



Global Institute for  
Structure relevance,  
Anonymity and  
Decentralization i.G.

**GISAD comment on [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13192-EU-action-against-abusive-litigation-SLAPP-targeting-journalists-and-rights-defenders\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13192-EU-action-against-abusive-litigation-SLAPP-targeting-journalists-and-rights-defenders_en)**

GISAD (Global Institute for Structure relevance, Anonymity and Decentralisation i.G.) is an institute in founding. GISAD wants to develop a digital system (EU-D-S) from the perspective of the citizens of Europe, which can hold its own in system competition with gatekeepers and a social credit system.

The aim of GISAD is to support the creation of a holistic Marshall Plan, as called for by the President of the European Commission, Ursula von der Leyen. The core of the Marshall Plan must be a digital concept adapted to civil rights and diversity. If individual measures are taken without an overall system of their own, Europe runs the risk of losing the system competition to other economic areas such as a centrally controlled China.

- GISAD's opinion is subject to the proviso that it is to be as part of an overall digital concept understood (multiple use of the same infrastructure without additional costs).

GISAD has defined three goals on which a Marshall Plan should focus:

1. The optimal refinement and simple exploitation of digital data, while maintaining diversity and performance-adopted involvement of all parties involved in the value creation.
2. The stigma-free, lifelong digital inclusion of all citizens with incentives for self-development.
3. The digital guarantee of the necessary state tasks to maintain security for citizens, the economy and the state, while preserving pre-digital democratic achievements.

**Challenges:**

GISAD welcomes the European strategy against abusive litigation. The issue is a top priority for GISAD. The EU Commission have evidence that companies seeking to promote a civil liberties-friendly internet, are being severely hampered. Only then is it plausible that Europe has completely lost the B2C internet market to foreign gatekeepers.

Against this background, the initiative planned so far will not solve the problem:

1. It makes no sense to define a target group. It is quite possible that a person or a company is not aware that they are defending human rights with their service or product. Special protection should not be according to the definition of the profession or the form of organisation granted, but according to the structural social relevance of the activity carried out.
2. The approach of the EU initiative assumes a causal connection between the plaintiff and his abusive intention against a defendant. Due to the increasingly extensive information available on many persons and companies, plaintiffs can be without their knowledge to bring an abusive action in the interest of third parties instrumentalised.

The EU Commission is aware of a case where an administration sought to exonerate itself by taking significant criminal action against the target to be eliminated. By attacking the administration, a third party has gained an advantage, which also was for this purpose instrumentalised by the true attacker.

This hardly credible scenario becomes plausible when on the other side there are opponents who cooperate with intelligence services and have almost unlimited information and resources at their disposal. With the help of artificial intelligence, such multi-level SLAPP attacks will occur more frequently. The actual perpetrator can remain in the background. In addition, there can be less resistance by the victim expected if neither the attacker nor his intention are obvious to the victim.

### **Solutions proposed by GISAD:**

- In the future, the above-mentioned indirect form of attack will become even more sophisticated and effective. For this reason, it will become the means of choice for powerful entities. The only way to reduce the number of SLAPP lawsuits is to associate as little information as possible with a personal profile, as envisaged in the EU D-S. This is the only way to reduce the number of SLAPP lawsuits. Data leaks of data stored in the cloud here also largely ruled out through decentrally keys administered.

Independent of the introduction of the EU-D-S, GISAD has developed a concept that is transferable to the EU jurisdiction.

- A structural relevance indicator is being developed by GISAD in cooperation with other institutions which can be to individual projects applied see <http://gisad.eu/wp-content/uploads/2021/08/taking-the-economy-and-society-into-the-digital-transformation.pdf>. This indicator gives the court an indication that the case may be a SLAPP case. The indicator can also refer to a performance catalogue. For example, individual press articles by an accused journalist may correspond to a performance catalogue. In accordance with the principle of "In doubt for the accused", the court must justify why it excludes a SLAPP claim if the structural relevance ratio is correspondingly high.
- GISAD will offer a back-up legal advice service to EU-D-S cooperatives. Membership in the cooperative of the respective language area is open to all individuals and companies who are committed to preserving pre-digital democratic achievements with their projects. When the EU-D-S is established, it will be the largest EU human rights project. If legal action is against a member of the cooperative taken in a project with a high ratio, GISAD automatically checks the possibility of a SLAPP claim.

EU law should require an examination and accompaniment of an accused by an independent body in the judicial process if the ratio is high.

- GISAD has pointed out in its paper <http://gisad.eu/en-all-for-one-eu-an-analysis-of-over-50-eu-initiatives/> that should be the current EU funding conditions revised with regard to the funding of measures with high societal structural relevance. Weaknesses must be with an attacker's eye sought. Every interpretable formulation offers a potential attack surface.