



# GUIDELINES ON STRATEGIC LITIGATION

with a Focus on LGBT Rights in Central  
and Eastern Europe and Central Asia

Guidelines on Strategic Litigation with a Focus on LGBT Rights in Central and Eastern Europe and Central Asia/  
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# ABBREVIATIONS

<b>CAT</b>	Committee against Torture
<b>CED</b>	Committee on Enforced Disappearances
<b>CEDAW</b>	Committee on the Elimination of Discrimination Against Women
<b>CEECA</b>	Central and Eastern Europe and Central Asia
<b>CERD</b>	Committee on the Elimination of Racial Discrimination
<b>CESCR</b>	Committee on Economic, Social and Cultural Rights
<b>CoE</b>	Council of Europe
<b>CMW</b>	Committee on Migrant Workers
<b>CRC</b>	Committee on the Rights of the Child
<b>CRPD</b>	Committee on the Rights of Persons with Disabilities
<b>CSOs</b>	Civil society organization(s)
<b>ECHR</b>	European Convention on Human Rights
<b>ECSR</b>	European Committee on Social Rights
<b>ECtHR</b>	European Court of Human Rights
<b>EU</b>	European Union
<b>HRC</b>	Human Rights Committee
<b>LGBT</b>	Lesbian, gay, bisexual and trans people
<b>NGOs</b>	Non-governmental organization(s)
<b>SL</b>	Strategic litigation
<b>SOGI</b>	Sexual orientation and gender identity
<b>UN</b>	United Nations

# INTRODUCTION

LGBT people in the region of Central and Eastern Europe and Central Asia (CEECA) (the countries ECOM works in include Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan) face significant challenges related to the protection of their rights. Discriminatory laws, social prejudice, and systemic barriers create a hostile environment for lesbian, gay, bisexual, and trans (LGBT) people, and prevent them from living openly and freely. In this difficult situation, strategic litigation (SL) has emerged as an important tool for advancing LGBT rights and challenging stereotypes.

These guidelines aim to provide practical knowledge and strategies for activists, non-governmental organizations (NGOs), and legal practitioners engaged in strategic litigation to protect LGBT rights in the CEECA region. Covering both the theory and practice of strategic litigation, these guidelines ensure that stakeholders have the tools necessary to pursue legal advocacy effectively.

## THE GUIDELINES HAVE TWO MAIN CHAPTERS:

- 1 Theoretical Part:** This section presents the fundamentals of strategic litigation, and explores its definition, historical context, purpose, and its specific importance with respect to LGBT rights. Through a comprehensive examination of the theoretical aspects of strategic litigation, activists and human rights practitioners can gain a deeper understanding of the strategic framework guiding their advocacy efforts.
- 2 Practical Part:** In this chapter, the focus shifts to practical considerations and strategies for implementing strategic litigation in the context of LGBT rights in the CEECA region. Topics covered include selecting the right case, assessing and reducing risks, working with national and international legal mechanisms, and using media engagement to strengthen the impact of SL.

Using the knowledge gained from both the theoretical and practical parts, stakeholders will be able to better use strategic litigation to fight discriminatory laws, tackle prejudice in society, and advance LGBT rights in the CEECA region.

These guidelines serve as a valuable resource for all those committed to promoting equality and justice for LGBT people, and provide guidance and best practices to inform their advocacy efforts and drive positive change.

# CHAPTER 1. THEORETICAL PART

## 1.1

## THE DEFINITION OF STRATEGIC LITIGATION

There is no universally agreed-upon definition for the concept of strategic litigation in legal and human rights theory. To understand what SL means, both the terms “strategic” and “litigation” must be examined in more detail.

The term “**litigation**” primarily involves the process of taking part in a lawsuit. Various legal dictionaries describe litigation as the act of pursuing legal remedies in a court or other judicial mechanism<sup>1</sup>. The goal of litigation is to obtain a judgment or other decision resolving the case. Litigation can be undertaken either by the affected party or by another person, for instance, an NGO, on behalf of the affected party.

The term “**strategic**” has a more complicated meaning in relation to the concept of SL. The word has two main elements, as well as sub-elements<sup>2</sup>. First, a “strategy” refers to a plan of action or a specific move. Persons conducting strategic litigation make choices during the process of litigation based on the circumstances of the case and the situation. This can include, for example, the choice of the international body or court before which the case is brought, or the choice of the arguments presented during the litigation process to achieve the desired outcome. Therefore, the term “strategic” primarily refers to making various smart choices and maneuvers during litigation.

Second, in the context of SL, litigation is used as one particular strategy among others. In other words, legal proceedings are a tool, which is chosen from a range of other options to achieve a particular purpose. Unlike the first aspect, where “strategy” refers to choices within the litigation process, here, “strategy” means choosing litigation as a deliberate tool to achieve specific goals. Thus, for a case to be considered as SL both conditions must be fulfilled: strategic decisions must be made during litigation and the latter must be used as a means of achieving the goal.

Finally, an important sub-element that shapes strategic litigation is its intention. It should aim to bring about change, which can include legal, social, and policy change. SL should bring broader change and have an impact that goes beyond the interests of one individual. Unlike standard litigation, which focuses on winning a case in order to pursue specific interests, strategic litigation seeks to create change, which affects larger groups of people or relates to multiple cases, and which advances various interests. This is why strategic litigation is also called “**impact litigation**”.

- <sup>1</sup> Cambridge University Press. Определение для litigation в словаре Cambridge Advanced Learner's Dictionary & Thesaurus. <https://dictionary.cambridge.org/dictionary/english/litigation>
- <sup>2</sup> Kris Van Der Pas. (2021). Концептуализация стратегических судебных процессов. *Oñati Socio-Legal Series*, 11(6), S116–S145.

In view of the descriptions of the terms discussed above, the following definition can be derived: **strategic litigation** is a legal act, which goes beyond individual interests and aims to bring changes in social, political, or legal norms through a judicial mechanism using specific tactical choices based on the circumstances of the case.

## 1.2

## BRIEF HISTORY OF STRATEGIC LITIGATION IN HUMAN RIGHTS

Strategic litigation has developed in response to various political, social, and legal challenges. It is difficult to identify a single origin of strategic litigation because various factors and historical movements have played a significant role in shaping it as a means for social change.

In particular, the extensive and historically rooted use of strategic litigation in the United Kingdom is discussed in the notable publication of Carol Harlow and Richard Rawlings, *Pressure through Law*. The authors present numerous examples dating back to the 18th Century, demonstrating the longstanding and occasionally successful history of strategic litigation in the United Kingdom. They examine movements, such as abolitionism, and focus on the celebrated case of *Somerset v. Stewart* (1772), initiated by Granville Sharp as a test case challenging the common law on slavery. The case made famous the opinion of Lord Mansfield who appeared to reject slavery based on strong moral principles. Although the case did not completely end slavery in Britain, it inspired American abolitionists and judges, and shaped their significant participation in the anti-slavery movement in the United States. Sharp continued his fight against slavery by founding the Committee for the Abolition of the Slave Trade as a pressure group to achieve this goal. In 1778, Sharp and other abolitionists achieved a similar legal victory in the Scottish courts (*Knight v. Wedderburn*). Transforming into an organized advocacy group, they actively campaigned for changes to law and government policies. They held large, well-organized meetings, regularly updated Members of Parliament and peers, and even boycotted products made by slaves. Over time, these efforts resulted in gradual legislative successes, which culminated in 1833, when the Slavery Abolition Act was adopted prohibiting slavery across the British Colonies.

Harlow and Rawlings also examine cases related to civil liberties, including the “General Warrant” cases, such as *Entick v. Carrington* (1765), in which the courts ruled on the Crown’s powers of search and arrest. Another area of strategic litigation involved prosecution societies, which emerged before the establishment of a centralized police force, and vice societies, such as the “Society for the Suppression of Vice” formed in 1802, demonstrating that strategic litigation was not exclusive to liberal activists. Overall, the examples provided in the publication illustrate the diverse historical contexts and outcomes of strategic litigation in the United Kingdom<sup>3</sup>.

It is widely believed that the roots of contemporary SL can be found in the United States. Beginning in the 1950s, the civil rights movement in the United States systematically employed strategic litigation in order to challenge segregation and discrimination and to bring about legal reform. Organizations such as the American Civil Liberties Union (ACLU) and the National Association for the Advancement of Colored People (NAACP) utilized legal action to advance and safeguard civil rights. The ACLU had a “defensive” strategy.

● <sup>3</sup> Harlow, C., & Rawlings, R. (1992). *Pressure through law*.

It responded to individual rights violations as they arose. Conversely, the NAACP embraced a more coordinated approach, actively filing lawsuits to challenge discrimination, which was known as “affirmative” or “strategic” litigation. The NAACP’s approach later influenced the development of “impact litigation” strategies, which used similar tactics in contexts beyond racial discrimination. The landmark case, *Brown v. Board of Education of Topeka*, exemplifies the impact of strategic litigation. The case was a consolidation of several legal challenges from different states, all contesting the constitutionality of racially segregated public schools. In 1954, the Supreme Court ruled that state laws establishing separate public schools for black and white students were naturally unequal and violated the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The Court overturned the precedent set in the case of *Plessy v. Ferguson* (1896), which had allowed “separate but equal” facilities for different races.

The decision in *Brown v. Board of Education* marked a historic moment in the fight against racial segregation, declaring that segregation in public education was not permissible and inherently discriminatory. The Court’s ruling set a precedent for subsequent civil rights cases and was a catalyst for the broader civil rights movement in the United States. The decision influenced the desegregation of schools and other public institutions, and laid the groundwork for legal challenges to other forms of racial discrimination in the years that followed.

Activists and organizations continued fighting for civil rights using SL in various fields. For example, the women’s rights movement in the United States utilized strategic litigation to challenge gender-based discrimination. Cases such as *Roe v. Wade* (1973), which legalized abortion, and *Reed v. Reed* (1971), which applied the Equal Protection Clause to gender-based discrimination, were pivotal in advancing women’s rights.

While diverse perspectives on the origins of SL exist, it is undeniable that it has significantly contributed to addressing numerous human rights issues over time. Today, it continues to be used as an effective tool for bringing about change in different areas of human rights.

## CHAPTER 2. PRACTICAL PART

### 2.1

### HOW TO CHOOSE “THE RIGHT CASE”

When selecting a case for strategic litigation, its strategic value must be considered. Therefore, it is important that the case meets one of the following criteria:

- ✓ it provides an opportunity to spotlight a specific issue,
- ✓ it serves to make the law clearer or more robust,
- ✓ it deals with a serious violation of the law in terms of its scope and severity,
- ✓ it establishes a precedent of compliance with the legal regulation,
- ✓ it relates to a widespread or serious violation of a right<sup>4</sup>.

A case is selected based on its strategic value, as discussed above. It should be noted that ***litigation should be the most appropriate or relatively fast method among all other possible options for achieving the strategic aim***. For instance, if the purpose of SL is to push for the adoption of an anti-discrimination law, but a draft of the law is already being discussed in the legislative body (parliament), the applicant and lawyer (NGO) should deeply consider the advisability of choosing SL to achieve this goal.

At the same time, ***the circumstances of the case should be taken into account: they must be relevant to achieving the goals outlined for SL*** For example, if the purpose of SL is to establish a precedent for prosecuting and punishing violence against an LGBT person as a hate crime, then the case should include obvious facts or proof that sexual orientation or gender identity was the motivation for the crime. If the goal is to increase awareness or increase media attention on a specific issue, the circumstances of the case should be used to clearly illustrate the problem.

If the applicant (the lawyer) aims to bring the case to an international body, it should be considered whether applications from their particular country are accepted by that body and ***whether the issue raised is within its mandate***<sup>5</sup>.

Another consideration is whether the case relates to a social issue that affects not only a specific applicant/victim, but also many people belonging to the same social group. In other words, ***it is necessary to take into account what effect SL will have on the applicant as an individual, and what effect it will have on the social group that they represent***.

• <sup>4</sup> Equinet Europe. (2018). Strategic litigation for equality: A handbook, page 18.

• <sup>5</sup> This issue will be discussed in detail later in this document.

For example, if many members of the LGBT community face domestic violence, but cannot protect their rights due to gaps in legislation and the discriminatory attitude of law enforcement bodies, then an appropriate case relating to domestic violence against a member of the community can be selected to highlight legislative gaps and improper enforcement of existing laws. In such a case, the goals of SL can include amending legislation, establishing a precedent of compliance with existing regulations and proper enforcement, and raising awareness about the problem of domestic violence against LGBT people.

***Subjective circumstances related to the applicant play a major role in selecting a case.*** For cases related to LGBT issues, it should be considered whether the applicant is open about their sexual orientation and/or gender identity (SOGI). If the aim of SL is to spread awareness about this topic, including through the media, it is preferable that the applicant be able to speak openly about the case and discuss their personal experiences. Other subjective circumstances to consider include the applicant's goal, in other words what they wish to achieve by bringing the case, and their level of commitment to it, to ensure that they do not withdraw at a later time in the process.

Further practical questions to consider include ***the strengths and weaknesses of the position of the victim/applicant, as well as the strengths and weaknesses of the argumentation of the opposite party/perpetrator/state***<sup>6</sup>. Complete information about the circumstances of a case may emerge at later stages of the process. For example, in some cases, information about the circumstances of the crime, which weakens the victim's testimony may be presented only during court hearings, and not when the victim has the opportunity to learn about such information at an earlier time. However, when selecting cases for SL, it is desirable to conduct a preliminary assessment of the positions of the applicant and the opponent and the relative strength of their claims. This assists with calculating the probability of success in the case.

Determining who the ***supporters and allies of the victim and the opponent*** are and how willing they are to commit themselves to the case, while not a primary criterion for the selection of a case, can play an important role during any litigation aimed at raising social awareness. For example, allies can organize demonstrations in front of the courthouse to show their support for the victim and demonstrate to state authorities the social and legal importance of the issue, which affects both the applicant and themselves. In another scenario, showing that supporters of the perpetrator are members of a hate group may help to demonstrate that the crime was committed on the basis of hatred for a specific group.

If SL concerns a widespread legal issue, NGOs, ***coalitions, and activists fighting to achieve the same goal should be mapped, and communication with such organizations should be established.*** Establishing communication with them can provide an opportunity to discuss various issues that arise during SL, learn about their experiences with similar cases and SL, and to guarantee the attention of the public if necessary.

•     <sup>6</sup> Council of Europe (CoE). (2022). Handbook on strategic litigation in the area of women's rights for legal practitioners in Turkey, page 18.

Strategic litigation certainly comes with inherent risks. It is crucial to conduct a practical risk assessment to determine whether SL is the best approach or if an alternative strategy would be more suitable.

#### POSSIBLE RISKS THAT SHOULD BE TAKEN INTO ACCOUNT DURING SL INCLUDE THE FOLLOWING:

-  **Losing the case:** This is the most obvious risk accompanying SL. Losing the case can result in the establishment of a negative precedent. This can exacerbate existing bad practices or establish new bad practices. For instance, if the aim of SL is to ensure that crimes committed on the basis of the victim's sexual orientation are prosecuted as hate crimes, losing the case could mean that such crimes are not treated as hate crimes. This could lead to an increase in crimes against LGBT people, especially if offenders believe that they will not face serious consequences for their actions. Such consequences can have a negative effect on the entire LGBT community. On the other hand, losing a case can also have positive effects, such as drawing the attention of the public, gaining sympathy from the community and NGOs, and rallying social movements.
-  **Cost of litigation:** During litigation, financial resources play an important role. Financial resources are needed to cover the technical requirements of litigation, as well as to pay for human rights expertise, legal consultations and representation, and for other human resources. It should be kept in mind that SL can last for several years, and may include domestic litigation as well as proceedings before international bodies. Therefore, it is necessary to ensure that there are sufficient financial resources to carry out SL until its intended goal is achieved. Otherwise, it may be necessary to apply to for additional funding to carry out the proceedings.
-  **Conflict of interests:** It is possible that the interests of the relevant social group contradict or do not fully correspond with those of the applicant(s). This can be a delicate situation, which can significantly impact the lawyer-client or NGO-beneficiary relationship. For instance, the outcome of SL may be favorable for the applicant/victim and restore their violated rights, but could result in practical negative consequences for the entire LGBT community in the long term. Therefore, it is crucial to manage expectations regarding the outcome of the case, and openly communicate with various stakeholders, while taking into account various options and agendas. However, applicants themselves may be activists or committed to contributing to sustainable social change rather than solely seeking individual relief.
-  **Risks related to the applicant:** Crimes targeting LGBT individuals based on their SOGI are considered gender-based violence. The victims of gender-based violence frequently experience **double victimization**, and face prejudice both from the public and law enforcement agencies. It is important to have discussions with victims in advance and provide them with honest information about the potential risks and consequences of pursuing the case. The numerous cases of crimes committed by law enforcement officers in countries of the CEECA region coupled with inadequate investigative processes indicate that law enforcement officers often hold biased views towards LGBT individuals, and may even belittle them during criminal proceedings. Therefore, it is essential to monitor the behavior of law enforcement officers during proceedings in order to prevent any further discrimination against the victim. **The best interests of the victim/applicant** should be prioritized when planning for strategic litigation. In cases involving LGBT victims, ensuring their **safety is critically important**. If an individual's personal information is not publicly available and they wish to remain confidential, measures must be taken to prevent the disclosure of such information during legal proceedings.

Similarly, if a person's identity is being withheld from the press or the public, steps must be taken to maintain their confidentiality. Considering such risks helps to reduce psychological distress for the victim. On the other hand, if an individual's identity or personal information is known to the public, steps should be taken to ensure their physical safety, including potentially relocating them to prevent possible harm from hate groups.

 **Backlash:** If the case is controversial, it can result in opposition in society. In particular, cases related to LGBT people can result in strong negative sentiments among the general public, which stem from stereotypes and prejudices related to SOGI. The media may provide unfavorable coverage of the situation, or disseminate manipulative or false information about the aims of SL or the circumstances of the case. Moreover, lawmakers may be against amending legislation or adopting friendly policies, which makes achieving the goals of SL more difficult. Therefore, it is necessary to take into account all possible ways the issue can be negatively manipulated in order to minimize the impact on SL.

## 2.3 LITIGATION IN NATIONAL COURTS

SL provides an opportunity to effect change in legislation or its implementation through judicial opinions. Even if the goal of SL is to obtain a decision from an international body regarding the case, it is still necessary to exhaust domestic remedies so that it is possible to bring the issue before an international body.

The first step is to **identify the problem**. It is necessary to understand what causes the rights violation: if there has been a violation, and in practice such violations are not punished, is this due to legislative gaps or rather to the improper application of existing norms? For example, was a trans person denied medical care because the law does not ensure the non-discriminatory provision of medical care, or because the norm does not include discrimination based on SOGI, or rather because healthcare workers ignored or violated an existing norm?

The problems can be grouped into the following categories<sup>7</sup>:

- 1 a positive decision made by a public body (i.e. a decision by law enforcement to dismiss a case, a refusal of a state body to issue a new passport or other document, etc.),
- 2 a failure by a public body to do something (lack of provision of medical care, delaying or unreasonably postponing the issuance of a document, etc.),
- 3 a public body's policy or practice (a legal provision that prohibits LGBT people from donating blood, the lack of a legal norm prohibiting discrimination on the basis of SOGI).

When identifying the problem, it is important to determine **when the problem arose**. This is necessary in order to understand any deadlines for challenging the decision, and in the case of a crime, what the statute of limitations is.

• <sup>7</sup> See Public Law Project. (2016). Guide to strategic litigation, page 25.

Next, it is important to **identify the body or individual that violated the applicant's rights**. Doing so helps to define whether the complaint or appeal should be directed to a criminal court, civil court, administrative court, or another specialized body. It is worth noting that initiating a legal process may require the expertise of a legal professional who can offer guidance, assist in preparing documents, and provide legal representation. NGOs working in a relevant field may offer legal support. Pro bono legal assistance services available within the country may also be used.

If the decision rendered by the court of first instance (or the trial-level court) is not desirable, the case should be brought to an **appellate-level court**. Judicial systems may vary in structure, with some countries having a two-tiered system and others a three-tiered system, but all levels of the justice system should be used. It is possible that the court of first instance may not rule in favor of the applicant, yet higher-level courts could render a more favorable decision. It is also possible that no domestic court rules in favor of the applicant, however, it is imperative to exhaust all domestic legal remedies before submitting a complaint to international bodies.

If the issue raised in court is directly related to the constitutional rights of the applicant, then it is also possible to raise the issue before the Constitutional Court.

Having solid evidence is essential for winning the case in court. Collecting evidence beforehand allows you to anticipate proceedings in the case, evaluate the strengths and weaknesses of the applicant's argument, assess risks, and mitigate them. All admissible evidence permitted by the country's laws can be presented, including statements from involved or interested parties, relevant documents, decisions of state authorities, videos, examination results, physical evidence, etc.

## 2.4 CHOOSING AN INTERNATIONAL MECHANISM

When domestic legal avenues are insufficient or ineffective, the applicant can turn to international mechanisms (regional, global) to safeguard their rights.

### THREE TYPES OF INTERNATIONAL MECHANISMS CAN BE DISTINGUISHED<sup>8</sup>:

 **Judicial mechanisms:** Certain international conventions permit individuals to bring complaints to international courts. One example is the European Court of Human Rights (ECtHR), which was established to safeguard the rights outlined in the European Convention on Human Rights<sup>9</sup>. The ECtHR is a regional body and has authority over countries that are members of the Council of Europe and have ratified the ECHR, such as Armenia, Azerbaijan, Georgia, Moldova, and Ukraine<sup>10</sup>. If the human rights guaranteed by the ECHR have been violated, and all domestic remedies have been exhausted, the victim/applicant or their representative may submit an application to the ECtHR within four months following the last domestic court decision<sup>11</sup>. The decisions of the ECtHR are binding on state-parties.

• <sup>8</sup> See Council of Europe (CoE). (2022). Handbook on strategic litigation in the area of women's rights for legal practitioners in Turkey , page 38.

• <sup>9</sup> European Convention on Human Rights, section 2.

• <sup>10</sup> Although Russia is no longer a member state following its invasion of Ukraine, the ECtHR continues to examine complaints from Russia. A list of CoE member states is available at: <https://www.coe.int/en/web/portal/46-members-states>

• <sup>11</sup> European Convention on Human Rights, articles 34 and 35. Detailed guidelines on submitting applications to the ECtHR is available at: <https://www.echr.coe.int/apply-to-the-court>

 **Quasi-judicial mechanisms:** UN treaty bodies are another type of international mechanism, to which individual complaints can be submitted in cases of human rights violations. They have all the characteristics of judicial mechanisms, except that their decisions are not binding. The UN human treaty bodies include the following: Human Rights Committee (HRC), Committee on the Elimination of Racial Discrimination (CERD), Committee against Torture (CAT), Committee on the Elimination of Discrimination against Women (CEDAW), Committee on the Rights of Persons with Disabilities (CRPD), Committee on Enforced Disappearances (CED), Committee on Migrant Workers (CMW), Committee on Economic, Social and Cultural Rights (CESCR), and Committee on the Rights of the Child (CRC). In specific circumstances, UN treaty bodies have the option to review individual complaints or communications from individuals related to violations of their rights protected by the relevant treaty. In order for the committee to review a complaint, the state against which the complaint is submitted must have recognized the competence of the relevant committee<sup>12</sup>. In the case of UN treaty bodies, it is necessary that the applicant has exhausted all domestic remedies. It should be noted that the individual complaints mechanism for the CMW has not yet come into force.

***The aforementioned committees deal with the following human rights:***

- ➔ Civil and political rights,
- ➔ Torture and cruel, inhuman, or degrading treatment or punishment,
- ➔ Racial discrimination,
- ➔ Gender-based discrimination,
- ➔ Rights of persons with disabilities,
- ➔ Protection of all persons from enforced disappearance,
- ➔ Rights of migrant workers and members of their families,
- ➔ Economic, social and cultural rights,
- ➔ Rights of the child<sup>13</sup>.

 **Non-judicial mechanisms:** Non-judicial mechanisms are international bodies, which were established by resolution. An example of a non-judicial human rights mechanism is the mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity<sup>14</sup>. This mandate is responsible for evaluating the implementation of international human rights instruments relating to the prevention of violence and discrimination against individuals based on their SOGI, raising awareness about issues of violence and discrimination faced by individuals due to their SOGI, and addressing various forms of violence and discrimination, including intersectional and aggravated, experienced by individuals due to their SOGI<sup>15</sup>. It should be noted that the opinions of the Independent Expert are not binding on states.

• <sup>12</sup> To view the ratification status by country or by treaty, visit: [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/treaty.aspx](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/treaty.aspx)

• <sup>13</sup> Office of the High Commissioner for Human Rights (OHCHR). Individual communications, [www.ohchr.org/en/treaty-bodies/individual-communications](http://www.ohchr.org/en/treaty-bodies/individual-communications)

• <sup>14</sup> The mandate was established by Human Rights Council Resolution 32/2 in June 2016 for an initial period of three years; the mandate was renewed in June 2019 by Resolution 41/18 and in July 2022 by Resolution 50/10.

• <sup>15</sup> Human Rights Council Resolution 32/2, page 2, paragraph 3.

The goal of strategic litigation may involve shedding light on an existing issue. Collaborating with both domestic and international media is essential for broadening the scope of discussion and influencing decision-makers. Such collaboration is particularly significant when addressing LGBT issues through SL, and can be used to present the real circumstances of the case and the goal of litigation, thereby counteracting manipulative and false narratives. This approach helps prevent hostile public reactions and can help garner support. Nonetheless, working with the media requires careful planning and a robust strategy.

It is important to keep in mind that, in the context of SL related to LGBT issues, it is not possible to work with every kind of media. In the countries of the CEECA region, LGBT issues are exploited by the media, including for purposes of political manipulation. Therefore, it is essential to map various media organizations and journalists, and select friendly media outlets. Otherwise, the media can act as an enemy rather than an ally.

***The following tips can be used to develop a communication strategy for interacting with the media:***

- 1** Identify key aspects in the case and their importance for the public, and summarize them in three or four short sentences. These summaries can be used to describe the case in press releases, leaflets, and on the website or social media pages of the lawyer or NGO leading the case. They can also be helpful when speaking to journalists.
- 2** Focus the press strategy around the different stages of the legal process, and provide regular updates about what stage the case is at and when the next stage will begin.
- 3** Journalists will often be interested in a personal narrative. Presenting a back story to the case will show its human dimension and make it more understandable to the public. If possible, provide an exclusive to the media before litigation begins. This will establish press interest in the case when it goes to court.
- 4** Research whether similar issues are being litigated or advocated for elsewhere. If they are, incorporate this information into the press materials to demonstrate the wider significance of the issue.
- 5** Prepare a press release for journalists at each stage of litigation. A press release should be short and informative. It should include a simple summary of the issues in the case, a narrative of what has happened so far, and some powerful quotes to show why the case is important. It is helpful to provide the contact details of someone who could provide a journalist with more detailed information should they need it. A press release can also be published once the judgment is rendered, preferably with a copy of the decision attached<sup>16</sup>.



<sup>16</sup> Public Law Project. (2016). Guide to strategic litigation, page 34.

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