**SLAPPs: What Regulation to Counter the SLAPP Phenomenon in France?**

EXECUTIVE SUMMARY

The concept of strategic lawsuits against public participation – or SLAPPs – is still poorly known or studied in France. This phenomenon refers to lawsuits or threats of lawsuit mainly emanating from large companies and held against individuals or organisations that condemn or criticise said companies’ products, services, governance or communication. In France, the concept can be translated as “*poursuites stratégiques altérant le débat public*” (strategic lawsuits distorting the public debate) or as “*poursuites-bâillons*” (gag lawsuits) since they result in the exploitation of the judicial procedure as an intimidation and censorship weapon, in most cases used against civil society.

The first chapter of the report focuses on issues related to the definition and scope of SLAPPs. Conceptualised in the United-States during the 1970s, the phenomenon has been addressed by various commentators and legislations in several countries, such as Australia or Canada. It echoes the larger movement touching upon the impact of economic stakeholders on human rights, which is inter alia characterised by the development of corporate social responsibility (CSR). Comparative analysis allows us to highlight infringements of the rights to freedom of speech, public participation and a fair trial stemming from these abusive lawsuits.

In a second part, the report addresses the characteristics of SLAPPs in the French context. The phenomenon, which increasingly catches the attention of various civil society organisations, involves a wide range of stakeholders: NGOs, activists, transnational companies, professional associations, etc. SLAPPs undermine the very bases of democracy by reversing the primacy of matters of public interest over personal issues. Defamation, disparagement and counterfeiting are the main legal bases used to file an abusive lawsuit in the French legal framework. The conducted study identifies three essential features of SLAPPs in the French context:

* the expression of litigious words or acts regarding a matter of public interest;
* the plaintiff’s willingness to intimidate the defendant;
* the good faith of the author of said litigious words or acts.

Lastly, the report presents summarises the results of stakeholders’ interviews regarding the current French judicial framework and the relevance of legislative reforms addressing the issue of strategic lawsuits against public participation. Various recommendations aiming at better regulating SLAPPs are then suggested. The report notably recommends establishing mediation authorities promoting dialogue and conciliation between parties, to raise awareness on the SLAPP phenomenon among legal practitioners, and to reform French procedural law. Furthermore, the creation of a specific judicial regime that would allow prompt identification and dismissing of strategic lawsuits against public participation is also suggested. This regime, which would be based on a set of concordant indicia to assist the judge in identifying abusive lawsuits, would create appropriate and dissuasive sanctions to the use of SLAPPs.