



British Embassy
Pristina

Guideline to Strategic Lawsuits Against Public Participation (SLAPP Lawsuits)

For members of non-governmental organisations,
journalists, media professionals and activists



Guideline to Strategic Lawsuits Against Public Participation (SLAPP Lawsuits)

**For members of non-governmental organisations,
journalists, media professionals and activists**

TITLE:

**Guideline to Strategic Lawsuits Against Public Participation
(SLAPP Lawsuits)**

For members of non-governmental organisations,
journalists, media professionals and activists

AUTHOR:

Albana Hasani

REDACTED BY:

Lëvizja FOL
Chemonics UK

PUBLICATION YEAR:

2025

WEBSITE:

www.levizjafol.org

ADDRESS:

Andrea Gropa no.35, Prishtina 10000, Republic of Kosovo

The Kosovo SLAPP Pilot Project (Strategic Lawsuits Against Public Participation) is supported by the British Embassy in Pristina and implemented by Chemonics UK. This guideline aims to raise awareness among various stakeholders, such as members of non-governmental organisations, journalists, various media professionals and activists, to understand how SLAPPs are used and how to take action against them.

The publication of this guideline is supported by the British Embassy in Pristina as part of the SLAPP Pilot Project for Kosovo. The opinions and recommendations in this report are the sole responsibility of Chemonics UK and do not necessarily represent the views of the donor.

Content

1. Introduction	6
2. What are SLAPP legal actions and what is their purpose?	2
What are SLAPP lawsuits?	8
What is the purpose of SLAPP lawsuits?	8
What are the types of SLAPP lawsuits?	10
Who files SLAPP lawsuits?	11
Who are SLAPP lawsuits filed against?	11
3. How to Identify SLAPP Lawsuits?	13
4. What are the effects of SLAPP legal actions?	14
5. How victims of SLAPP lawsuits can be protected?	15
6. Conclusion	20
Annex	21

1. Introduction

Contemporary democracies and individuals whose cause is to protect the public interest are increasingly facing threats of various natures, such as physical, economic, psychological or legal, including Strategic Lawsuits Against Public Participation, known as SLAPP lawsuits, which are being used as a means to intimidate and silence journalists, activists and critical voices in society.

SLAPP lawsuits are lawsuits that aim to censor, intimidate, and silence critics, forcing them to submit to or face legal action and the high costs of these proceedings, in order to force the withdrawal of criticism of them. These lawsuits undermine active public engagement and represent a form of retaliation that violates the freedom of expression of activists and journalists on issues of public interest. Furthermore, they also have intersectional impacts on women, minorities, people with disabilities, and other vulnerable groups, who often have fewer resources to protect themselves from these expensive and psychologically exhausting processes, placing them in even greater challenges in protecting their rights and participating in public debates.

The term "SLAPP" was first used by professors George W. Pring and Penelope Canan in their book "SLAPPS: Getting Sued for Speaking Out" (1996). Since then, the concept has referred to lawsuits brought by powerful entities, such as corporations, public officials, or influential individuals, against people or organisations who have expressed criticism or raised concerns about issues of public interest.

SLAPP lawsuits undermine freedom of expression and democracy, creating a climate of intimidation and self-censorship. Activists, journalists, and civil society organisations often face these lawsuits when they expose corruption, abuses of power, or sensitive political and environmental issues.

Although it is clear to claimants that these lawsuits are unfounded, the claimants' goal is to psychologically and financially exhaust the defendants, forcing them to stop their activity. Without adequate legal protection and preventive mechanisms, SLAPP lawsuits can become an effective tool to silence critical voices in society. Therefore, an adequate response from society and state institutions to SLAPP lawsuits is needed in order to build preventive mechanisms for the filers of these lawsuits.

International institutions have reacted strongly to the threat of SLAPP lawsuits in Europe. The Council of Europe and the European Parliament have taken steps to address this problem and to protect journalists and activists threatened by these abusive practices. The Council of Europe has adopted resolutions and recommendations calling for measures and recommendations for journalists and activists at risk. Meanwhile, the European Parliament has adopted the Anti-SLAPP Directive, which aims to prohibit the use of these legal actions to silence critics. These institutions are working to strengthen legal protection and prevent lawsuits from being used as a tool of intimidation and censorship.

In this way, given the increasing commitment of European states to combat this phenomenon, relevant actors in Kosovo must inevitably become part of the current discussions in this field, in order to ensure that the trend of using these lawsuits does not increase, thus protecting and guaranteeing the right to freedom of expression of journalists and activists.

Furthermore, Kosovo authorities should act to ensure that all citizens can exercise freedom of expression, access to information, and public participation without fear of retaliation, including SLAPP lawsuits or other forms of abuse of the justice system.

This guideline is designed for civil society, journalists and activists, with the aim of providing clear and practical information on SLAPP lawsuits. It aims to help readers understand what these lawsuits are, how they can be identified, who typically initiates them and what legal mechanisms are available to protect against them.

Through this material, vulnerable individuals and organisations will have a useful guideline to protect their rights and oppose legal tactics of intimidation and censorship.

2. What are SLAPP legal actions and what is their purpose?

What are SLAPP lawsuits?

Strategic Lawsuits Against Public Participation are legal actions that are unfounded and abusive, initiated with the intention of intimidating, silencing and punishing individuals or organisations that express critical opinions or engage in issues of public interest.¹

These types of lawsuits are typically used by powerful individuals or companies to intimidate and silence their critics. Their goal is not to win a case in court, but to cause stress, high costs, and influence citizens to stop speaking out on issues of public interest.

These lawsuits are filed against journalists, activists, civil society organisations, and ordinary citizens who express concerns about corruption, environmental damage, abuse of power, or other issues of public importance.

What is the purpose of SLAPP lawsuits?

Legal actions initiated through SLAPP lawsuits aim to abuse the legal process to prevent, impede, restrict, or penalize free expression on matters of public interest and the exercise of rights related to public participation.

Claimants do not aim to seek justice or to realize any real violated right, but to silence critics and intimidate them through legal pressure and high costs. In most cases, claimants do not expect to win the case in court, but aim to exhaust the defendants financially and psychologically, forcing them to give up their participation in public related matters.

¹ Council of Europe, Recommendation CM/Rec (2024)2 of the Committee of Ministers to Member States on Opposing the Use of Slapp Lawsuits.

So the claimants' goal can be summarized in these points: silencing those who dare to publicly criticize on matters of public interest; intimidating the defendants; censorship; and destroying the defendants' reputation.

Furthermore, to clearly understand the purpose of SLAPP lawsuits, it is important to correctly understand the definitions given in the CoE Recommendation for the above terms:

PUBLIC PARTICIPATION

refers to everyone's democratic right to participate in public debate and public affairs, online and offline, without fear or discrimination. Public participation also refers to freedom of assembly and association, and the right to to vote and stand in elections.²

PUBLIC INTEREST

refers to all matters which affect the public and in which the public may legitimately take an interest, especially those matters concerning important social issues or affecting the well-being of individuals or the life of the community or the environment.³

Consequently, lawsuits that aim to censor public participation and limit free expression on matters of public interest should be understood as SLAPP lawsuits.

SLAPP lawsuits are usually filed as civil lawsuits, but not exclusively. In some cases, they may also be accompanied by other legal claims, including administrative offenses, criminal charges, or punitive measures, which are used to exert pressure on critics. These mechanisms are used to increase pressure on individuals or organisations that express critical opinions.

An important aspect of SLAPP is the preliminary phase, known as "legal letters," where targeted entities receive threats or warnings from the claimants' lawyers. These letters are often intended to discourage further public engagement or to influence the withdrawal of critical comments or expressions before a lawsuit is formally filed. In many cases, the mere fear of a lengthy and costly legal process is enough to influence self-censorship and prevent discussion of issues of public interest.

2 Council of Europe, Recommendation CM/Rec (2024)2 of the Committee of Ministers to Member States on Opposing the Use of Slapp Lawsuits.

3 Ibidem.

What are the types of SLAPP lawsuits?

Based on Recommendation CM/Rec (2024)2 of the Committee of Ministers on opposing the use of SLAPP lawsuits, specific forms/types of SLAPP lawsuits include:

- **Domestic SLAPP lawsuits:** Lawsuits filed within domestic jurisdictions, usually by powerful actors, against journalists, activists, civil society organisations, or citizens engaged in public affairs. These lawsuits aim to silence criticism, intimidate defendants, and inhibit public participation.
- **Cross-border SLAPP lawsuits:** Lawsuits filed in one or more foreign jurisdictions to exert pressure on individuals or organisations in another country. These types of lawsuits exploit legal differences between countries and often use jurisdictions where laws are more favorable to the claimant and more restrictive of freedom of expression.
- **Multiple or co-ordinated SLAPP lawsuits:** Multiple lawsuits filed simultaneously or in a synchronized manner against the same individual or organisation, with the aim of increasing financial and psychological burden. These lawsuits may be different in nature (for example, lawsuits for defamation, damage to reputation, violation of privacy, publication of personal data), but they all have the same goal: to hinder the activity of the targeted person or organisation.
- **SLAPP lawsuits targeting anonymous public participation:** Lawsuits directed at individuals who contribute to public discussions anonymously, with the aim of revealing their identities and further intimidating them. These lawsuits are usually filed against users of social networks or other online platforms where individuals anonymously express critical opinions.

These forms of SLAPPs are widely used by powerful actors to limit democratic space and stifle criticism of their interests, hindering freedom of expression and transparency in society.

Who files SLAPP lawsuits?

These lawsuits are filed by powerful individuals who aim to silence critics and avoid public scrutiny. Below is a non-exhaustive list of entities that most often file SLAPP lawsuits:

- ✗ **Public figures and politicians** – Senior officials seeking to protect their image by silencing critical voices.
- ✗ **Powerful entrepreneurs and large companies** – Powerful corporations, companies involved in public tenders or entrepreneurs who aim to stop reporting on their suspicious activities.
- ✗ **State and public institutions** – Government agencies, public enterprises or state bodies that use lawsuits to avoid oversight and accountability.
- ✗ **Powerful individuals in various sectors** – Individuals associated with power and other influential figures.

Who are SLAPP lawsuits filed against?

SLAPP lawsuits, which often target individuals and organisations engaged in public interest issues, are filed against those who have the courage to challenge government and demand transparency. These lawsuits are primarily filed against:

- ✗ **Journalists and media** who expose corruption, misuse of public money or mismanagement.
- ✗ **Civil society activists** who defend human rights, freedom of expression and institutional transparency.
- ✗ **Engaged citizens** who publicly denounce violations, sign petitions, organize protests or disseminate information on issues of public interest.
- ✗ **Human rights lawyers** who defend victims of abuse or engage in issues of equality and social justice.

- ✘ **Researchers and scholars** who publish critical analyses and studies
- ✘ **Women, minority groups, and other marginalized individuals** to limit their activism on issues of public interest and intimidate them from participating in social debates. SLAPP lawsuits are also used to specifically silence women activists and journalists, who face not only legal challenges but also double attacks, including gender-based threats and digital violence.
- ✘ **Lawyers who defend the rights of women and minorities**, aiming to stop their efforts to protect vulnerable groups.

In other words, if a citizen (journalist, activist, etc.) publicly complains about the actions of a company or a famous and powerful individual, the latter pay lawyers to file lawsuits in order to intimidate them, so that they will not continue to publicly express criticism of their activities.

Although claimants know well that their lawsuits will not succeed in court, knowing that such cases take years to resolve, they use this as a circumstance to keep the defendants under threat through a legal process that is being conducted against them. Meanwhile, citizens often do not have the financial means to withstand the costs of paying defense attorneys who would adequately represent them in these processes. Persons who are targets of SLAPP lawsuits also face other financial challenges as a result of SLAPP lawsuits, which exceed the financial needs of legal defense, since they also face denigrating campaigns that affect the loss of jobs in certain cases, loss of development opportunities, etc. Therefore, the economic and financial effect is very wide and the damage caused is extremely high.

3. How to Identify SLAPP Lawsuits?

Based on the Council of Europe Recommendation CM/Rec(2024)2, the following indicators help to distinguish SLAPP lawsuits from other legitimate lawsuits. These indicators include, but are not limited to, the following elements⁴:

- ✓ Claimants try to use their financial, political or social power to exert pressure on defendants;
- ✓ The facts presented by the claimants are unfounded;
- ✓ The claimant's request is disproportionate or unreasonable in relation to the claims;
- ✓ The claimants' claims constitute an abuse of rights or procedures;
- ✓ Claimants engage in protracted court proceedings to increase defendants' expenses with the aim of abusing procedural rights;
- ✓ The claimants' requests are directed at natural persons but not legal entities, with the aim of preventing public participation.
- ✓ The claimants' claims are accompanied by a public relations offensive designed to harass, discredit or intimidate the defendants with the aim of diverting attention from the core issue at hand;
- ✓ Claimants or their representatives engage in legal intimidation, harassment or threats against the defendant;
- ✓ Claimants or parties related to the claimant engage in multiple and co-ordinated or cross-border legal actions for the same matter against the defendants;
- ✓ Claimants do not use other extrajudicial mechanisms to resolve the dispute.

Although SLAPP lawsuits do not necessarily include all of these elements, when many of these indicators are present, the legal action is more likely to be considered a SLAPP.

⁴ These indicators have been translated and adapted from the indicators of Recommendation CM/Rec (2024)2 of the Council of Europe.

4. What are the effects of SLAPP legal actions?

The effects of these lawsuits are numerous and harm not only the individuals affected, but also democracy and freedom of expression. These effects include large financial costs for the defendant, legal and psychological pressure, as well as reputational damage and discouragement.

Financial cost: One of the main effects of SLAPP lawsuits is the imposition of a financial burden on the defendant. Although these lawsuits have no solid legal basis, the cost of dealing with them can lead to bankruptcy or the defendant's resignation from further pursuit of public causes. Thus, claimants through SLAPP lawsuits do not aim to win the case in court, but to impose a heavy financial burden on the defendant, forcing them to withdraw from the public debate.

Psychological pressure: Another consequence of SLAPP lawsuits is the psychological pressure exerted on defendants. Individuals facing these lawsuits often feel intimidated, isolated, and unable to continue their engagement in matters of public interest. In many cases, these lawsuits are accompanied by other threats, such as attacks on professional or personal integrity, creating an intimidating effect on all those who speak out publicly.

Reputation damage: Defendants in these lawsuits often face public stigmatization, being portrayed as spreading false information. Even when the lawsuit is unfounded and ultimately dismissed by the court, the reputational damage can be lasting and difficult to recover. In addition, such lawsuits also have a chilling effect, causing many individuals and organisations to give up activism and reporting violations.

SLAPP lawsuits not only have immediate effects, but also long-term impacts on freedom of expression and civic engagement. The fear of facing a tedious and costly legal process leads to self-censorship, where individuals and organisations avoid sensitive issues or limit the scope of their reporting to avoid being targeted by powerful actors.

To combat the negative effects of SLAPP lawsuits, many countries have enacted legislation against them, including laws that allow for the dismissal of such lawsuits at an early stage and provide for penalties for those who abuse them. However, the need for stronger legal protections and public awareness of this problem remains a significant challenge to guaranteeing the right to expression and public participation.

5. How can victims be protected from SLAPP legal actions?

Individuals and organisations that are the targets of SLAPP lawsuits have several ways to protect themselves from their harmful consequences. Protection can be achieved through legal mechanisms, institutional support, and collective efforts to raise awareness and strengthen the legal framework to protect against these abusive lawsuits.

One of the most effective ways to challenge SLAPP lawsuits is to expose them to the public. Journalists, activists, and civil society organisations can use the media to denounce how these lawsuits aim to silence critical voices. In this way, the involvement of the public, the community, and various institutions can create pressure on claimants to withdraw the unfounded lawsuits.

What should we consider before publishing statements? – Before publishing the statements, the accuracy of the information that will be published must be ensured. So that statements are based on verified facts, based on reliable sources, as well as respecting ethical and legal standards to avoid claims for defamation or damage to reputation.


What protection does the legislation in force provide? - Currently, Kosovo does not yet have a specific anti-SLAPP law nor does it provide for legal remedies, making it more difficult for individuals and organisations targeted by such lawsuits to defend themselves. However, protection can be achieved through general legal provisions and international best practices.

Consequently, in the absence of anti-SLAPP legislation, an effective strategy is to utilize international instruments such as those of the European Union and the Council of Europe, which can provide support and exert pressure on institutions to address this problem effectively.

In this regard, in April 2024, two important instruments were adopted for the first time to address the problem of SLAPP lawsuits, aiming to protect persons engaged in public participation from abusive legal actions. These instruments include:



Directive (EU) 2024/1096 of the European Parliament and of the Council on the protection of persons engaging in public participation against manifestly unfounded claims or abusive judicial proceedings⁵;



Recommendation CM/REC (2024)2 of the Committee of Ministers on opposing the use of SLAPP lawsuits.⁶

These measures represent an important step at the European level to combat the use of SLAPP lawsuits as a tool to silence journalists, activists and human rights defenders.

Under the EU Directive, journalists and NGOs in countries that are part of the European Union will be able to appeal to the courts to dismiss lawsuits that are “manifestly unfounded.” The directive also provides mechanisms for the early dismissal of SLAPP lawsuits as unfounded by the courts; allows defendants to seek indemnity for the damage caused by such lawsuits; and provides for sanctions against claimants who misuse the judicial system to suppress critical voices.

⁵ Official Journal of the European Union, Directive (EU) 2024/1096 of the European Parliament and of the Council on the protection of persons engaging in public participation against manifestly unfounded claims or abusive judicial proceedings, adopted on 11 April 2024.

⁶ Council of Europe, Recommendation CM/REC (2024)2 of the Committee of Ministers to Member States on Opposing the Use of Strategic Lawsuits Against Public Participation, adopted on 5 April 2024.

While the EC Recommendation is not legally binding, it recommends that member states adopt measures to prevent and oppose SLAPP lawsuits. This recommendation suggests the establishment of expedited procedures for dismissing unfounded lawsuits; encourages countries to establish support mechanisms for victims of SLAPP lawsuits, including legal and financial assistance; and emphasizes the importance of raising awareness and protecting freedom of expression to ensure a free and democratic environment.

What court procedure should be followed and what should be expected from the courts? - In the Kosovo judicial system, after the filing of a claim by the claimant, the defendant has the right and obligation to file a response to the claim to challenge the allegations of the claim. This response is an essential step in the contested procedure and must contain the arguments and evidence that support the defendant's defense.

At this stage it is important to engage a lawyer to assist in identifying and preparing relevant evidence for the defense.

Domestic legislation sets deadlines within which the defendant must file his response to the claim. It is important that the defendant respects these deadlines to avoid negative consequences in the judicial process. Courts must ensure that the case is dealt with fairly and without deliberate delay.

If the court finds that the lawsuit is clearly unfounded, namely that it is a SLAPP lawsuit, the court decides to reject the lawsuit and order the claimant to cover all of the defendant's legal costs.

In other words, the following are some important steps you can take to protect yourself from SLAPP lawsuits:



Ensure accuracy of information before publishing statements;



Hire lawyers specialized in freedom of expression and civil law;

- To ensure legal protection, **Lëvizja FOL** has created an organized network of lawyers and jurists that provides and coordinates legal support on issues related to freedom of expression for individuals and organisations working for the common good. This network engages **pro bono**, helping to protect free speech and combat SLAPP lawsuits.⁷

Therefore, if you are a victim of a SLAPP lawsuit, you can contact the offices of **Lëvizjes FOL** in Prishtina⁸, for legal assistance, or at the email address: info@levizjafol.org.

⁷ <https://levizjafol.org/anti-slapp/ndihme-juridike/>

⁸ Street, Andrea Gropa, no. 35, Prishtina.



Document any facts or communications related to the case, such as reports, publications, testimonies, and any other information that may support your argument;



Respect the legal deadlines for responding to lawsuits;



When the court determines that it is a SLAPP lawsuit, it decides to dismiss the lawsuit and orders the claimant to cover all of the defendant's legal costs.



**Do not stop!
Freedom of expression is a fundamental right, so protect it.**

6. Conclusion

SLAPP lawsuits pose a serious threat to freedom of expression, independent journalism, and civic activism. They are used as legal tools to intimidate and silence critical voices, negatively impacting democracy and human rights. For this reason, protection from these lawsuits is not just an individual issue, but a collective fight for fundamental rights and freedoms.

In order to protect against these lawsuits, legal support, cooperation and engagement of civil society and the media, as well as public awareness are needed to expose these lawsuits as tools of intimidation and censorship.

The fight against SLAPP lawsuits is not only a legal issue, but also a matter of protecting democratic rights. Therefore, it is important that journalists, civil society, and active citizens mobilize to oppose these lawsuits and to pressure for legal reforms that prevent abuse of the justice system.

The impact of SLAPP lawsuits is not the same for everyone. Women, minorities, and marginalized groups often face more severe consequences and are more vulnerable to various forms of legal intimidation. An effective approach against SLAPPs must take into account existing inequalities in society and ensure that the most vulnerable groups have equal access to institutional protection and justice regardless of gender, economic status, race or ethnicity.

SLAPP lawsuits are not just individual matters – they affect society as a whole, undermining freedom of expression and democratic participation. With continued engagement, meaningful legal reform, and mutual support, we can build a fairer and stronger system that protects those who dare to speak out and protects the public interest, while resisting any attempt to turn the law into a tool of oppression against democracy.

Only through joint activism can we ensure that freedom of expression and democracy remain intact!

Annex: What are the most famous SLAPP lawsuit cases in Kosovo?

In Kosovo, among the most well-known SLAPP cases is the lawsuit filed against activist Shpresa Loshaj and analyst Agon Demi. These lawsuits were seen as attempts to intimidate and prevent activists from addressing public issues of great importance, such as the impact of hydroelectric power plants on the environment and the mismanagement of public money

"Kelkoss Energy" company against activist Shpresa Loshaj

On June 1, 2020, "Kelkoss Energy" company filed a lawsuit against environmental activist and founder of the non-governmental organisation "Pishtaret-Torches", Shpresa Loshaj, at the Basic Court in Peja, Deçan Branch. In this lawsuit, "Kelkoss Energy" sought compensation of 100,000 euros from Loshaj for the damage caused by her public campaign against "Kelkoss Energy's" activities in Deçan region, where the company managed four hydropower plants.

According to the lawsuit, since May 2020, Loshaj had been publicly criticizing the activities of "Kelkos Energy", questioning the legality of its operations and highlighting the negative impact on the environment and natural resources. She argued that the company's license for energy production was in violation of the Law on the Energy Regulator, the Law on Electricity and the Law on Licensing of Energy Activities.

In the lawsuit, "Kelkos Energy" demanded that Loshaj retract her statements, publicly apologize, and avoid publishing such statements in the future that the company considered untrue and harmful to its reputation.

The case prompted reactions from civil society organisations, which, through the creation of an Ad-Hoc Coalition, demanded that the company immediately withdraw the lawsuit, describing it as an attempt to intimidate and silence activists.

As a result of this public pressure, on October 18, 2021, Kelkos Energy filed a court filing announcing that it had decided to withdraw its lawsuit against Loshaj. This decision was considered a victory for freedom of expression and environmental activism in Kosovo.

Radio and Television of Kosovo (RTK) against activist Agron Demi

On April 15, 2020, Radio Television of Kosovo (RTK) filed a defamation lawsuit against activist and policy analyst at the GAP Institute, Agron Demi, at the Basic Court in Prishtina.

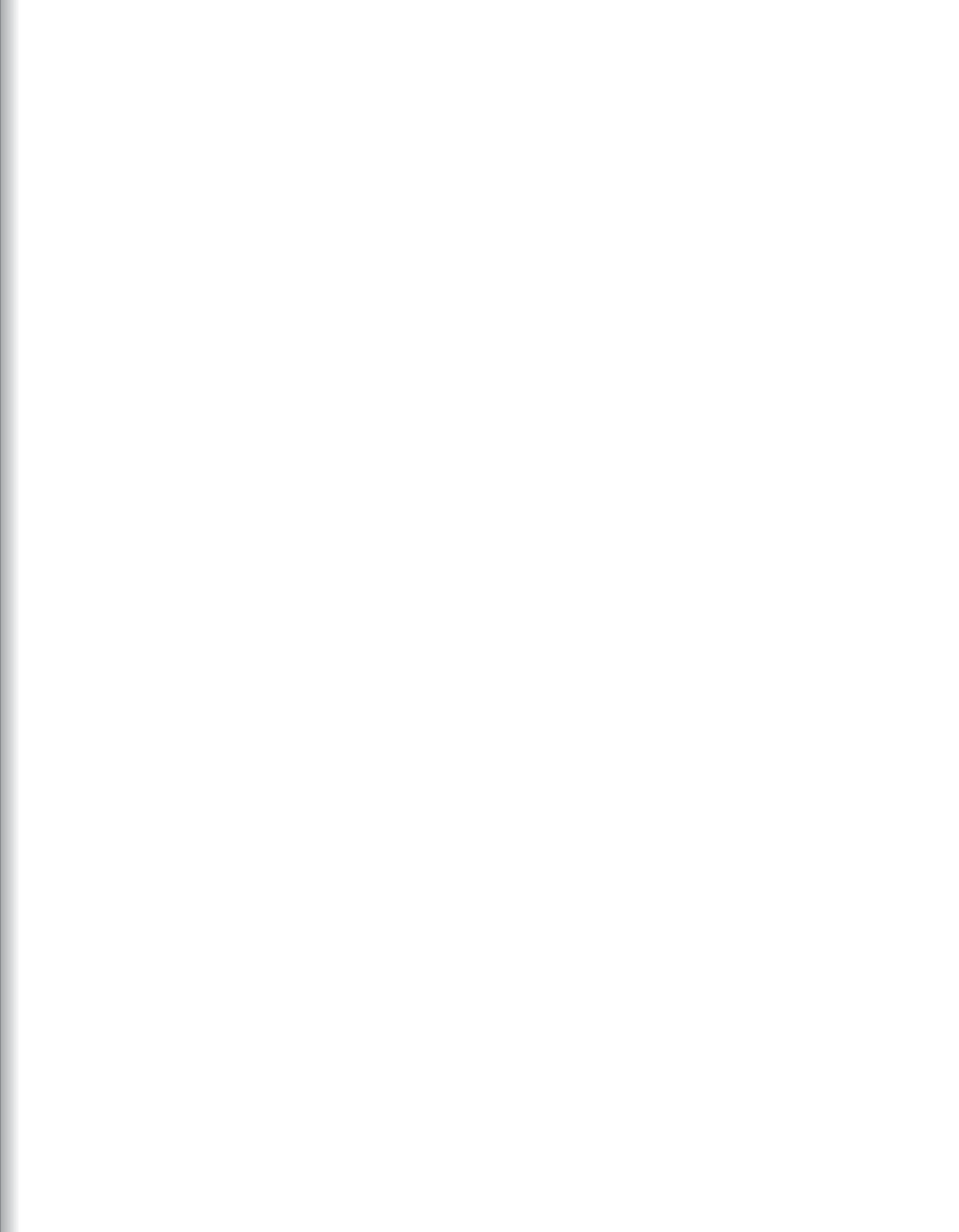
The public broadcaster of Kosovo had sued Demi, claiming that Demi's criticisms through statuses on the social network "Facebook", accompanied by the request to close the public broadcaster, constitute hate speech and insults towards the television and its employees.

Specifically, the subject of this lawsuit was Demi's post on his social network "Facebook", made on March 13, 2020, where, among other things, he wrote:

"I would add another measure to preserve health: the immediate closure of RTK..."

According to the lawsuit, with the aforementioned statements, the defendant has created a campaign against Radio Television of Kosovo by defaming and insulting it, in which case they requested that the defendant publicly apologize and withdraw the defamatory and insulting statements against RTK, as well as promise that such statements will not be repeated in the future.

This case also provoked numerous reactions among civil society. Consequently, on January 26, 2022, RTK sent a letter to the Basic Court in Prishtina, announcing that it had withdrawn the lawsuit against Agron Demi. This case was also seen as a victory for freedom of expression and free criticism of public institutions.





British Embassy
Pristina