

GUIDE TO STRATEGIC LITIGATION

IN CASES OF DISCRIMINATION
AGAINST HOMELESS PEOPLE

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1.INTRODUCTION

HOGAR SÍ is an organisation that works towards no-one living on the streets. Our starting point is the human rights-based approach to looking at the phenomenon of homelessness. This approach links the eradication of homelessness with fundamental rights issues, and not only with social welfare issues.

According to this approach, homelessness, in addition to being a **violation of human rights**, exposes the homeless to other types of violence and discrimination, mainly due to aporophobia.

The murder of Rosario Endrinal in 2005 marked a turning point for the visibility of the violence caused by aporophobia and not having a home. This case resonated with society for multiple reasons, such as the assault being recorded by the ATM's security cameras, the way she was killed and the attackers being three young people.

At the time, we did not have the necessary legal tools to address the particular vulnerability of this matter. The hate and discrimination crimes service of the Barcelona Provincial Public Prosecutor's Office was not created until 2009. Since that first Office, this service has been consolidated and there is a **Public Prosecutor's Office specialised in hate crimes** in every Spanish province.

In 2014, a parallel process created the **HATento Observatory of hate crimes against the homeless**, and two years later the **virtual reporting office** was launched, providing quantitative and qualitative data on the specificity of aporophobia-based hate crimes. One of the Observatory's aims is to deeply understand this phenomenon, in order to combat it.

However, it was not until June 2021 when the Organic Law on the comprehensive protection of children and adolescents from violence introduced **aporophobia as an aggravating circumstance into the Criminal Code**. This new scenario in the fight against aporophobia-based hate crimes is supported by the recent approval of **Law 15/2022, of 12 July, on comprehensive equal treatment and non-discrimination**, regulating any discriminatory actions that are not an offence and including socio-economic status as a protected category against discrimination, with a specific mention of situations of homelessness.

Despite these advances, according to data from the HATento Observatory (2015), we have a long way to go to end this discrimination: **47% of homeless people have been victims of some type of aporophobia-based hate crime or incident** and **81.3% of those who have been victim of a crime or incident have suffered more than one**.



1.INTRODUCTION

Under-reporting is a phenomenon related to victims of hate crimes, not only based on aporophobia, not filing complaints for multiple reasons: fear of retaliation; unawareness of having been victims of a hate crime or incident; lack of trust in the authorities; or not knowing how to act. **87% of homeless people do not report.** Sometimes, this phenomenon is not through any fault of the victims, but an insufficient training of the professionals involved in the entire process when reporting a hate crime, from third-sector professionals, through to police services, lawyers, prosecutors and the judiciary. This shows us that progress in public policy and law governing hate crimes and discrimination must be accompanied by **mechanisms to overcome the barriers to accessing police and justice services**, so as to avoid obstacles, under-reporting and all the mechanisms that prevent access to justice¹.

Therefore, the umbrella project of this report has set itself the innovative aim of creating **a strategic litigation system for discriminatory incidents, aporophobia-based crimes** and offences against the homeless.

Discriminatory incidents (acts that do not amount to an offence) or discriminatory public policies themselves are, mostly, an important focus in strategic litigation, given their value in defining new public policies. Although much work remains to be done on hate crimes such as sexual, physical or verbal abuse, these incidents, together with the learned helplessness of homeless people, play an important role in discriminatory experiences, even if they are less obvious than severe acts of violence.

The aim is to pave the way to promote **defending the human rights of homeless people** who have been victims of discrimination and aporophobia-based hate crimes, as a fundamental aspect for citizens' access to justice.

¹For more information on barriers to reporting hate crimes against the homeless: Reporting and prosecution of hate crimes: a labyrinth for homeless victims - HOGAR SÍ (hogarsi.org)

WHAT IS STRATEGIC LITIGATION AND WHY DO WE USE IT?

Strategic litigation is a tool widely used by social organisations. As social organisations, we **identify a social problem and, through legislation, defend a right that already exists as such but is not respected, or one that should exist.** We look to draw attention to these situations and gain reparation. To this end, defended cases are not only specific cases, but rather they are platforms **for complainants and many other people in their situation to gain access to those rights.** The importance of specific cases is combined - not forgetting that these are victims of discrimination - with the impact that they may

have on many other people in society; however, the end purpose is access to or **reparation of rights for a large section of the population.**

A SUCCESS STORY IN COLLABORATION WITH THE PUBLIC PROSECUTION SERVICE

In 2017, a YouTuber who accepted challenges from his followers gave a person experiencing homelessness some Oreo biscuits containing toothpaste. The victim was chosen based on his extreme vulnerability. The comments on the video were humiliating, making jokes about the victim's situation and promoting aporophobic stereotypes. The perpetrator's followers multiplied to the point that he said that he had left school to work exclusively on YouTube. Meanwhile, the victim experienced vomiting and digestive pain and felt sad, worried and **scared.**

When HOGAR SÍ found this video, it saved and sent it to the Public Prosecutor's Office specialised in hate crimes for the city of Barcelona. The Public Prosecutor immediately opened an investigation. In 2019, Barcelona Criminal Court No. 9 sentenced the accused to 15 months in prison, to paying €20,000 to the victim and to a 5-year social media ban. The defendant's lawyers appealed the sentence at Barcelona Provincial Court, claiming disproportionality, as this social network was his livelihood. The Provincial Court of Appeals ruled in their favour and withdrew the social media 'restraining order'. The prosecution took the case to the Supreme Court to reconsider banning the accused from social media. Finally, the Supreme Court's sentence pointed to the humiliation factor of this case and confirmed the 5-year social media ban. These types of acts often take place on social media - in this case, YouTube - in order to reach more people with their message of hate and humiliation. This sentence set a precedent to better protect all hate crime victims, not only those based on aporophobia or to protect minors, since it can be applied to other types of offences committed online, such as scams or child pornography.

We understand strategic litigation in a broad sense, covering **access to recognized rights and to new rights**, on the one hand, and to bridge the gap between discriminatory situations and hate crimes' reporting.

Therefore, we call it strategic because **through case selection we design a strategy to promote protection and defence of rights**. However, work is also done to **set precedents**.

The agents of changes involved therefore include **legal operators** and all judicial bodies, in the sense of starting to use the right at state level with international standards that are usually a better guarantee of rights. On the other hand, we have non-judicial figures, such as support for lawyers but also the set of public institutions that guarantee the Rule of Law.

As mentioned, our intention is to create **a change in legislation or practices to redress human rights infringements**. It is also a question of creating **debate in society** and not only in the courts, because if public opinion is unaware of the problem, the reality cannot be changed. This is its potential. It therefore combines specialised work in the spheres of law, research, campaign creation and impact.

THE PARADOX OF REPORTING

There is little data regarding under-reporting of issues related to discrimination. In the specific case of aporophobia-based complaints, under-reporting reaches 87%; in other words, **only 13% of people who suffer aporophobia-based hate crimes or incidents denounce them**. The existence of training and impact related to hate crimes gives victims greater interest in defending their rights and they more frequently seek information on how to act. However, in turn, most people still do not want to take legal action.

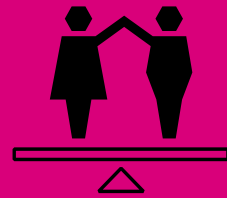
"Strategic litigation in social entities is the step from collaboration to confrontation".



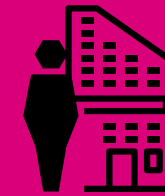
In this area, there are large social organisations with expertise in strategic litigation; therefore, to start our journey, we carried out benchmarking, to use the knowledge of this practice generated in recent years as our starting point. To this end, we called on other entities from the third and private sectors to partner with us to detect the route, challenges, successes and steps to be taken.²

Resulting from this work meeting with Fundación Secretariado Gitano, Women's Link Worldwide, Civio.es, Cooperativa Red Jurídica, Amnesty International Spanish and FEANTSA are the notes to this report, in an attempt to transfer the knowledge generated to allow any organisations intending to follow this path to reclaim citizens' enjoyment of human rights.

WHAT IS STRATEGIC LITIGATION IN HUMAN RIGHTS ABOUT?



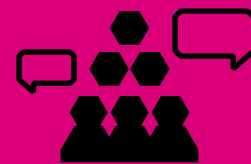
Its purpose is to promote protection, access and defence of rights for the entire population.



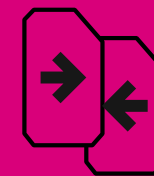
It is led by social organisations.



It seeks to set precedents and influence judicial and non-judicial agents.



It aims to bring about social debate and political impact. A strategy is produced based on case selection.



Defence of an individual case is combined with the attainment of rights for a large section of the population.



It combines specialised work in the spheres of law, research, campaign creation and impact.

²Benchmarking was carried out with expert organisations in May 2022

**IN THE AREA OF HOMELESSNESS, IT IS
NECESSARY TO CONTINUE DEEPENING THE
GUARANTEE AND PROMOTION OF RIGHTS
FOR PEOPLE IN THIS SITUATION.**

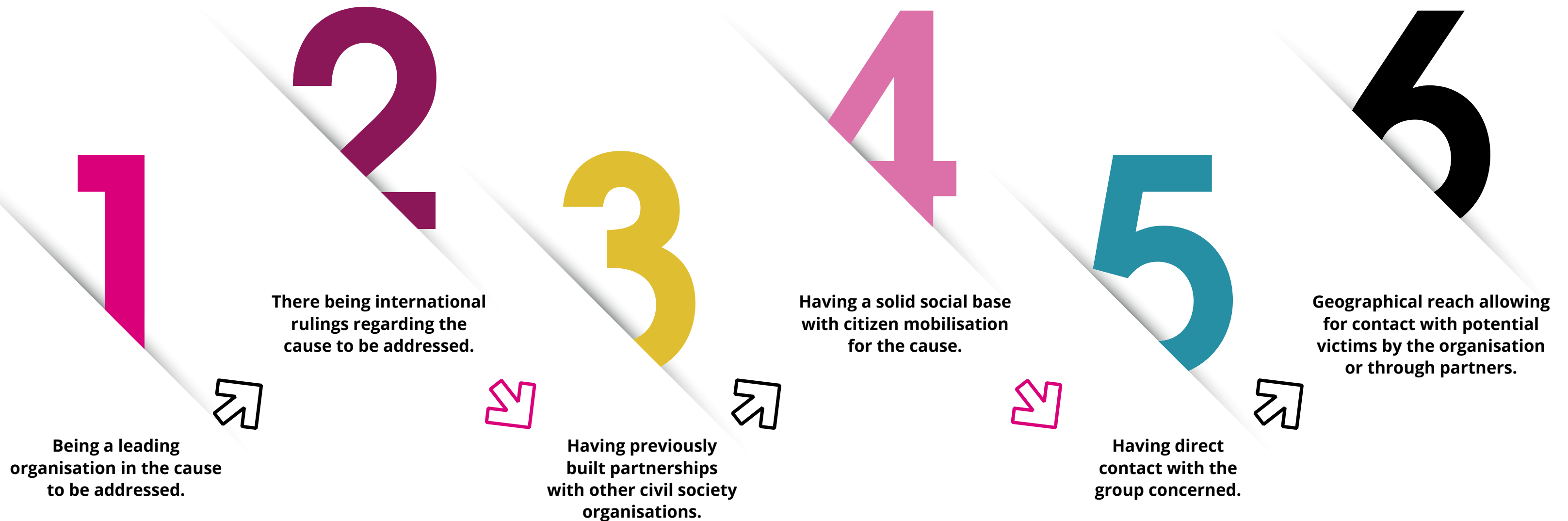
Our starting point is a three-dimensional human rights-based view of homelessness, as indicated by Leilani Farha, UN Special Rapporteur on adequate housing, and **through strategic litigation we influence each of these dimensions.**

The first dimension **refers to an absent home being an** absent right to housing, not only in the material aspect of a minimally adequate home, but also this absent home **leads other rights to be violated**, such as the right to health, safety or community living.

The second dimension considers homelessness as **a form of systemic discrimination.** It recognises that a lacking home gives rise to a social identity through which the homeless form a **social group subject to discrimination and stigmatisation.**

The third dimension recognises the homeless as **holders of resilient rights in the fight for survival and dignity.** People experiencing homelessness should be recognised as central agents of the social transformation necessary to achieve the right to adequate housing.

2. FACTORS FAVOURING THE USE OF STRATEGIC LITIGATION TO DEFEND THE HUMAN RIGHTS OF HOMELESS PEOPLE





The work of **Fundación Secretariado Gitano** relating to Equality and Anti-Discrimination revolves around several axes, one of them being Strategic Litigation, and it is a pioneering organisation in this field. When detecting cases, they place particular importance on the role played by Equality Techniques since 2016 in many regions, in direct contact with victims. In addition, this technical profile offers assistance to victims of discrimination and anti-Romani sentiment, and advice to make Roma people aware of their rights.

3.CASE SELECTION

The **aspect to be litigated should be well chosen**, to create the greatest possible impact. Before developing a legal strategy, it is important to **carry out a context analysis** including, amongst other factors deemed suitable by the organisations:

- The results that may be obtained.
- The risks being taken.
- The potential participants to be directly or indirectly involved in the case.
- The organisations for partnership.
- The parties who may react against it.

This analysis will be accompanied by **analysis of any legislative aspects** where we can support our strategic litigation actions, including the level of knowledge of state courts on aporophobia and international standards and other non-judicial treaties.

In 2022, HOGAR SÍ prepared an **analysis of the different national and European legislative tools** at our disposal to handle strategic litigation cases on issues of aporophobia-based discrimination, allowing for the influence of parallel causes, both to work on complex issues involving several protected characteristics and to learn from previously-consolidated processes. *For example, there being organisations that carry out strategic litigation based on gender-based discrimination, such as Women's Link Worldwide, or on anti-Romani sentiment, such as FSG, means that this expertise can be used to adjust the process around aporophobia-based discrimination.*

SELECTION OF SPECIFIC CASES SHOULD CONSIDER AT LEAST THE FOLLOWING ASPECTS:



This is a paradigmatic, exemplary case, the positive resolution of which will affect a large section of society.



The inequality in question can be translated into legal language.



The case is judiciable and legal action may lead to changes and improvements in access to rights.



There are national or international instruments to protect the right in question. There is an institutional commitment to the defences taken.

THERE ARE 2 ROUTES

INDUCTIVE

Identifying the human rights violation for rectification and designing a case for litigation. Creating a case and victim profile and putting everything in place for detection.

In both scenarios, victims can be accessed either by observing hate crimes or through direct assistance of the affected population: the homeless, in our case.

When a possible case of strategic litigation is detected, either because it adapts to the case profile drawn up, or because a paradigmatic discrimination case has reached us, producing a report is recommended to gauge viability. This report must include:

DEDUCTIVE

Collecting cases and considering strategic litigation after observing paradigmatic cases, not isolated ones.

- **Qualitative dimension of the case:** the severity, urgency and frequency of the incidents. It may have very high levels of all three aspects, or one aspect may be sufficiently important to proceed.
- **Quantitative dimension:** number of people affected / number of claims
- **The specific, described facts, including how they reached us**
- **Aim of litigation**
- **Our available resources**
- **Complainant / victim profile**
- **The case's current point in the legal process**
- **Chosen forum**
- **Legal strategy**
- **Partnerships**

We must remember that *the aim of our strategic litigation reaches beyond a favourable ruling in a particular case*. Aims can be based around: setting precedents; learning or data collection on a subject; changes to structures and public policies; mobilisation around access to a right, etc. For example, in a case of a person experiencing homelessness who is a victim of aporophobia-based violence, in addition to that person's right to reparation, mobilisation may be created regarding access to housing. Moreover, *in many cases, the judicial process is a symbolic reparation*, not only for the individual victim, but for all those who share the characteristic subject to discrimination. This can lead to a knock-on effect for filing complaints or seeking justice.



It sometimes enables people with little social credibility to tell their own story in a court, to a judge who listens to them. This empowers their voice and that of their people. Even if they lose the case, they thank us because it has been restorative.

Fundación Secretariado Gitano

There are cases that we take as a learning curve. In these cases, there are no major losses and no-one is affected by the unfavourable ruling.

CIVIO.es

4. SELECTION OF THE POINT IN TIME

One of the keys to strategic litigation, as we have mentioned, is the **social mobilisation** it may create, but also how this mobilisation can promote the case in question. In this sense, it is important not to start litigation too early, especially if we do not yet have the necessary evidence, since we would miss an opportunity.

Regarding the ideal moment, we also need to consider if there is any type of **risk for the victim**, or if it could cause any uncontrollable risk for other people in the situation that we wish to influence.

One aspect to be considered is that **strategic litigation seeks to lay the foundations for standards within the framework of rights**. It has less to do with a political moment in time and more to do with standards that cannot be brought down; therefore, it is important to also have a short-, medium- and long-term view of any public policies that may boost access to that right.

EXAMPLE

The case of Ángela González, brought by Women's Link Worldwide, caused the State Pact against Gender-Based Violence to recognise state liability for legal errors.

In the first ruling by an international body declaring Spain responsible for gender-based violence, the CEDAW Committee determined that the State infringed the rights of Ángela and her deceased daughter Andrea, who died as a result of the authorities' gross negligence. In its ruling, the Committee recommended specific measures for Ángela and general and structural measures aimed at preventing the endangerment of victims of gender-based violence and their children, and ensuring that judges and administrative staff perform their duties without the influence of gender stereotypes.

Source: Ángela González Carreño v. Spain | Women's Link ([womenslinkworldwide.org](https://www.womenslinkworldwide.org))



5. SELECTION OF THE PARTIES

SOME TIPS FOR CASE SELECTION REGARDING

THE REPRESENTED PARTY:

- A clear criterion must be established for case representation.
- It is advisable to have a model representation agreement between the organisation and the represented person, in case it becomes unaligned in the process.
- It is essential for represented parties to be aware of what strategic litigation entails and that it goes beyond their specific case.
- It is beneficial for represented parties to have an activist profile and to be spokespeople for their case in terms of rights.
- Work will be done with represented parties to make their testimony coherent and consistent.
- It is beneficial to the case if the group of affected people identify themselves with the represented person.

5. PARTY SELECTION

SOME KEY POINTS REGARDING THE DEFENDANT:

- In some cases we can choose who to sue. For example, to face a discriminatory act or violation of human rights in a company, social organizations could choose either suing the company itself or the public institution responsible for enforcing the violated rights.
- All risks must be assessed when suing.
- In matters of discrimination, conflicts are likely to arise in the organisation, whether with private companies with agreements on work integration in place, for example, or with public bodies with co-operation or financing in place. The criteria for action by the organizations will have a detailed assessment of the most effective way to guarantee the specific rights that we are dealing with, but also to guarantee other rights pursued by the organization.
- The venue will depend on who is the defendant and the assessment will take into account some aspects such as which instance is more guaranteeing or what time and costs will the whole process take.

6. SELECTION OF LEGAL STRATEGY

Our legal strategy is usually reflected in a document included in case selection. This is the point for preparing legal arguments and where we believe that they will have greatest scope. Preparing this document requires research of law and the potentially applicable sources of law (legislation, debates, regulations, case law, international standards, precedents, etc.)

THUS, THE LEGAL BRIEF SHOULD INCLUDE A SERIES OF POSSIBLE MEASURES

- Protection
- Interim measures
- Evidence - Evidence should be presented of the violation or non-access to a human right, and of the fact that this event is widespread. It is difficult to obtain evidence in human rights cases, especially since it is difficult to prove the causal relationship between the incident and the violation of a right.
- Trial
- Sentences
- Enforcement of sentences
- Time periods established for complaints
- Supplementary actions

For more information: <http://www.repo.funde.org/id/eprint/1612/4/litigio-e.pdf>

In legal strategy, one of the most important aspects is to consider the forum, i.e., where we will make the claim. We must also remember that strategic litigation is carried out to secure rights; therefore, we should choose the forum where we believe we will be most successful in this aim with the tools at our disposal (evidence, case law, etc.).

Within this strategy, we should see whether to opt to carry out **internal or international** strategic litigation. If internal strategy is chosen, we will go to the corresponding court based on the nature of the matter for reporting. We should not forget the potential severity of some acts of aporophobia: as proof, it is defined in the Criminal Code as a **hate crime**. However, it is also not advisable to overlook the weight of all the discrimination that, without being offences, often lay the foundations for more serious violence. Therefore, we should not rule out scopes of legal action in these cases, especially since we have access to the **Equal Treatment and Non-Discrimination Act** and its scope of application affects both the public and private spheres.

INTERNATIONAL BODIES

As a general rule, before filing a complaint to international bodies based on human rights violations, we must exhaust the internal judicial appeal system established in the State where the human rights infringement is committed. However, it is possible to appeal directly to international bodies if the internal route is inefficient or unjustifiably prolonged.

To choose where to file the complaint, we should consider the nature of the infringed right and the possibility of an individual complaint. These aspects will give us the opportunity to appeal to the European Court of Human Rights (ECHR) or to any expert committees (human rights treaty bodies). These include, for our purposes, the Human Rights Committee (CCPR) and the Committee on Economic, Social and Cultural Rights (ESCR Committee). We should not rule out the interest of other expert committees, depending on the violated right in question.

6. SELECTION OF LEGAL STRATEGY

There is a series of **additional mechanisms** for action in the courts that support strategic litigation and, sometimes, become as important or far-reaching in court as litigation itself. These include training and awareness-raising for judges, prosecutors and lawyers. There is also **production of specialised reports** that support our starting point and provide us with the basis for complaints to be filed. These reports, which denounce a lack of access to rights for part of the population, are often produced as part of the organisation's regular work; however, on other occasions, ad-hoc reports are created for specific cases.



FEANTSA, together with the French organisation **Abbe Pierre Foundation**, produces an **annual report on residential exclusion in Europe**. Its last report at the time of preparing this guide (2022) highlights the strategic moment in time at EU level where homelessness is concerned. For the first time in the history of the European Union, all Member States agreed in June 2021 to eradicate homelessness by 2030. This agreement materialised with the launch of the 'European Platform to Combat Homelessness', whose action plan was presented last February at an EU Council of Ministers summit on homelessness.

In turn, **Amnesty International** produces an annual report on the status of Human Rights worldwide, in addition to specific reports on certain rights, such as housing. It also carries out actions to **support strategic litigation cases**, such as that of Josefina and Richard - a couple with three daughters with an eviction order despite the United Nations requesting their eviction be suspended until they have alternative housing - or the deportation case of Mohamed Benhlime: litigation involving the Spanish Commission for Refugee Aid, UNHCR and Red Jurídica.

7. OUR AVAILABLE RESOURCES

PARTNERSHIPS

- It is common practice to contact organisations when our case aligns with their causes (see examples in the previous box)
- Coordination of a network around a specific topic allows for many different expert voices to be heard.

Amici curiae: this refers to presentations made by third parties external to the litigation in question. These contributions are voluntary and usually consist of a document with a formed, specialised legal opinion. Amici curiae generally participate in strategic litigation processes when any fundamental right is at stake. Amici curiae are presented by leading NGOs for the defence of human rights and by bar associations.

STAFF

A prior step is to **legally empower our organisation**: having contacts, understanding mechanisms and having legal and technical staff. In turn, each litigation will carry out research into the case itself, beyond the legal sphere, since for it to be strategic, we need to foresee the social impact that will be created. Amnesty International places great importance on having **research staff with thorough knowledge of the regulations, policies and practises for the right** to be addressed, without the need to be a lawyer at this litigation stage. In this regard, **to communicate with treaty bodies, it is not necessary to hire a lawyer**: if organisations have a research department, we only need to adapt communication to the corresponding articles, mention which agreement is being breached and request decisions from these treaty bodies.

THE IMPORTANCE OF RESEARCH

Carrying out research is important for arguing that a right is lacking. FEANTSA communicated the health effects of homeless people in Ireland to the ESCR Committee. Based on the documentation submitted, the Committee resolved that there was insufficient evidence to state that health is affected by the lack of access to adequate housing.

7.OUR AVAILABLE RESOURCES

Legal matters should always be **teamwork**, since no-one has the entire international framework, all precedents, the full context and also understands the state framework, unless it is a very specialised issue. In this regard, entities have the disadvantage of needing to cut costs and, therefore, there are professionals who adapt these costs to what we can offer, combining this with pro bono services for complementary issues.



Strategic litigation need not be a very costly, lengthy process, or one that reaches international bodies. Sometimes, the right is recognised at a Court of Appeal.

Red Jurídica.

THE EUROPEAN SOCIAL CHARTER

On 1 July 2021, the Revised European Social Charter (RESC) came into force in Spain³. This is an **international treaty** which requires its signatory States to promote compliance with human rights, such as the right to health, housing or protection from poverty. The body responsible for matters related to the Charter is the RESC Committee.

This Charter allows for collective complaints by, for example, the organisations listed by the Government Committee. Although it is something new in Spain, progress has already been made with this instrument in France, for example. In 2006, FEANTSA brought a claim against this country and ensured that the DALO (*droit au logement opposable*) Law recognises, for the first time, the subjective right to housing. **To file a collective claim, no lawyers are needed.**

³ European Social Charter. For more information: Decision on admissibility: European Federation of National Organisations working with the Homeless (FEANTSA) v. France, Collective Complaint No. 39/2006 (coe.int)

8. OUTREACH AND IMPACT PLAN

In strategic litigation, case outreach is extremely important because, in addition to legal victories, another route to securing rights is impact itself. Therefore, the greater the scope of communication, the more possibilities we have to achieve our goals.

SOME KEYS TO COMMUNICATING STRATEGIC LITIGATION PROCESSES:

- It is desirable for **victims to be the spokespeople** for their case in the media. Nevertheless, they do not have to do it alone: generally, they will be accompanied by a leading organisation, that will provide a general overview of the case, and the lawyer for the case, who will provide the technical knowledge. This said, it is important for victims to the face of cases.
- The above requires work to be done with those acting as spokespeople because, in addition to being victims of discrimination, they are exposing circumstances of their lives that may be unpleasant. Therefore, **organisations must have tools to make speaking easier for people who may not be used to talking to the media.**
- The **version of events must also be based on complainants' declarations.**
- It is important **to share case documentation as much as possible**, in line with the recommendations of legal representatives. This is addition to gaining the trust of the media wishing to follow the case, which allows us to put the organisation in contact with other entities with similar cases.
- In addition to the usual content, our communication plan must include **mobilisation strategies**, since communication in strategic litigation aims to transform the guarantees of rules of law. They are also **loyalty processes for the social base**, which plays an important role in these types of strategies, since litigation on **discrimination issues tends to polarise** opinions.
- Communication in strategic litigation is aimed at different interest groups: on the one hand, the general public, but it is important to remember that they are **issues of great interest to a specialist legal audience.**

COMMUNICATION AND THE LEGAL PROCESS AS PART OF VICTIM REPARATION

In December 2019, Jennifer Muñoz, a Romani woman, was accused of stealing a toy from a supermarket. She asked for the security cameras to be checked to prove that this had not been the case, but she had a quick trial the following day. Although the shop assistant offered to testify in her favour, she was convicted of theft. Jennifer appealed to the Court of Appeal and the Supreme Court, without success. Fundación Secretariado Gitano, which saw in this case the intersectional discrimination suffered by many Romani women, decided to support her in communication to bring her case before the Committee on the Elimination of Discrimination against Women. Despite waiting for justice to be done, Jennifer considers part of her reparation to be the opportunity to discuss what happened and what happens to other Romani women, both in court and in the media reporting on the discrimination that they suffer.

For more information: [Young Romani woman brings her discrimination case before the UN, with the support of the Fundación Secretariado Gitano - Fundación Secretariado Gitano \(gitanos.org\)](#)

FROM COMMUNICATION OF STRATEGIC LITIGATION TO INFORMATION-BASED STRATEGIC LITIGATION

Civio is an organisation that works for the transparency of public authorities through journalism. Its tools used to influence the fulfilment of rights include strategic litigation.

In 2018, they discovered an error in the BOSCO software designed by the government and used by electricity companies. This design error was causing the discount tariff to be denied to people entitled to it. After the government refused to scrutinise BOSCO's source code, they took it to court. Civio does not represent anyone; they act as complainants and are the affected party themselves.

For more information: [We ensure that public aid reaches those who need it most Civio](#)

Strategic litigation never ends with a ruling, since its aim is much deeper, as we have reiterated. For this reason, sentencing is not our only outcome measure when we engage in strategic litigation.

Often, an unfavourable ruling does not mean that we have not successfully paved the way for a state or for public policies to move forward in terms of guaranteeing rights. Although, in effect, we have to **measure the material and symbolic risks that it may entail**.

Another favourable result - which rests heavily on our communication plan - is **transformation of public opinion** on the urgency and severity of the problem in question.

Organisations working with strategic litigation often come across cases that could be borderline between strategic and standard litigation. Especially in **cases of significant severity, but they act as popular prosecution**. This will always depend on our aims before starting judicial proceedings. Beyond the classification that we give, it is a crucial decision for any organisations that do not litigate, but instead exclusively focus on strategy. In turn, for unfavourable rulings, it is recommended to evaluate and determine what aspects could be improved, to communicate to the courts what is truly happening to victims.

We may also find that, despite becoming points of reference in public opinion, we do not successfully win certain cases; therefore, we should **review the real possibility of creating human rights standards** for the matter in question, or change strategy to guarantee the same right.

Lastly, in the knowledge that state law has a restrictive interpretation of binding force, it is recommended to **monitor the degree of compliance by the authorities with the new general recommendations**, rulings or precedents on human rights.

10. EXPERT ORGANISATIONS THAT HAVE PARTICIPATED
IN AND CONTRIBUTED TO CREATING THIS DOCUMENT:



GUIDE TO STRATEGIC LITIGATION

IN CASES OF DISCRIMINATION AGAINST HOMELESS PEOPLE

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