

# CASE STUDY

# SLAPP IN POLAND



**Authors:**

Radosław Baszuk, attorney-at-law  
Paweł Knut, attorney-at-law  
Anna Mazurczak, attorney-at-law  
Krzysztof Pluta, attorney at law  
Anna Wójcik, PhD  
Justin Borg-Barthet & Erin Ferguson, University of Aberdeen

**Edited by** Anna Wójcik, PhD

@ Foundation for Civic Monitoring OKO / Fundacja Ośrodek Kontroli Obywatelskiej OKO

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

[redakcja@oko.press](mailto:redakcja@oko.press)

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## 1. Introduction

By Anna Wójcik, PhD

This study, in the first step, aims to diagnose the characteristics of unjustified legal actions, both under civil and criminal law, directed against individuals in order to limit their participation in public life and, more broadly, to create a chilling effect on society in Poland. In a second step, this study aims to find answers, based on the empirical experience of attorneys, legal practitioners, as to how clients can be effectively defended against such actions in Poland, before local courts.

In the original, or Anglo-American and Australian, sense, Strategic Lawsuits Against Public Participation (SLAPPs) are mainly brought under civil law, in protection of personal rights or defamation, by a stronger party (e.g., big business, an oligarch), against a weaker party (e.g., a journalist, active citizens).

When considering legal action to limit participation in public life in a state that is undergoing democratic erosion, however, one cannot be limited to the problem posed in this way. Poland is a member of the European Union and the Council of Europe and is an increasingly economically developed country. However, since 2015, a deliberate dismantling of constitutional democracy standards has been taking place under Poland's populist, nationalist-right governing coalition, affecting the scope of protection of individual rights and freedoms. Far-reaching changes have been made that have led to the hollowing out, neutering, incapacitating or subordination of key institutions, such as the Constitutional Tribunal, the National Council for Judiciary the Supreme Court and ordinary courts, public prosecution, public broadcaster, and the like.

The subordination of state institutions by the ruling coalition has led to the occurrence of a phenomenon known as discriminatory legalism, meaning instrumental use of legal means by the executive to prevent or obstruct public debate in areas that are inconvenient to the authorities by harassing, intimidating or otherwise discouraging its

participants. It manifests itself through excessive or baseless criminal prosecutions, both from the Criminal Code and the Misdemeanor Code, against individuals who criticize the authorities. The discriminatory legalism questions the legality of the criticism of the public authorities and, applies a chilling effect to discourage individuals from exercising their rights and freedoms and participating in democratic processes.

We believe that discriminatory legalism should also include legal actions taken against individuals by other state actors who use civil law instruments to make life miserable for their critics. Poland is distinguished precisely by the use of SLAPPs against critics of the government, ruling parties, institutions subordinate to them (such as ministries, public media), as well as the use of formally independent civil society organizations that support government policies as proxies in SLAPP cases.<sup>1</sup> In addition, these SLAPPs are accompanied by biased, negative portrayals of SLAPP victims by the public media and the government-friendly and generously subsidized private media, as well as smear campaigns conducted on social media from anonymous accounts.

Legal measures are applied to critics of the authorities, active citizens exercising their freedom of expression and freedom of assembly, for example during protests. The public prosecutor's office is being harnessed, but so are other institutions, such as the Sanitary Inspectorate, especially during the restrictions on rights and freedoms related to the Covid pandemic. For example, environmental legislation is being used to accuse a protest organiser of noise pollution due to the use of a megaphone at a protest. Charges under Article 196 of the Penal Code for the crime of insulting religious feelings are being applied to LGBT rights activists.

In Western Europe, SLAPPs are primarily civil actions (those protecting personal rights, and defamation actions). In Poland, of course, there is the phenomenon of individuals or organizations being sued by a stronger party, such as business. This happens

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<sup>1</sup> Cf. Jędrzejczyk, Agnieszka, *In the crosshairs. SLAPPs Polish Style*. Foundation for Civic Monitoring OKO, December 2021, <https://oko.press/images/2021/12/In-the-crosshairs-SLAPP-Polish-style-31.12.2021.pdf>.

especially in the case of conflicts on the line between society and business related to environmental issues, the protection of tenants' rights, or the protection of cities as sustainable spaces, rather than subject to the dictates of the construction business interests.

Furthermore, the problem of excessive use of legal instruments to make life miserable or shut the mouths of journalists has been present in Poland for many years, also before 2015. Fortunately, journalists have not been murdered in Poland in recent decades, in contrast to other EU member states such as Malta, Slovakia, or the Netherlands. On the other hand, private entities and, in recent years, authorities or entities associated with them have significantly increased the scale of legal harassment of journalists and press publishers. This includes, for example, suing on a massive scale for investigative journalism articles. Typically, the author and publisher are sued. It does not seem coincidental that a disproportionate number of SLAPPs are being brought by the authorities against press titles about which the leader of the ruling parties has directly spoken negatively. Organizations protecting freedom of speech have for many years urged successive Polish governments to abolish the crime of criminal defamation (article 212 of the criminal code) that makes this practice easier. International human rights monitoring organizations, such as the UN in its Universal Periodic Review, have also raised such recommendations against Poland. Lawsuits under civil law (defamation) are also a problem. The institution of press rectification is also being abused in Poland to harass journalists and publishers. Moreover, in Poland, the freedom of private media critical of the government has also been curtailed in recent years by, among other things, withdrawing advertisements from government companies. They have also been threatened by planned new taxes or changes in media ownership regulations, especially by entities outside the European Economic Area. These changes did not go into effect thanks to mass protests by the media themselves and citizens, as well as pressure from European Union institutions and the United States, Poland's key NATO ally. On top of that, in Poland, the media regulator has ordered financial penalties against private media for, for example, covering protests.



In the following sections of this report, we will diagnose the peculiarities of classical civil SLAPPs in Poland against media and active citizens, as well as present the related phenomenon of discriminatory legalism.

## 2.1 Civil SLAPPs against journalists and media publishers

*by Krzysztof Pluta, attorney at law*

SLAPP civil lawsuits go beyond a certain measure and, have a specific purpose of intimidating, scaring, exhausting the defendant. The lawsuits are filed in bad faith, in order to limit the public debate. SLAPP in civil law does not aim at restoring the balance between the parties to the proceedings, Plaintiffs in such lawsuits make disproportionate claims that are many times higher than those usually awarded in similar cases by the domestic and courts and damages ordered to applicants by European Court of Human Rights. For instance, when a plaintiff demands a rectification, the publication of which would cost the defendant hundreds of thousands of zlotys (several thousand euros). It is worth noting here that the amount of damages administered by the European Court of Human Rights is about 10-20 thousand euros.

In the case of SLAPP, the formulation of the demand itself is excessive. For example, the case of a SLAPP against a newspaper publisher, the plaintiff can demand in court that the untrue content not be published, but he or she cannot demand a total ban on publication about him, nor a disproportionate amount of compensation that could bankrupt the publisher.

The first example of SLAPPs in civil law against media publishers discussed in this report is the series of cases brought since 2004 by the Cooperative Savings and Loan Bank SKOK against the publisher, editor-in-chief, and journalists of the weekly newspaper "Polityka". In addition to civil lawsuits, a criminal private prosecution was also brought against the weekly's investigative journalist. The second case study is a court case brought by Minister of Justice Andrzej Czumak against the publisher of "Polityka" in 2010.



## **Case study 1**

***A series of cases relating to articles published in the weekly magazine *Polityka on the Spółdzielcza Kasa Oszczędności (Cooperative Savings and Loan Bank) SKOK system.****

Article 1 of the proposed Directive of the European Parliament and of the Council on the protection of persons who engage in public debate against manifestly unfounded or abusive legal proceedings ('strategic actions aimed at stifling public debate') provides that:

*"This Directive provides safeguards against manifestly unfounded or **abusive** civil litigation with cross-border implications brought against natural and legal persons, in particular journalists and human rights defenders, on account of their involvement in the public debate."*

Article 3(3) of this draft defines the concept of '*abusive litigation aimed at stifling public debate*'. Within the meaning of the proposed directive it means:

*"legal proceedings brought in connection with public debate that are wholly or partly unfounded and whose main purpose is to prevent or restrict public debate or to penalise public debate. Such an objective may be indicated by:*

- (a) the disproportionate, excessive or unjustified nature of the action or part of it;*
- (b) the fact that a number of proceedings have been initiated by the claimant or related entities in connection with similar cases;*
- (c) intimidation, harassment or threats by the claimant or his representatives."*

The following are real-life events which, in our view, exemplify activities prohibited under the proposed directive that have occurred in the past. These are a series of lawsuits brought by various related entities from the so-called Spółdzielcza Kasa Oszczędności SKOK system against the publisher, editor-in-chief or journalists of the weekly magazine

"Polityka" in connection with publications on the activities of the system of cooperative savings and credit unions (SKOKs) in Poland.

The system of cooperative savings and credit unions SKOK is a group of interconnected entities operating in the financial sector, whose scale of operations can be compared to the largest banks operating in Poland. The first policy publications on SKOKs pointed to a number of privileges enjoyed by SKOKs compared to other entities in the same industry. In particular, it was pointed out that their activities were not subject to the control of state financial supervision and that they were exempt from paying CIT, which came under criticism. It was argued that the lack of state supervision of the activities of financial institutions similar to SKOKs in the United States had led to a deep crisis in the financial sector there in the past, with losses of approximately USD 1 billion. Attention was drawn to the relationship between certain politicians and SKOKs, such as the fact that SKOKs employed or supported them (e.g. provided them with loans), and that these politicians reciprocated to SKOKs by pushing for legal solutions favourable to them.

A series of publications by Polityka on the activities of SKOKs has been met with a series of lawsuits by SKOKs against Polityka and its journalists, which, in our view, may be an example of the actions referred to in Article 3(3) of the proposed directive.

- 1. Main case SKOK (National Cooperative Savings and Credit Fund) ref. no.: XVI GC 667/06, concerning the article "Wielki SKOK" ("Grand SKOK") by Bianka Mikołajewska**

Plaintiff: National SKOK in Sopot

Defendant: POLITYKA Sp.

Case ref. no.: XVI GC 1997/04 , Regional Court in Warsaw

10.12.2004 r. Lawsuit for payment and protection of personal rights, together with an application for interim measures.

The claimant claimed:

1. the court's order for Polityka to immediately cease further damage to the plaintiff's reputation in Polityka magazine, in any of its issues ;
2. to publish a statement of apology entitled 'Apology for Press Injury';
3. payment of compensation in the amount of PLN 5,000,000;
4. to issue an interim order requiring the Policy not to publish articles relating to SKOK until the trial has been legally concluded.

The court refused the interim order sought by the plaintiff in paragraph 4.

18.07.2006 the court changed the mode of proceedings from economic to ordinary civil, which changes the file reference to: XVI GC 667/06

4 October 2010. The Warsaw Regional Court handed down a judgment (at first instance) dismissing the claim in its entirety and awarding reimbursement of legal costs to Polityka.

The National SKOK has appealed against this judgment.

In a judgment of 18 January 2012, case file I ACa 575/11, the Court of Appeal in Warsaw dismissed SKOK's appeal in its entirety and awarded reimbursement of legal costs to Polityka. The case was thus legally concluded. The National SKOK did not file a cassation appeal.

The aforementioned demands of the lawsuit, which were dismissed in their entirety, each individually, are manifestations of demands that are grossly excessive and disproportionate, which were aimed at withholding information on SKOK's activities, withholding public debate on the subject, and intimidating editors and journalists.

The demand 1 to cease further damage to the plaintiff's reputation in Polityka magazine, in any edition of the magazine, is in essence a demand to cease any publication critical of the plaintiff. This demand is clearly contrary to the mandatory provisions of the Press Law, Articles 1 and 41 thereof.

Demand 2, concerning the publication of an apology by the defendant, even if it was considered justified in principle, was excessive and disproportionate, because it was not limited to recalling the allegations made and apologising to the claimant, but also contained statements that were supposed, as it were, to "*clear the claimant's good name*" by the defendant and, moreover, contained an apology addressed to the readers. The excessiveness of the demand for the publication of the apology also consisted in the fact that it was demanded to take place not only in the Polityka weekly, but also in the Wprost weekly, which was competing with Polityka.

Demand 3, concerning payment of compensation in the amount of PLN 5,000,000, was grossly excessive, because the average amount of compensation awarded in similar cases by the courts oscillated around the amount of PLN 20,000. The amount demanded was therefore 250 times higher than that applied in similar cases. The purpose of such a grossly excessive demand was therefore to scare. Not only from the horrendously high compensation, but perhaps also from the prospect of bankruptcy. It should be noted that the publisher of Polityka weekly was not a large media concern, but a cooperative, bringing together dozens of journalists from the magazine's editorial team.

Demand 4 was excessive and disproportionate for the same reasons as demand 1. It would have meant, in practice, a ban on any publication about the claimant, throughout the trial, which is clearly contrary to the law.

The plaintiff's further actions against the defendant are an exemplification of another manifestation of an abuse of court proceedings aimed at stifling public debate, consisting of the initiation of *'multiple proceedings by the plaintiff or related entities in relation to similar matters'* - as referred to in Article 3(3)(b) of the proposed directive.

These actions concerned the following proceedings:

**2, 3, 4. Cases brought by: Bierecki, Kamiński and Lamenty, ref. no.: IV CSK 346/08, concerning the article "Superkasa Stefczyka" by Bianka Mikołajewska.**

Defendant: Bianka Mikołajewska, Ryszarda Socha, POLITYKA Sp. z o.o.

**2. Plaintiff: Grzegorz Bierecki**

Case ref. no.: IC 148/ 07/ VIII, District Court in Gdańsk

30.01.2007 CLAIM for protection of personal rights and for payment

**3. Plaintiff: Wiktor Kamiński**

Case ref. no.: IC 158/ 07/VIII, District Court in Gdańsk

12.02.2007 CLAIM for protection of personal rights and for payment

**4. Plaintiff: Lech Lamenta**

Case ref. no.: IC 373/ 07/III, District Court in Gdańsk

03.04.2007 CLAIM for protection of personal rights and for payment

Initially, there were three separate cases, pending as a result of the filing of three separate actions. Each of the plaintiffs demanded the publication of an apology and the payment of PLN 20,000 for or social purposes. The cases were subsequently joined for joint examination and decision under case file IC 148/07.

24.09.2007 JUDGMENT in case IC 148/ 07:

- dismiss each of the three actions

- reimbursement of the costs of legal representation in favour of the defendants

08.10.2007 APPEAL OF THE CLAIMS to the Court of Appeal in Gdansk

In the Court of Appeal in Gdańsk ref. no.: IACa 1335/ 07

14.02.2008 JUDGMENT IN CASE IACa 1335/07

- Dismiss the applicants' appeal
- reimbursement of the costs of the proceedings in favour of the defendants

14.04.2008 The plaintiffs' appeal in case IACa 1335/07

14.11.2008. The Supreme Court in Warsaw accepts the cassation appeal for examination, ref. no.: IV CSK 346/08

29.01.2009. JUDGMENT OF THE SUPREME COURT IN CASE IV CSK 346/08

- dismiss the appeal in cassation
- reimbursement of the costs of the proceedings in favour of the defendants

FINAL JUDGMENT. Cases concluded.

**5.SKOK rectification case (ref. VI ACa 1241/09) regarding the article "Superkasa Stefczyka" by Bianka Mikolajewska**

Plaintiff: SKOK im. Stefczyka in Gdynia

Defendant: Editor-in-Chief Jerzy Baczyński

Case ref. no. IV C 317/07, Regional Court in Warsaw

02.02.2007 APPEAL for an order for publication of a press release

19.09.2007 JUDGMENT IN CASE IVC317/07

- dismiss the action in its entirety
- reimbursement of the costs of legal representation in favour of the defendant

26.10.2007 APPEAL by the plaintiff to the Court of Appeal in Warsaw

In the Court of Appeal reference VI ACa 1603/07

02.07.2008 JUDGMENT IN CASE VI ACa 1603/07

- dismiss the appeal
- reimbursement of legal costs to the defendant

20.10.2008 Plaintiff's cassation appeal to the Supreme Court in Warsaw

Ref. I CSK 58/09.

In a judgment of 3 September 2009. The Supreme Court reverses the judgment of the Court of Appeal in Warsaw and remits the case to it for re-examination.

In a judgment of 29 December 2009. (ref. no. VI ACa 1241/09), the Court of Appeal in Warsaw amends the appealed judgment by ordering publication of SKOK's response in part. It dismisses the appeal in the remaining scope. The judgment was final and enforced.

**6.Case: Sikora ref. IV C 313/07 regarding the article "Kasa Rządu" by Bianka Mikolajewska**

Plaintiff: Ludwik Roman Sikora

Defendant: Jerzy Baczyński, Bianka Mikolajewska

Case ref. no. IV C 313/07, Regional Court in Warsaw

10.01.2007. APPLICATION for remedy for infringements of personal rights

The plaintiff demanded the publication of an apology and payment of PLN 10,000 for or social purposes.

By judgment of 23 December 2009. The Regional Court in Warsaw ordered the defendants to publish an apology in the Polityka weekly magazine and awarded PLN 10,000 for social purposes.

The defendant did not file an appeal. The judgment of first instance became final and was enforced.

**7. Case: Sosnowski Ref. I ACa 768/08 regarding the article "Superkasa Stefczyka" by Bianka Mikołajewska**

Plaintiff: Andrzej Sosnowski

Defendant: Bianka Mikołajewska, Ryszarda Socha, POLITYKA Sp.Pracy

Case ref. No. I C 187/07/VII, District Court in Gdańsk

15.02.2007 APPEAL for protection of personal rights and for payment

The plaintiff demanded the publication of an apology and payment of PLN 30,000 for social purposes.

15.02.2008. Judgment in Case I C 187/07.

- dismiss the action in its entirety
- reimbursement of the costs of legal representation in favour of the defendants

22.04.2008 APPEAL by the plaintiff to the Court of Appeal in Gdansk

Ref. act I ACa 768/08

25.09.2008. JUDGMENT IN CASE I ACa 768/08

- amend the judgment under appeal (ordering publication of the apology and dismissing the remainder of the appeal - as regards payment)
- mutual waiver of costs



14.12.2008 Plaintiff's cassation appeal to the Supreme Court in Warsaw

22.01.2009 Defendants' cassation appeal to the Supreme Court in Warsaw. At the same time, we applied for a stay of execution of the judgment.

10.02.2009. ORDER in case I ACa 768/08 refusing to suspend execution of judgment.

23.02.2009. Complaint of the defendants against the order of the Court of Appeal in Gdańsk

11.03.2009. ORDER in case I ACa 768/08 to reject the complaint. We filed another complaint against this order.

30.04.2009 ORDER in Case I ACa 768/08 to reject the complaint.

The Supreme Court did not accept the cassation appeal of A. Sosnowski did not accept, and ours, in a judgment of 19 November 2009. (ref. IV CSK 232/09) dismissed it. The judgment of the Court of Appeal in Gdańsk of 25.09.2008. I ACa 768/08 was executed (publication of an apology to A. Sosnowski for the publication of his personal data and image in connection with the information about the criminal proceedings pending against him).

#### **6. SKOK case for publication of apology and payment (ref. I C 1401/09) regarding the article "Superkasa Stefczyka" by Bianka Mikołajewska**

Plaintiff: SKOK im. Stefczyka in Gdynia and Andrzej Sosnowski;

Defendants: Bianka Mikołajewska-Niemczyk, Jerzy Baczyński and Polityka Sp.Pracy;

Case ref. act I C 1401/09, District Court in Gdańsk;

The plaintiff's claim:

1. the publication of a statement of apology, for publishing information that they had withheld information, as required by law, in their financial statements, about certain financial transactions (loans and advances to SKOK board members);

2. Order the defendants to desist in future from the publication of untrue information of the type described in paragraph 1;
3. award the sum of PLN 30,000 for for social purposes.

By judgment of 15 February 2011, case ref. no. I C 1401/09, the Regional Court in Gdańsk ordered the defendants to publish a statement with apologies for providing untrue information, as if, in accordance with the law, all data on loans granted to members of the Fund's governing bodies and on any transactions concluded with them and their families should be included in the Fund's annual activity reports submitted to the registry court. He also awarded the defendants the sum of PLN 3,000 with statutory interest from 16 February 2011, for social purposes. The remainder of the claim was dismissed.

Both parties appealed against the above judgment. The Court of Appeal in Gdańsk, in the verdict of 22 September 2011, case ref. no. I ACa 750/11, dismissed the defendants' appeal, and allowed the plaintiffs' appeal only to a small extent, setting interest on the awarded amount of PLN 3,000 for a social purpose from 15 June 2010.

The judgment is final.

**9. SKOK case for publication of apology and payment (reference IV C 320/14)  
regarding the article "Underground S in SKOK" by Bianka Mikolajewska**

Plaintiff: National SKOK;

Defendants: Bianka Mikolajewska-Niemczyk, Jerzy Baczyński and Polityka Sp.Pracy;

The statement of claim was filed with the Regional Court in Gdańsk, where the case was assigned case number: XV C 1344/12. Subsequently, as a result of our allegation of lack of territorial jurisdiction of that court, the case was transferred for examination to the Regional Court in Warsaw, as the competent court, where it was assigned case number IV C 320/14.

The plaintiff claimed:

1. the publication of a statement of apology for having published untrue information which infringed the good name of SKOKs, in particular: about the restriction of the freedom of SKOK employees to associate in trade union structures, that the creation of trade union structures in SKOKs required the maintenance of 'the deepest conspiracy', unequal treatment of SKOK employees;
2. Order the defendants to desist in future from the publication of untrue information of the type described in paragraph 1;
3. an award of PLN 50,000 for social purposes;

In a judgment of 8 October 2014, case ref. no. IV C 320/14, the Regional Court in Warsaw dismissed the claim in its entirety and ordered the plaintiff to pay the costs of the proceedings. Krajowa SKOK appealed against this judgment to the Court of Appeals in Warsaw, which was dismissed by a judgment of 30 March 2016 (case ref. no. VI ACa 239/15). The Court of Appeal only modified the litigation costs awarded against the plaintiff in favour of the respondents.

The National SKOK filed a cassation appeal against this judgment. The Supreme Court refused to accept it for examination by order of 6 March 2017, case ref. no. I CSK 579/16.

**10. SKOK case for publication of a correction (ref. IV C 1134/14) regarding the article "A very expensive umbrella" by Joanna Solska**

Plaintiff: National SKOK;

Defendant: Jerzy Baczyński;

Case ref. no. IV C 1134/14, District Court in Warsaw;

The plaintiff claimed:

1. the publication of a correction by the National SKOK, which claims, among other things, that it is not true that:
2. Community SKOK savers cannot collect their money,
3. Only bank customers contribute to the BFG;
4. knowledge of the financial situation of SKOKs was reserved exclusively for the National Bank;
5. there was negligence in the supervision exercised by the National SKOK;
6. money accumulated in SKOKs 'evaporated' due to criminal activity;
7. SKOKs financed the election campaigns of political parties;
8. to award him the costs of the trial as prescribed;

In a judgment of 30 December 2014, Case No. IV C 1134/14, the Regional Court in Warsaw dismissed the claim in its entirety and ordered the plaintiff to pay the costs of the proceedings. Krajowa SKOK appealed against this judgment to the Court of Appeal in Warsaw. In a judgment of 28 May 2015, ref. no. VI ACa 356/15, the Court of Appeal dismissed the plaintiff's appeal in its entirety.

**11. Private prosecution case of Krajowa SKOK against Joanna Solska-Czerska (ref. no. IV K 142/15), concerning the article "Very expensive umbrella" by Joanna Solska**

Private prosecutor: National SKOK;

Defendant: Joanna Solska-Czerska;

The case also became the subject of a criminal trial, brought by a private prosecution of the Krajowa SKOK against Joanna Solska-Czerska, in which a final acquittal was handed down. The courts of both instances found that the author of the disputed publication acted

in defence of a legitimate public interest and did not violate the law when publishing the information.

Judgment of the District Court for the Capital City of Warsaw of 30 March 2017, case no. IV K 142/15;

Judgment of the Regional Court in Warsaw of 13 October 2017, ref. no. IX Ka 801/17;

In a decision of 7 November 2018, the Supreme Court left the cassation filed by the National SKOK unprocessed as coming from an unauthorised person - ref. II KK 82/18.

**7. SKOK case for protection of personal rights (ref. XV C 128/18) regarding the 2017 articles 'The big, golden SKOK' by Cezary Kowanda and 'How PiS infected parasites' by Jakub Bierzyński.**

Plaintiff: National SKOK;

Defendant: Polityka Sp. z o.o. SKA;

Case no. XV C 128/18, District Court of Gdansk;

By a statement of claim dated 12.10.2017. The plaintiff demanded:

1. the publication of a statement of apology, for publishing untrue information which infringed SKOK's good name, in three consecutive issues of the weekly Polityka, on one of the first three pages of that newspaper;
2. award the sum of PLN 10,000 for a social purpose;
3. to award him the costs of the trial as prescribed;

In a judgment of 14 March 2019, file reference XV C 128/18, the Regional Court in Gdańsk dismissed the claim in its entirety and ordered the plaintiff to pay the costs of the proceedings. Krajowa SKOK appealed against this judgment to the Court of Appeal in Gdańsk. In a judgment of 26 September 2019, ref. no. I ACa 395/1, the SA dismissed the plaintiff's appeal in its entirety.

In the latter lawsuits, in justifying the social interest of the disputed publications in conducting a public debate, the defendant was able to refer to official data of the Financial Supervision Commission, about the amount of losses caused by the SKOK system, which had to be covered from public funds. According to the KNF's data, they amounted to approximately PLN 5 billion (over USD 1 billion). Thus, as much as was indicated by the Policy in its first publications 15 years ago, warning of the risk of their occurrence, which, among other things, was the reason for the filing of the first lawsuit mentioned above. A lawsuit that sought to prohibit the publication of any articles critical of SKOK.

It should additionally be noted that, in relation to the publication of the first of the disputed articles, which took place in 2004, its author and her husband were harassed by the public prosecutor's office and other state services acting as a result of the SKOK notifications, which could be qualified as activities similar to those listed in Article 3(3)(c) of the proposed Directive.

It should be noted that, although the aforementioned lawsuits were overwhelmingly won, the costs incurred by the defendants (in the public interest) in pursuing them were recovered from the plaintiffs only to a negligible extent.

### **Case study 2**

***A court case brought by the Minister of Justice Andrzej Czuma against the publisher of the weekly magazine Polityka in 2010.***

Plaintiff: Andrzej Czuma

Defendant: Polityka Sp.

Case ref. no: IV C 480/10 of the Regional Court in Warsaw.

In 2010, Andrzej Czuma sued the publisher of the Polityka weekly for publications about him which appeared in Polityka shortly after his appointment as Minister of Justice in 2009.

The first of these publications, written by Cezary Łazarewicz and entitled 'Minister na debecie' (no. 7/2629, 14.02.2009) revealed that when Andrzej Czuma's nomination as Minister of Justice was announced in Warsaw, a radio programmes in Chicago started receiving calls from people claiming to have been cheated by Mr. Czuma in the past. It turned out that at least a few people who had lent Andrzej Czuma money had to resort to the court to get it back.

Mr. Czuma alleged in the lawsuit that Polityka's publications *"contained dozens of lies and a number of half-truths and insinuations"* and *"that Polityka had been an organ of the Communist Party for several decades"* and its columnists in his case *"were openly acting not as impartial journalists, but as politicians seeking to overthrow or at least paralyse a politician of a different option"*.

Mr. Czuma therefore demanded the publication of statements retracting the allegations and an apology in the pages of Polityka and several leading newspapers and TV stations. The total cost of their publication would amount to many hundreds of thousands of zlotys. He also demanded payment of PLN 50,000 in damages and the removal of 8 Polityka publications from its online archive.

21 November 2014. The Warsaw Regional Court announced a judgment dismissing the claim in its entirety. In its oral justification, the court explained that, in its view, what had been reported in the articles was true and there were no grounds to apologise to the claimant. Andrzej Czuma became Minister of Justice thanks to his good reputation, and this had to be assessed. The citizen has the right to know who governs him and has the right to find out the facts of his private life. The public had a right to know that the plaintiff had debts which he had not paid. The press even had a duty to report these facts.

The claimant has not lodged an appeal. The judgment is final.

The demands of the lawsuit in this case bear the hallmarks of a SLAPP lawsuit within the meaning of the proposed Directive.

In particular, the substance of the dispute in this case demonstrates that the lawsuit was filed with an abuse of the law, in bad faith, in order to stop the public debate on the reputation of the newly appointed Minister of Justice. In the lawsuit, the plaintiff denied the facts stated in the disputed publications, which were found to be true during the trial. This in itself demonstrates an abuse of the plaintiff's right. For while the court and the defendant are entitled not to have knowledge of the facts of the plaintiff's life, only learning them from the evidence gathered in the case, the plaintiff has known them all along. By filing a claim and stating the factual basis of the dispute, the plaintiff knows what is true and what is not. By denying events that actually took place, the plaintiff is counting on the fact that they cannot be proven using the tools available in the civil process. Such an attitude appears to be an abuse of the law. Especially when it is accompanied by excessive claims, the scale of which is intended to frighten the other party to the dispute. In this case, the plaintiff demanded that the defendant publish a number of statements, in a number of press titles and television stations. Their total cost, if the claim was upheld, would amount to many hundreds of thousands of Polish zlotys.

For these reasons, we perceive the lawsuit filed as having been filed with the misuse of the law to prevent public debate on socially important issues.



## 2.2 Civil SLAPPs against human rights defenders

*By Paweł Knut, attorney at law and Anna Mazurczak, attorney at law*

How can we identify a civil SLAPP in Poland and convince the court that our identification is accurate? On an intuitive level, we often come to a conclusion very quickly: we are dealing with a classic SLAPP against human rights defenders.

This intuition probably comes from the fact that we are members of a certain community that understands what the democratic process should look like, what the use of specific tools of the law should look like in a democratic state governed by the rule of law. We probably also have an understanding of what kind of actors have participating in the public debate in Poland, what positions do they take, what they argue about. On the other hand, when we try to convey this intuition of ours to the court, it suddenly turns out that we have to go lower, we have to leave the meta-level and go to the level of concrete arguments, in fact to the level of concrete facts in order for the court to believe our story, our interpretation.

Judges are also members of this community of understanding, they too know what is going on in public life in Poland. However, in SLAPP cases they do not want to so readily accepts something as a notorious fact, meaning well-established and universally known fact. On the contrary, they try to be as objective as possible. Perhaps this comes from the fact that they will simply consider the citing something as a notorious fact would favor one side of the dispute.

From our experience and considerations, the following aspects of the SLAPP case should be brought to the court's attention:

- who the plaintiff is (because even if it is a private entity, in the case of a SLAPP in Poland it may be personally or financially connected to state institutions or governing coalition parties); in the case of entity: what persons sit on the entity; what is the previous history of the entity's operation, whether and how the entity previously engaged in matters of public interest, with whom it is affiliated.
- who the defendant is; how he or she is involved in public activity; what awards this person has received in connection with his or her public involvement (to emphasize that this person has a watchdog function, an important function in public life and debate); what is the whole history of conflict with the plaintiff; what is the defendant's previous

history of involvement in public activities; whether the defendant is a member of any organization, initiative, group. For example, a short biography of the person can be prepared and introduced in the response to the lawsuit.

- what was the defendant's behavior that became the subject of the lawsuit: what was its content, form, what was the motivation of the person who behaved in a certain way; the plaintiff very often presents the defendant's behavior in a limited or distorted way, does not show the broader context.
- whether there is the disparity of power between the plaintiff and the defendant (financial, political, educational, organizational, in social status or perception, etc.); How the case is commented on in the public debate in various media;
- when is the lawsuit filed; does it happen immediately after the defendant's behavior, or, for example, a year or two years pass and in the meantime something happens, o causes the case to return, because, for example, the person who is our defendant has not let go, continues to consistently show various violations of this entity, which is our plaintiff.
- where the lawsuit was filed; whether it was in Poland or abroad, how the local jurisdiction was chosen; whether the lawsuit is not filed far from the defendant's residence to harass him or her.
- what are the effects of filing a lawsuit on the defendant (mental, emotional, health, financial, professional, personal)
- what the plaintiff is claiming; whether the plaintiff's demands correspond to this alleged violation; whether what the plaintiff is claiming is somehow intended to be equivalent to this violation, or whether it grossly exceeds what the plaintiff is alleging against the defendant. In the case of the plaintiff's demand to publish an apology in various national media, it is important calculate then how much it would cost in total; the sum may grossly exceeds the alleged violation; whether the defendant is able to bear such a cost.
- whether the plaintiff is taking similar actions against other persons similar to the defendant, or has previously taken the same actions against the defendant.

Below we discuss two cases that, in our opinion, meet the criteria for a classic SLAPP in civil law.

### **Case study 1**

***The case brought against film director Agnieszka Holland by Ordo Iuris (ultra-conservative legal think tank) for her statements on the so-called "LGBT-free zones," meaning municipalities that have passed local resolutions condemning "LGBT ideology" or Family Bill of Rights defending the "traditional family."***

Plaintiff: Ordo Iuris

Defendant: Agnieszka Holland

Case ref. no. III C 1596/20, District Court in Warsaw

Status: pending before the court of first instanc

The case concerns film director Agnieszka Holland's statements on the so-called LGBT-free zones. Ms. Holland follows political life in Poland with great commitment on an ongoing basis. Of particular importance to her, not least for personal reasons (Holland's daughter is a lesbian who has lived in Poland for many years in a relationship with her partner), are the decisions made by the authorities that shape the socio-legal position of the LGBT community in Poland. For this reason, Ms. Holland has observed with growing concern the adoption by successive local authorities of resolutions expressing their opposition not only to LGBT people, but also to demands for change raised by LGBT people that are important for the community. Among other things, Ms. Holland expressed her opposition to the adoption of the resolutions in question during a conversation she had on 6 March 2020 with journalist Eliza Michalik in Onet Opinions political YouTube channel, that is a part of the news portal Onet.

When asked by the journalist Ms. Michalik:

- *There are calls for LGBT-free zones, of which there are 52 at the moment im Poland, at least the last time I counted, to be called outright fascist LGBT-free zones. Is this not too much to label them as such? Or do they bear hallmarks of fascist ideology?*

Holland replied:

- *In my opinion it is a fascist or fascist ideology, an attitude rather, because it ... ideology is Ordo Iuris [ultra-conservative legal think tank - ed.], which ... it is worth reading Klementyna Suchanow's book "Now there is a war" [To jest wojna], which tells how Ordo Iuris operates and on what principles, in what connections and for what purposes, and it is quite evident just from this effectiveness of the introduction of these zones, that it is an extremely dangerous and extremely effective organisation and that*

*it confuses people's minds terribly, because under the slogans of the family, the child, the welfare of children, freedom and so on, it introduces de facto fascist laws, precisely fascist, Putin-fascist laws, because some of them are modelled on certain Putin laws. As far as the spheres are concerned this is a Putin invention, with them it was called a homosexual propaganda free zone right .... Of course, using the term fascism is a bit of rag on the bull, because it is overused as a term, it has become devalued.*

*Michalik: - It doesn't scare anyone anymore either....*

*Holland: - ... I mean I don't know if anyone, but in any case it doesn't make the impression it should. Not to mention the fact that there are more and more political movements which openly admit to fascism. In our country, these nationalist movements, the All-Polish Youth, the ONR above all, they openly admit to fascism; there is no need to label them. They just, as it were, do not hide ... In Slovakia Kotleba's party which got into the Slovak parliament for the second time, which openly invokes the traditions of Father Tiso, that is, the fascist Slovak state. So we have to realise that this fascism is already here. We can call it something else. Invent some new term. To define what is happening now. There are, of course, books, Madeleine Albright's, there's [Timothy] Snyder's very important book, Timothy Snyder's, that somewhere describe how it relates... this fascism that we know from the 1930s, 1940s how it relates to today's situation. There's a huge amount of similarities....*

### **Description of the legal problem**

The lawsuit was brought by Ordo Iuris, the organisation mentioned in Ms. Holland's statement, it relates to the alleged violation of the personal rights of this organisation by Ms. Holland.

### **Why this is a SLAPP?**

We believe that it is SLAPP because:

- the claim is manifestly unfounded (it did not violate the personal rights of this organisation in general);
- the claims asserted (apology in the national media) would be a huge expense if awarded by the court;
- the plaintiff is bringing similar lawsuits for other people who criticise it.

### **Why this is a typical or atypical but important Polish SLAPP?**

We believe this is a typical SLAPP based on civil law, brought by a private entity. Its is intended to silence criticism of an organisation that participates intensively in the public debate in Poland, including in the debate on LGBT people and their rights.

**Whether the accuser/claimant has sued this or similar persons in a similar manner or for a similar purpose?**

Yes, at least several other individuals. The organization has filed lawsuits against LGBT activists and artist Bart Staszewski, the author of artistic project on "LGBT free zones" aimed at brining attention to discriminatory local government resolutions. Moreover, the organization also represented municipalities that were included in the "Atlas of Hate," an online map of municipalities where discriminatory resolutions were passed.

**What have been the arguments of the parties, in particular the arguments of the defendant?**

- Ms. Holland's statement did not violate personal rights
- if it did infringe personal rights, it was not unlawful, because it was an action in the public interest.

**Have there been any legal (e.g. amicus curiae) and non-legal (e.g. media) strategies employed in the case?**

None so far.

**What is the case's importance?**

The case's has significant social importance, due to the continuing risk that others will be sued by the organisation.

**Case study 2**

***The case brought against women's rights activist Marta Lempart by Ordo Iuris (ultra-conservative legal think tank) in relation to her statements about the organization.***

Plaintiff: Ordo Iuris

Defendant: Marta Lempart

Case ref. no. III C 251/22, District Court in Warsaw

status: pending before the court of first instance

The case concerns Ms Lempart's statements on Ordo Iuris.

The full text of the news item published by Marta Lempart on 15 October 2019 on Twitter reads: *5 years in prison for teaching children how to defend themselves against bad touch [sexual harassment - ed.]? You, sad Law and Justice, together with your fellow Kremlin-paid fundamentalists from Ordo Iuris, will be sitting. You want to dance? Let's dance.*

Her Twitter post referred to the 'Stop Paedophilia' civic bill under consideration by the Sejm, banning sex education in schools. The post was made on social media on the day that the first reading of this bill was held in the Sejm.

According to the explanatory memorandum of the draft bill, the assumption of the draft was to criminalise sex education, which the drafters understood to be the promotion of 'homosexuality, masturbation and other sexual activities' among students. According to the draft, promoting or praising the initiation of sexual intercourse or other sexual activity by a minor was to be punishable by up to three years' imprisonment. During the first reading of the bill in the Sejm on 15 October 2019, Law and Justice MPs demanded that the threat of imprisonment be increased to 5 years.

The draft law stirred up a lot of controversy, a public debate heated up around it, not only in the media and on social media, but also on the streets of Polish cities. The referral of the bill for further work in committee on 15 October 2019 triggered a wave of protests. On 16 October 2019, a protest was held in front of the Sejm, and similar protests were organised across Poland.

One of the initiators and organisers of these protests was Marta Lempart. She therefore undoubtedly took part in the public debate surrounding the bill, speaking in the media and also taking the floor during the protests in front of the Sejm. It was in the course of this debate that she posted an entry on Twitter linking the Foundation's activities to the bill.

### **Description of the legal problem**

The lawsuit was brought by Ordo Iuris (the organisation mentioned in Ms Lempart's statement) and concerns the alleged violation of that organisation's personal rights by Ms Lempart.

**Why this is SLAPP?**

- the lawsuit is manifestly unfounded (it did not violate the personal rights of this organisation in general);
- the claims asserted (apology in the national media) would be a huge expense if awarded by the court;
- the claims asserted (demand for very high monetary compensation) would be a huge expense if awarded by the court;
- the plaintiff is bringing similar lawsuits for other people who criticise it;

**Why this is a typical or atypical but important Polish SLAPP**

We believe that this is a typical SLAPP based on civil law, brought by a private entity. It is intended to silence criticism of an organisation that participates intensively in the public debate in Poland, including in the debate on sexual education in schools in Poland.

**Whether the accuser/claimant has sued this or similar persons in a similar manner or for a similar purpose?**

Yes, at least several other individuals.

**What have been the arguments of the parties, in particular the arguments of the defendant?**

- Ms. Lempart's statement did not violate personal rights;
- if it did infringe, it was not unlawful (because it was an action in the public interest);
- indicating explicitly that the case is a SLAPP (after Ordo Iuris filed an extension of the claim in which it further increased the amount of damages sought).

**Have there been any legal (e.g. amicus curiae) and non-legal (e.g. media) strategies employed in the case?**

None so far.

**What is the case's importance?**

The case's has significant social importance, due to the continuing risk that others will be sued by the organisation.

## 2.3 Criminal SLAPPs against human rights defenders

*by Radosław Baszuk, attorney at law*

The peculiarity of SLAPPs in Poland during the democratic backsliding (after 2015) is that these are repressive proceedings, generated by the state. We believe that the deep roots of this phenomenon lie in the thinking about the state and society prevalent in non-democratic Central and Eastern Europe before 1989. Significant figures in Poland's political leadership grew up in that period and still retain certain ways, patterns of thinking and behavior. This makes the authorities prone for engaging in discriminatory legalism<sup>2</sup>, that is, to use legal means to scare or punish critics, and to shield individuals or entities that align with government's policies.

Today in Poland we unfortunately observe the instrumental use of legal means by public authorities, aimed at preventing, obstructing public debate in areas for various reasons inconvenient to the public authority, by harassing, intimidating, discouraging the debate's participants.

The question arises, a question for us lawyers, how to translate these definitions into the perception of a particular case, as discriminatory legalism.

Based on my experience, I propose to present such criminal cases, based on the Criminal Code and the Misdemeanor Code, based on the following criteria:

- Whether the proceeding meets the objectives of criminal and misdemeanor proceedings (Article 2 of the Code of Criminal Procedure, Article 8 of the Code of Misdemeanor Procedure, which refers to Article 2 of the Code of Criminal Procedure in this regard). Does the initiation and conduct of a case by the state aim at the fact that the perpetrator of a crime or a misdemeanor is to be detected and held accountable, while an innocent person is not to bear this responsibility?

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<sup>2</sup> Cf. Bodnar, A. (2021). For my enemies, the law. *Zeitschrift Osteuropa*, 71(3), 99-114.



- Whether the use of the legal measures in the case serves to strengthen respect for the law and the rules of social life?
- Whether the starting point for triggering these legal instruments is a true factual finding? repressive proceedings initiated by the state may typically involve:
- An act that bears the hallmarks of a misdemeanor or crime, but was committed out of political, religious, or ideological motivation;
- Acts alleged, as to which the exhaustion of the substantive elements of a crime or a misdemeanor is evaluative, debatable, doubtful.
- Acts alleged instrumentally, in bad faith clearly not exhausting the elements of the object side of the crime.

How to defend against discriminatory legalism? We will answer not only what lawyers should do, but also what the rest of the citizens should simply know. To fight discriminatory legalism, it is necessary to have legal awareness, to know what our rights and obligations are, from the first moment of the procedure against a citizen to the very last one. It is also necessary to complain about the behavior of state bodies that does not comply with the law.

Below we will discuss a high-profile case in Poland that, in our opinion, meets the criterion of discriminatory legalism. It concerns the Public Prosecutor's Office actions against three activists who, using art forms, opposed the ongoing anti-LGBT slanderous and hateful campaign in Poland, conducted by public authorities and the government's allies, and also by some representatives of the Catholic church.

### **Case study**

#### **Prosecution by the Public Prosecutor's Office**

**Defendants:** Elżbieta Podleśna, Joanna Gzyra-Iskander, Anna Prus

**Case ref. no.** District Court in Płock, II K 296/20, Regional Court in Płock V Ka 418/21.

**Case status:** The District Court, by judgment of 2 March 2021. acquitted the defendants.

The Regional Court, in its judgment of 12 January 2022, did not accept the appeal of the Prosecution and the auxiliary accusers and upheld the acquittal.

The public prosecution and the subsidiary prosecutors filed cassation appeals to the Supreme Court.

The case concerns the prosecution by the Public Prosecutor's Office of three activists who, in response to homophobic content presented in one of the churches in Plock, posted on the streets of the city a list of church hierarchs involved in protecting clergy accused of paedophilia and covering up their actions and an image of the Virgin Mary in a halo in the colours of the rainbow - for the offence of insulting religious feelings by insulting an object of religious worship (Article 196 of the Penal Code).

Political context: the election campaign for the 2019 European Parliament elections.

**Description of the legal problem:** misuse of criminal law instruments to suppress freedom of symbolic expression.

**Why it is a SLAPP:** the case should not be considered a SLAPP, it does not meet the definition. The attacker is the state, a political authority.

**Why this is a typical or atypical but important Polish SLAPP:**

The case of the Rainbow Mary is an example of 'so-called discriminatory legalism', i.e. the use of the state apparatus to harass activists who criticise the authorities or public institutions important from the point of view of the authorities, and to create a so-called 'chilling effect'.

**Has the accuser/plaintiff sued this or similar persons in a similar manner or for a similar purpose: Yes.** We are seeing an increase in the number of criminal proceedings under Article 196 of the Criminal Code between 2018 and 2022. There is also

a bill to amend the Criminal Code to significantly broaden the scope of criminal liability in similar cases.

**The argumentation of the parties, in particular, the argumentation of the defence/the party's attorney is relevant:** The prosecution's argumentation boiled down to the alleged protection of the existing legal order against the unlawful and "hooligan" actions of the defendants.

The defense argument pointed to an instrumental use of the criminal law, pointing out that the object of the defendants' action was not the religious feelings of others but the institutional homophobia of the church, which is an important participant in public and political life.

**Legal (e.g. amicus) and non-legal (e.g. media) strategies employed:**

During the trial, in addition to litigation instruments, the defence used an 'amicus curie' strategy, obtaining the support of recognised social organisations and individuals with public authority presented to the court. Elements of 'litigation PR' were also employed, actively reporting and explaining the position of the defendants and the defence to the public through traditional and social media.

**Significance/impact of the case - both in individual terms and in broader, structural or societal terms, impact on public opinion.**

The trial was probably the most commented on trial under Article 196 of the Criminal Code in Poland and abroad in recent years. The accused activists became publicly recognisable figures. Their action found acceptance and understanding beyond the circles sharing the reasons for their action.

### 3. Conclusions

The case studies discussed in this paper show what civil SLAPPs look like in Poland. We have selected representative cases that demonstrate the scale of the problem - civil SLAPPs against journalists and press publishers, SLAPPs against citizens who engage in public debate and criticize local and national government policies, and example of discriminatory legalism, meaning excessive use of legal means against government critics by the Public Prosecution Office.

SLAPPs in Poland in recent years have a dimension that keeps them off the radar of the European Union's institutions preparing the anti-SLAPP directive.<sup>3</sup> Because the entity that engages in legal harassment, especially of its critics are primarily the institutions of the state appropriated by the ruling coalition. In particular, the problem is the subordination of the prosecution service, which is controlled by the Prosecutor General, who is also the Minister of Justice. The proposed EU directive (Directive of the European Parliament and of the Council on the protection of persons who engage in public debate against manifestly unfounded or abusive legal proceedings ) contains solutions that can help SLAPPs under civil law. This is in large part because EU has broader authority in the area of civil procedure than criminal procedure.

In the case of SLAPP by the authorities *or* their proxies, however, the standard of the European Convention on Human Rights in the case law of the European Court of Human Rights is being forged. An example is the ruling in the case of *Żurek v Poland*, on the basis of a complaint brought by a judge and defender of the rule of law persecuted by the authorities (ECtHR judgment of 16 June 2022 in *Żurek v Poland*, Application no. 39650/18). The term "SLAPP" does not fall in this ruling, but the ECtHR points to an accumulation of state measures that were collectively intended to limit the judge's public involvement.

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<sup>3</sup> Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings ("Strategic lawsuits against public participation") COM/2022/177 final.

As for the cases brought by SKOK against journalists, the editor-in-chief and the publisher of Polityka magazine since 2004, the country's courts ultimately found the claims brought by the plaintiffs to be without merit. The nature of these demands: forbidding any press publication about the plaintiff, or demanding very high damages that would threaten the finances of the magazine publisher, makes it perfectly clear that they were in bad faith and excessive.

Civil cases brought by an ultraconservative legal think tank against well-known public figures who participate in public debate on important social issues (LGBT rights, women's rights, sex education in schools).

Civil cases brought by an ultraconservative legal think tank against well-known public figures who participate in public debate on important social issues (LGBT rights, women's rights, sex education in schools) meet the criteria for a classic SLAPP. The organization, which is suing, has also sued many others over negative statements about it.

Finally, the case against three activists in an act of artistic expression opposing the hateful anti-LGBT campaign waged in Poland by the state and some Catholic Church hierarchs draws attention to the need to explain the sometimes multi-level socio-political context, as well as the motivations of the defendants.

We hope that the cases discussed in this report, which have been widely covered by the media in Poland, will help to understand the phenomenon of SLAPPs and the related phenomenon of discriminatory legalism.

In addition, in this paper we have tried to point out the criteria that lawyers in SLAPP cases can present to the court. They concern who the plaintiff and the defendant are. What is the context of the prosecution's action against the defendant. At what time was the lawsuit filed or proceedings initiated. Does it concern the facts; how is the defendant's behavior but also motivation presented. Is there an imbalance of the parties to the proceedings. Is the plaintiff suing/prosecutor initiating proceedings against other people



in similar situations. What is the broader political, social, legal context of the case. What role does the accused play in the public debate.

We hope that this report will contribute to further public discussion on and research into the SLAPP phenomenon in Poland and the role of professional attorneys in combating it. We also hope that it will serve for further comparative studies with other European Union countries, which are being analyzed within the PATFox project. Finally, that it will be important reading for lawmakers at the national and European level, and that it will help develop solutions to provide better protection against SLAPPs.