022 of the National Council for Combating Discrimination, available on www.cncd.ro

³⁵ Decision no.176 of 16 March 2022 of the National Council for Combating Discrimination, available on www.cncd.ro

³⁶ https://portal.just.ro/2/SitePages/Dosar.aspx?id_dosar=200000000408839&id_inst=2

³⁷ <https://www.libertatea.ro/opinii/riscul-ca-pnrr-sa-alimenteze-coruptia-uniunea-europeana-nu-e-un-bancomat-de-la-care-poti-retrage-bani-fara-nicio-regula-3603711>

also published on the journalist's web-site, as all his editorials are³⁸. As the result, Cătălin Tolontan were sued in a civil defamation case on 6 July 2021, but only for the article on his blog. The case was dismissed by the Local Court of the 2nd District of Bucharest on 10 February 2022³⁹. The appeal is pending before the Bucharest Tribunal, the first hearing being scheduled for 15 February 2023⁴⁰

After the DIICOT decision to close the criminal case was communicated to the two journalists, and the non-disclosure obligation imposed on Cătălin Tolontan expired, on 22 June 2021 he published an editorial in *Libertatea* in which he informed the public on the content of the DIICOT decision⁴¹. In the editorial, the mayor's actions are considered a form of intimidating journalists, opinion for which Daniel Băluță filed another civil defamation case against *Libertatea* and Cătălin Tolontan on 6 July 2021. The case was dismissed by the Local Court of the 2nd District of Bucharest on 24 March 2022⁴² and the appeal against this decision was annulled by the Bucharest Tribunal – the 5th Civil Division on 9 November 2022⁴³. The full decision has not been communicated yet. At the same time, for the same article, on 12 July 2021, Daniel Băluță filed a request for temporary measures in which he requested that the article be removed and that *Libertatea* and Cătălin Tolontan stop publish any other articles until the claims on the merits is decided on. The request was dismissed as ill founded in first instance on 21 July 2021⁴⁴. The sentence was appealed by the mayor, but also by *Libertatea* and Cătălin Tolontan, who submitted that a request to stop publish other articles should be dismissed as inadmissible under Romanian law, not as ill-founded.

³⁸ <https://www.tolo.ro/2021/06/16/riscul-ca-pnrr-sa-alimenteze-coruptia-uniunea-europeana-nu-e-un-bancomat-de-la-care-poti-retrage-bani-fara-nicio-regula/>

³⁹ Civil Sentence no. 1204 of 10 February 2022 of the Local Court of the 2nd District of Bucharest, available on www.rejust.ro

⁴⁰ https://portal.just.ro/3/SitePages/Dosar.aspx?id_dosar=3000000000592214&id_inst=3

⁴¹ <https://www.libertatea.ro/opinii/diicot-recunoaste-ca-primarul-baluta-nu-a-indicat-in-concret-vreo-minima-conexiune-impotriva-ziaristilor-si-a-clasat-dosarul-3612887>

⁴² Civil Sentence no.3088 of 24 March 2022 of the Local Court of the 2nd District of Bucharest, available on www.rejust.ro

⁴³ https://portal.just.ro/3/SitePages/Dosar.aspx?id_dosar=3000000000592215&id_inst=3

⁴⁴ Civil Sentence no 8269 of 21 July 2021 of the Local Court of the 2nd District of Bucharest, available on www.rejust.ro

The Bucharest Tribunal – the 4th Civil Division dismissed the mayor’s appeal and allowed the appeal of the media outlet and of the journalist on 20 September 2021⁴⁵.

On 25 June 2021, *Libertatea* published an article in which it informed that Daniel Băluță had filed a civil defamation case against a former local councillor of the 4th district of Bucharest for a critical post on Facebook⁴⁶. In the article it was mentioned that the post in question referred to an issue also reported on by *Libertatea* on 7 July 2020⁴⁷. The article further mentioned Daniel Băluță’s proceedings against *Libertatea*. For this article of 25 June 2021, Daniel Băluță filed a new civil defamation case against the newspaper, Cătălin Tolontan and the author of the article, Răzvan Luțac, on 4 August 2021⁴⁸. The case was dismissed by the Local Court of the 2nd District of Bucharest on 24 November 2021⁴⁹ and the appeal against this decision was also dismissed by the Bucharest Tribunal – the 4th Civil Division on 17 June 2022⁵⁰. The mayor did not file an appeal on points of law; therefore, the dismissal of the case is final. It has to be noted that the civil proceedings against the former councillor had also been dismissed by the Local Court of the 4th District of Bucharest on 5 October 2021⁵¹ and in appeal, on 19 April 2022⁵². In this case, Daniel Băluță filed an appeal on points of law, currently pending before the Bucharest Court of Appeal⁵³

⁴⁵ Civil Decision 2214 of 20 September 2021 of the Bucharest Tribunal – the 4th Civil Division, available on www.rejust.ro

⁴⁶ <https://www.libertatea.ro/stiri/primarul-baluta-a-dat-in-judecata-un-fost-consilier-local-pentru-o-postare-pe-facebook-ce-a-zis-useristul-3617698>

⁴⁷ <https://www.libertatea.ro/stiri/baluta-goleac-3057710>

⁴⁸ https://portal.just.ro/300/SitePages/Dosar.aspx?id_dosar=30000000000594974&id_inst=300

⁴⁹ Civil Sentence no 12659 of 24 November 2021 of the Local Court of the 2nd District of Bucharest, available on www.rejust.ro

⁵⁰ Civil Decision no. 1536 of 17 June 2022 of the Bucharest Tribunal – the 4th Civil Division, available on www.rejust.ro

⁵¹ Civil sentence no 13594 of 5 October 2021 of Local Court of the 4th District of Bucharest, available on www.rejust.ro

⁵² Civil Decision no.969 of 19 April 2022 of the Bucharest Tribunal – the 4th Civil Division, available on www.rejust.ro

⁵³ https://portal.just.ro/2/SitePages/Dosar.aspx?id_dosar=400000000492972&id_inst=2

On 28 July 2021 *Libertatea* published an article regarding the evacuation of a high school in the 4th District of Bucharest (Mihai Eminescu) and the lack of any works a year later⁵⁴. The article presents the situation, quotes various parties involved, teachers, parents, the written response of the city hall and connects the situation with the one of another high school in the district (Gheorghe Sincai) which opposed the evacuation and had an argument, including in courts, with the city hall, a topic covered in detailed by the publication for about a year. The mayor is quoted with various previously public statements on the situation of the high school. The article resulted in two sets of civil proceedings filed by Daniel Băluță against *Libertatea*, Cătălin Tolontan and the author of the article, Cristina Radu, also on 4 August 2021: on one hand he filed a claim on the merits, on the other hand he filed a request for temporary measures in which he requested that the article be removed until the claims on the merits is decided on. In essence he complaint of the fact the answer of the city hall was not included as such and that the article should have been written in a different manner. He indicated 10 points on which he considered the information should have been written differently. The request for the temporary measure has been dismissed in first instance by the Local Court of the 2nd District of Bucharest, on 24 August 2021⁵⁵ and in appeal, by the Bucharest Tribunal, on 15 November 2021⁵⁶. The claim on the merits has been dismissed in first instance by the Local Court of the 2nd District of Bucharest, on 31 January 2022⁵⁷ and in appeal, on 16 December 2022⁵⁸. The appeal decision has not been communicated yet.

On 2 August 2021 *Libertatea* published an interview with the director of a high school (Gheorghe Sincai) in which he explained why he refused to evacuate the building as

⁵⁴ <https://www.libertatea.ro/stiri/primaria-sectorului-4-colegiul-mihai-eminescu-evacuat-lucrari-consolidare-3667796>

⁵⁵ Civil Sentence no 8603 of 24 August 2021 of the Local Court of the 2nd District of Bucharest, available on www.rejust.ro

⁵⁶ Civil Decision no. 2890 of 15 November 2021 of the Bucharest Tribunal – the 4th Civil Division, available on www.rejust.ro

⁵⁷ Civil Sentence no.809 of 31 January 2022 the Local Court of the 2nd District of Bucharest, available on www.rejust.ro

⁵⁸ https://portal.just.ro/3/SitePages/Dosar.aspx?id_dosar=30000000000594975&id_inst=3

requested by the 4th district hall, which wanted to do construction works⁵⁹. The conflict between the city hall and the high school has been covered extensively during 2021, the publication informing on the various proceedings, including in court and the various positions and explanations, including ones that were in favour of the 4th district hall. Between 21 February 2021 and 19 August 2021, 8 other articles and interviews have been published. Based on the interview of 2 August 2021, on 5 August 2021, the 4th District of Bucharest, represented by Daniel Băluță, filed two sets of proceedings: one on the merits and for temporary measures to the aim of forcing *Libertatea* to publish a position of the district hall to rectify the interview. The proceedings were filed against *Libertatea*, Cătălin Tolontan, the journalist who interview the director of the high school, Cristina Radu, but also against the director himself. On 8 September 2021, the Local Court of the 2nd District of Bucharest allowed the request for the temporary measure and imposed the newspaper to publish the position, based on the provisions of the audio-visual law on the right to reply, not applicable to the written press⁶⁰. The request against the director was dismissed for the lack of standing in the proceedings. The Bucharest Tribunal allowed the appeal against the judgement and, on 12 November 2021, decided that the request for temporary measures is inadmissible, as the publication is not a temporary measure, it cannot be allowed without an examination on the merits of the case and the measure is disproportionate, as the district hall have its own means to communicate its position, without imposing on a publication to publish it⁶¹. On the merits, the claim was also dismissed by the Local Court of the 2nd District of Bucharest on 30 March 2022⁶². The

⁵⁹ <https://www.libertatea.ro/stiri/interviu-de-ce-refuza-directorul-colegiului-gheorghe-sincai-predarea-cladirii-vom-cere-in-proces-o-expertiza-de-risc-seismic-impartiala-3673487>

⁶⁰ Civil Sentence no.8973 of 8 September 2021, of the Local Court of the 2nd District of Bucharest, available on www.rejust.ro

⁶¹ Civil Decision no.2940 of 12 November 2021 of the of the Bucharest Tribunal – the 5th Civil Division, available on www.rejust.ro

⁶² Civil Sentence no 3351 of 30 March 2022 of the of the Local Court of the 2nd District of Bucharest, available on www.rejust.ro

appeal is pending before the Bucharest Tribunal, the first hearing being scheduled for 15 February 2023⁶³

Finding that on 5 August 2021 5 new court proceedings have been filed by either Daniel Băluță or the 4th District of Bucharest, *Libertatea* published an article informing on these proceedings the next day⁶⁴. The article was promoted on Cătălin Tolontan's Facebook page, like several *Libertatea* articles are promoted each day. In a reply to a comment from a reader, Cătălin Tolontan expressed his opinion that the mayor's judicial harassment aims at decreasing the public opinion control, which, in a democratic society is done by the public together with the media. The comment resulted in a new civil defamation claim filed against Cătălin Tolontan on 18 August 2021. The claim has been dismissed in first instance by the Local Court of the 2nd District of Bucharest, on 22 December 2021⁶⁵ and in appeal, by the Bucharest Tribunal, on 24 October 2022⁶⁶. No appeal on points of law has been filed, therefore the decision is final.

On 10 August 2021, after the request of the 4th District for the temporary measure has been communicated to *Libertatea*, Cătălin Tolontan published an editorial⁶⁷, informing on its content (the wish of local administration to re-write an interview) and the status of previous proceedings, especially the dismissal of the previous request for temporary measure to stop *Libertatea* from publishing articles on the mayor. This opinion resulted in another civil defamation claim, filed on 18 August 2021 against *Libertatea* and Cătălin Tolontan. The claim has been dismissed in first instance by the Local Court of the 2nd

⁶³ https://portal.just.ro/3/SitePages/Dosar.aspx?id_dosar=3000000000595063&id_inst=3

⁶⁴ <https://www.libertatea.ro/stiri/daniel-baluta-a-introdus-cinci-noi-actiuni-in-justitie-impotriva-jurnalistilor-si-a-directorului-colegiului-sincai-3680860>

⁶⁵ Civil Sentence no 14189 of 22 December 2021 of the Local Court of the 2nd District of Bucharest, available on www.rejust.ro

⁶⁶ Civil Decision no 2681 of 24 October 2022 of the of the Bucharest Tribunal – the 3rd Civil Division, available on www.rejust.ro

⁶⁷ <https://www.libertatea.ro/opinii/refuzat-in-primul-caz-de-judecatori-primarul-baluta-cere-eliminarea-unui-alt-articol-si-arata-instantei-cum-ar-trebuie-rescrisa-investigatia-jurnalistica-3684235>

District of Bucharest, on 20 December 2021⁶⁸ and in appeal, by the Bucharest Tribunal, on 21 June 2022⁶⁹. The appeal decision was communicated recently, therefore the dead-line for submitting an appeal on points of law has not expired yet.

On 22 August 2021, *Libertatea* published a photographic documentation, spanning more than 6 months of an abandoned van in the 4th district of Bucharest. The article starts by quoting a public statement of Daniel Băluță on actions of the administration to rid the streets of abandoned cars and shows how, for more than 6 months, the van remained abandoned in the street, with only notices in its windshield being renewed. For this article, on 1 September 2021 Daniel Băluță filed another claim for defamation, which was dismissed by the Local Court of the 2nd District of Bucharest, on 18 February 2022⁷⁰. The full decision was not communicated yet.

It has to be noted that in 2020-2021, Daniel Băluță filed several civil claims or discrimination complaints against other individuals or entities: journalists of *Newsweek*, local political opponents, an environmental NGO and its representative. So far, all these claims have also been dismissed by the courts. In none of these cases, the number of claims and the intensity of harassment was near the one against *Libertatea* and Cătălin Tolontan. As he noted in an editorial published on 4 November 2021⁷¹, in which he mentions that only in November 2021 there were 8 hearings scheduled, the aim of such number of cases was to block the newsrooms room and slow the newsfeed to the public.

⁶⁸ Civil Sentence no 13197 of 20 December 2021 of the Local Court of the 2nd District of Bucharest, available on www.rejust.ro

⁶⁹ Civil Decision no.1564 of 21 June 2022 of the Bucharest Tribunal – the 4th Civil Division

⁷⁰ https://portal.just.ro/300/SitePages/Dosar.aspx?id_dosar=30000000000597172&id_inst=300

⁷¹ <https://www.libertatea.ro/opinii/cum-arata-agenda-unor-jurnalisti-de-investigatie-cu-termenele-de-judecata-din-procese-intentate-de-politicieni-3818051>

3. Impact of the case and conclusions

The repeated proceedings initiated by the mayor Daniel Băluță against *Libertatea* and its journalists easily falls within the SLAPP definition from several perspectives: the unreasonable number of claims for small, insignificant matters, multiple proceedings initiated for the same article, intimidation via a smear campaign based on a criminal complaint with no basis, the position of the parties.

Libertatea is a large media outlet which was able to face the high number of cases started against it and its journalist in a very short period of time, with appropriate legal response. For the same reason, it was able to write about what was going on with the risk of being subjected to new proceedings. Daniel Băluță's strategy seems to have changed once the criminal complaint did not go as intended and the number of claims increased to counter the negative press. In particular, he initiated proceedings to fight the SLAPP accusation against him.

One can argue that picking up on a large media outlet and well-known journalists was part of the strategy to silence critics and media in general, as no small newsroom could have put up with the effort of fighting so many proceedings simultaneous. It is hard to assess the effectiveness of Daniel Băluță's SLAPP campaign from this perspective, of reducing critical voices on his activity as a mayor in the media and in society at large. While it is obvious that he has stopped in initiating various proceedings against the critics (media, politicians, activists) it is not clear he has not so because the previous strategy was ineffective or, on the contrary, reached its purpose.

The independent reporting on the SLAPP case, the mentions in the 2021 European Commissions' Rule of Law Report and the alert on the Council of Europe's Platform for the Safety of Journalists might have contributed to increasing the reputational costs of the SLAPP campaign and therefore to lessen its effectiveness.