

**ERC Starting Grant 2022  
Research proposal [Part B1]**

**SUEDEM**

**Principal Investigator (PI):** Benjamin Moron-Puech

**Host institution for project:** Université Lumière Lyon 2

**Project duration:** 60 months

From the 1990s, in Europe, an increasing number of groups - including minorities - have resorted to legal proceedings due to an inability to make themselves meaningfully heard, when they sought to defend their interests, within the democratic system. Certain scholars named these legal procedures “strategic litigation” (SL). For years, legal scholars dismissed this litigation, prompt to criticise it as an instrumentalisation of justice, especially when such litigation was used by socially marginalised groups. However, as this SL has become more abundant, transcending the field of minorities to be used in the environmental sphere in particular – with striking European victories –, it is evident that it is playing a central role in our democracies. Simultaneously, we are observing a loss of confidence in traditional institutions. Where voting in referenda or elections often reduces citizens’ agency to expressing a binary choice, and where participation and consultation mechanisms remain limited in their areas of application and effects, collective action in the area of justice seems to increase citizens’ agency and enable them to participate in the exercise of power. The SUEDEM project (SUing for European DEMocracy) aims to understand if and how SL contributes to democracy. It will do so through fulfilling three aims: **1)** to gain a clearer understanding of the concept of SL with a democratic aim, through literature analysis and field studies, including undertaking litigation (though SL has already been examined in sector-based studies, no holistic study of the phenomenon exists); **2)** to establish the legitimacy of SL and its actors, by demonstrating their central contribution to democracy; **3)** to promote “democratic strategic litigation” (DSL) by offering instruments to be used by legislative assemblies (for example, a European directive proposal), assessors and financers (effectiveness indicators for DSL) and NGOs (a practical guide to DSL).

## SECTION A. EXTENDED SYNOPSIS OF SCIENTIFIC PROPOSAL

**RESEARCH QUESTION.** Should strategic litigation (SL) – *i.e.* litigation brought by individual(s) to attempt to change the existing social rules – be promoted in Europe, as part of a response to its democratic crisis?

**RESEARCH OBJECTIVES.** **1.** Propose an interpretative framework for SL (definition, statement of uses, and identification of various consequences) [WP1]. **2.** Evaluate the democratic potential of SL [WP2]. **3.** Democratise access to SL through providing operational tools for applicants [WP3].

### I. GROUND-BREAKING NATURE AND POTENTIAL IMPACT OF RESEARCH PROJECT

#### A. Research whose time has come

##### 1. Response to a social need

**ONGOING EUROPEAN DEMOCRATIC CRISIS.** Over the last twenty years, the European Union (EU) and its member states have experienced an unprecedented democratic crisis (Levitsky & Ziblatt 2019; Runciman 2019). Indicators measuring the quality of democracy in EU countries are falling, registering reduced confidence in institutions (Foa & Mounk 2016, 2017), a finding that seems confirmed by rising populism and growing nationalist identification. In reaction, however, one may also observe significant citizen mobilisation, such as student strikes for climate (Rochfeld 2019), civil disobedience movements (Chenoweth 2021) or the “gilets jaunes” demonstrations in France (Grunberg 2019); these are all signs of a popular wish to fight democratic erosion (Youngs 2021). In this vein, certain institutions have acted to add more mechanisms for participation and consultation, akin to the European Citizens’ Initiative introduced by the Lisbon Treaty in 2007 (TEU, art. 11). However, few concrete results have come from these reforms, as the recent electoral victory of the Fratelli d’Italia party in Italy attests. In this context SUEDEM advances another possible response to the crisis, based on a form of litigious grassroots mobilisation, that is, establishment of a legal framework to facilitate bringing SL with a democratic aim, hereafter named “democratic strategic litigation” (DSL).

**TRADITIONAL RESERVATIONS ABOUT DSL.** At first glance, evoking a link between litigation and democracy may raise reservations. Democracy is said to play out in Parliament and not in the courtroom. First of all, reservations are due to the fact that judges are not elected, and therefore do not possess democratic legitimacy *a priori* (Ely 1978). Next, a potent fear remains in the West of an “americanisation” of justice (Cadiet 2007), or of “government by judges” (Lambert 1921), in which judges tend to assume the place of the political power. Recurring critiques of Judicial Review, perceived as an attack on the separation of powers, illustrate these concerns (Epp 1998). The concept of “juristocracy” (Hirschl 2007) describes a discerned increase in the overall power of constitutional litigation at the expense of other powers in democratic systems. In this perspective, one might swiftly diagnose SL as a threat to representative democracy (Schoettl 2022). This appears all the more so when SL is pursued to prevent political participation by certain groups, such as in cases of Strategic Lawsuit against Public Participation (SLAPP) (Sheldrick 2014), a subject of recent EU deliberation (COM[2022] 177 final, 27 April 2022).

**THE RESERVATIONS ARE NOT DECISIVE.** However, **SL appears to fulfil a double democratic function already.** *First of all*, it functions as an auxiliary to traditional democratic institutions; specifically, the judicial sphere allows personal rights to be defended in a fairer manner, as these rights are not, or are poorly, represented within the institutions. Consequently, the only possibility for certain groups to take part in the process of decision-making is through a lawsuit, whether due to lack of support in the general population, or their inability to form an influential lobby (Ackerman 1985; Hunter 1997). *Next*, SL can have a legitimising function, in that the judge can compensate, through his action, for the absence of legitimacy of various participative structures like citizens’ panels (Parkinson 2006; Lafont 2015). Thus, the use of DSL would cause the judge to be a “political decider” (Grandjean & Wildemeersch 2016). Far from exercising a governmental function leading to a government by judges, the judge would assume the role of an intermediary, mediating and amplifying the causes that are presented to him.

##### 2. Research addressing a scholarly need

**NEED FOR HOLISTIC AND SYSTEMATIC THOUGHT ABOUT DSL.** The field of study of SL is far from cohesive. *First of all*, knowledge about SL is fragmented among various social science disciplines – legal and political science, sociology, economics, and so on. *Secondly*, SL is currently understood through diverse concepts (“cause lawyering”, “lawyering for social change”, “public interest litigation”, “test case litigation”, “impact

litigation”, “social change litigation” and so forth). *Thirdly*, the literature abounds in sector-based studies (for example, on civil rights or climate change), while it lacks cross-sectional studies that would help create a holistic analytical framework. A clear need for cohesion exists and SUEDEM will address it.

**NEED FOR LEGAL THOUGHT ABOUT DSL.** Legal specialists have traditionally viewed the relationship between courts and legal subjects as vertical and directional, as a litigious process that involves applying norms – decided by institutions – onto citizens. With few exceptions (Chen & Cummings 2012; Hoevenaars 2018), scholarly work in legal science has obscured the possibility of groups using the courtroom to change norms adopted by institutions in a “lawyering for change” perspective. In other disciplines, such as political sociology, academic research has highlighted the contributions of civil society actors to legal processes (Zemans 1983; Burstein 1991; McCann 2006), but has not addressed legal and technical questions raised by SL, even when discussing SL’s political and social effectiveness (Freeman & Farris 1992; Barber 2011). Moreover, in political science, the democratic potential of DSL has been little highlighted to date. This fact has not encouraged legal specialists to take the present research subject seriously either nor to seek to improve its effectiveness (see, however, Duffy 2018). SUEDEM will apply itself to this task.

### **B. Innovative research**

**HIGH SCIENTIFIC GAIN POTENTIAL.** No research has ever envisaged SL as a democratic instrument. SUEDEM major innovation will come from the proposed concept of **democratic strategic litigation** that will be studied in a holistic approach to better understand its causes, its uses & its consequences on society. A theoretical contribution will also result from the concept of **judge as mediator of causes**, which has the potential to renew theories about the separation of powers or judicial functions. SUEDEM will also produce innovative practical tools. *Firstly*, it aims to draft a **model-law** promoting DSL, for the attention of European institutions. *Secondly*, **effectiveness indicators** for DSL will be developed, in view of the issues surrounding assessing and financing of SL. *Thirdly*, SUEDEM will produce a **practical guide** to DSL for the use of NGOs.

**APPLYING ACTION RESEARCH IN LAW.** From a methodological point of view, SUEDEM will rely on an overall approach of Action Research in Law (ARL) (Cane & Kritzer 2010; Hutchinson 2018). This interdisciplinary, participatory, collaborative, empirical approach (Greenwood & Levin 2006) is particularly innovative in legal science (Bhat 2019). Its main contribution arises from a capacity to **enable all SL stakeholders to be involved** in the research project (representatives of civil society and institutions, lawyers, politicians, and funders). Moreover, the theoretical knowledge yielded from the project will be shared; it will derive from the literature analysis on SL, and empirical data from the five field studies in conjunction with concerned groups (*see below*). Therefore, through the varied envisaged exchanges, SUEDEM will be able to learn more about the conditions of carrying out and of success of SL. In addition, ARL will allow SUEDEM to determine if the litigation constituted a new route of democratic participation. In the framework of this ARL, SUEDEM will implement **two particularly innovative measures**. *Firstly*, the research team will **carry out DSL** directly as part of one of the project’s five field studies. This will allow SUEDEM to refine its analytical and interpretative models for DSL. *Secondly*, **a think tank will be established** including all DSL stakeholders, within which tools will be developed to strengthen the effectiveness of DSL (*see below*).

### **C. Research with risks but high rewards**

| <b>Main benefits</b>  | <b>Risks</b>  | <b>Mitigating measures</b>  |
|---|---|---|
| Proposing a novel democratic tool for groups who may not always be heard due to the influence of lobbies “capturing” democracy. | Although there exist indisputable examples of DSL, not all SL favours democracy. Thus, there is a risk that one may not succeed in delineating the litigation that should be prioritised. | We will draw on jurisprudence and legislative reforms already implemented in favour of SL in certain countries, with particular attention to “Public Interest Litigation” or “PIL”, in India or Canada, for instance. Existing corpuses on SLAPPs will also help to identify means of reducing abuse of SL. |
| Production of precise knowledge on  | There is a risk that our academic peers see the   | The risk will be managed through the ARL framework and the previous experience of the PI in   |

|   |   |  |
|---|---|--|
| preparation, carrying out, and results of SL arising from both <i>ex post</i> and <i>ex ante</i> studies (intersex SL).                 | intersex SL as activism and not science.<br>Another risk: carrying out litigation may not fit within the timeline of the research.  | such methodology (2018 project on “intersex genital mutilation”, funded by the GIS Institut du Genre). On the time-related risk, with the NGO’s approval, procedures will be chosen that are likely to finish within the research time-frame.  |
| The use of the “action research” approach will help to move the boundaries of legal science, placing it more at the service of society. | The multi-method approach implied by action research carries risks due to the competences necessary to implement it. It also presents ethical risks in its participatory research aspect. | The PI’s interdisciplinary work environment, and past participation in interdisciplinary projects, have allowed him to create a scientific board for SUEDEM with colleagues whose essential competences complement his own. The ethical issues will be monitored by the participatory research service of Université Lyon 2. |

## II. SCIENTIFIC APPROACH

**OVERVIEW OF METHODS.** To achieve its three research objectives (*see above*), SUEDEM will use methodology derived from the humanities and social sciences. While utilising methods from the legal discipline to approach positive law in the various legal systems examined [WP1 and WP3] and to allow different legal concepts from these systems to coexist [WP2], **SUEDEM will employ ARL as its principal methodological approach.** In this framework, SUEDEM will implement qualitative approaches based on individual and collective interaction [WP1 and WP2]. Interactions with individuals will occur in semi-directed interviews with open-ended questions, lasting from thirty to one hundred minutes, and conducted with the aid of an interview guide. In this aspect, SUEDEM will engage with NGOs, legal professionals (lawyers, judges), members of relevant institutions and media. Collective interaction will take place through focussed group discussions and will complement the above-mentioned interviews. SUEDEM will use social psychology tools to evaluate the impact of SL on general public perception.

**WP1. UNDERSTANDING SL.** The literature review is the *first element of Working Package 1 (WP1-1)*. It will examine the existing literature about SL in positive law, legal science, political science, sociology, and anthropology as well as in economics and management science, focussing specifically on the definition, conditions of emergence and consequences of SL. SUEDEM will employ the comparative and historical methods of documentary research to analyse the literature. The aim here is to re-situate SL in the context of its initial appearance by drawing on legal proceedings that have already taken place, and to uncover a priori the characteristics common to the functioning of these lawsuits and to the differences in their implementation from one legal system to another. Research using keywords will be conducted into the network of concepts relating to SL (cause lawyering, public interest litigation, impact litigation, and so on) through the main data-bases (Westlaw, Heinonline, Tandfonline, Lexisnexis, Stradalex, Cairn, etc.).

Next, in the *second element of Working Package 1 (WP1-2)*, as a complement to the literature review, **field studies will be conducted in five areas** with the assistance of two post-doctoral researchers. The fields studied will be the rights of deaf persons (**F1**), of intersex persons (**F2**) and of indigenous peoples (**F3**), as well as litigation on the subject of “piercing the corporate veil” (**F4**) and of digital freedoms (**F5**). The field of transgender litigation is considered as a back-up study area (**F6**), if necessary. These fields have been chosen for a number of reasons: they have been little or not at all studied to date; for the benefit of the knowledge to be produced; the PI’s interest, and academic and activist contacts, in these fields. They also display variables that allow SUEDEM to study a large spectrum of SL and to draw comparisons:

- *Comparison between F1 and F3, and then between F4 and F5:* this allows SUEDEM to study groups of different sizes (minority [F1-F3] / majority [F4-F5]) and therefore to investigate the origin of democratic deficit (few people could mean few means); within these two groups, there will also be variations in their distance from the law (large/small) and their ability to conduct SL (weak/strong).
- *Comparing F1, F2 and F3:* this will allow SUEDEM to study groups which struggle to access the law for differing, though perhaps overlapping, reasons: a unique language (F1), medical “invalidation” (F2), a separate legal culture (F3).

Each field study will be conducted in three countries with the assistance of experienced colleagues, who are part of the scientific board; in this way, SUEDEM aims to facilitate identifying the influence of various parameters like the inclusiveness of the legal system (F1), the various forms or effects of SL (F2&F5), and structural or sectorial differences in the legal system (F3&F4). One will proceed somewhat differently with F3; in this case, comparison will be conducted on the basis of community as opposed to state, as the three communities concerned (the Sami people in Northern Europe, the Boto people in the West Himalayas, and the Salish peoples on the west coast of Canada) have territories that are not limited by state borders.

Finally, in *the third element of Working Package 1 (WP1-3)*, SUEDEM will conduct SL - for scientific reasons, as part of its field study on the rights of intersex persons (F2). **This litigation will enable SUEDEM to identify more surely than other *ex post facto* methodologies the legal and socio-cultural factors that can facilitate or, on the contrary, block the processing and success of the lawsuit.** Relevant legal factors to examine include existing legal routes, conditions of admissibility, and the right of the public to access the law case, to record images from it, and so on. Relevant socio-cultural factors include the sensibility of the judges and public prosecutors to the causes brought, the degree of the society's judicialisation, the existence of intermediaries in civil society and the capacity for the cases to mobilise public opinion. Similar types of actions concerning recognition of rights of intersex persons – as laid down in resolutions of the European Parliament (P8\_TA(2019)0128) and Parliamentary Assembly of the Council of Europe (1952[2013] & 2191[2017]) – will be brought in four to six European countries. **These SL cases will be launched with the assistance of the NGO OII Europe, dedicated to defending intersex human rights;** in 2020 it established an European Intersex Strategic Litigation network, in which the PI often participates as an external expert. In particular, countries will be chosen, in which local intersex NGOs exist that are capable of launching SL and in which such litigation would not be counter-productive to political discussions that may be ongoing. Preliminary exchanges between OII Europe and the PI point for now toward four countries, which seem to meet these conditions (Austria, France, Germany and Greece). To facilitate comparison, the lawsuits will be related to one topic chosen with OII Europe and the national NGOs, likely the prevention and prohibition of acts of torture and other inhuman and degrading treatment. All law firms involved will be chosen according to guidelines co-developed with the NGOs and the PI. SUEDEM's relationship with the various NGO will be contractually defined and monitored by the participatory research service of the PI's university.

**WP2. IDENTIFYING THE CONTRIBUTION OF SL TO DEMOCRACY.** Based on the existing literature and on field study data – from personal and collective interaction as well as parliamentary work, press releases, public declarations – **SUEDEM will seek to identify if, and to what extent, SL is usually preceded by an unfruitful democratic experience** (absence of response from politicians and institutions, who were initially appealed to). It will further aim to determine if SL facilitated reduction thereafter in the democratic deficit from which the group suffered before the SL. Once, and if, SUEDEM has empirically shown the contribution of some SL to democracy, and therefore the relevance of the concept of DSL, SUEDEM will conduct a more conceptual study to explore how DSL could integrate into the field of studies on democracy or on functions of the judge, renewed in this project through the figure of the *judge as mediator of social causes*.

**WP3. CREATING TOOLS TO DEMOCRATISE SL.** Using a “Jurimetrics” approach, that is, a scientific investigation into legal problems through quantitative analysis (Loevinger 1949), and to respond to the needs of funders of SL or of those seeking to measure their effectiveness, **SUEDEM will develop and disseminate effectiveness indicators for DSL.** To produce these indicators, SUEDEM will draw on those already constructed in general (OSJI 2019) or sector-based studies of SL (OSJI 2017; Gathii 2020), as well as those developed by the European Commission for the Efficiency of Justice (ECEJ 2022). One will also attempt to implement the recent proposal to use ‘legal cueing’ – an indicator derived from that of “elite cueing” – to measure the influence of landmark decisions on public opinion (Kovács & al. 2022).

According to action research methodology, **SUEDEM will provide legal support to NGOs** bringing SL by co-producing with them a guide to SL in the European context. This will occur within the framework of the think tank. SUEDEM will draw on existing guides (for example, CRIN 2009; Equinet 2017; ALT Advisory 2022). Thereafter, these guides will be broadly disseminated through the think tank and its members.

Finally, **SUEDEM will develop a model-law for DSL.** Drawing inspiration from existing legal frameworks, SUEDEM will study the possibility of adapting their models to European jurisdictions; it will identify the areas of application that are most relevant for DSL and propose procedural innovations to facilitate

its use. This model-law will be shared with relevant Council of Europe (CoE) and EU departments, with which the PI has contact (*see scientific board members*), in the hope that it will lead to a PACE resolution and/or a directive, based on EU shared competence in the area of justice (TFEU, art. 4).

### III. TEAM AND DELIVERABLES

|                                   | Year 1                | Year 2                      | Year 3                      | Year 4         | Year 5             |
|-----------------------------------|-----------------------|-----------------------------|-----------------------------|----------------|--------------------|
| <b>WP1.1</b>                      | PI - PD1              |                             |                             |                |                    |
| <b>WP1.2</b>                      | PI                    | PI - PD2 - PD3              | PI - PD 2                   | PI             |                    |
| <b>WP1.3</b>                      | PI - ONG              | PI - ONG - Attorneys        |                             |                | PI - PD1           |
| <b>WP2</b>                        | PI - D1               |                             |                             | PI             |                    |
| <b>WP3</b>                        |                       |                             |                             | PI - PD1 - PD4 |                    |
| <b>Seminars &amp; conferences</b> | Regular team meetings | International conference c1 | International conference c2 |                | Open conference c3 |
| <b>Deliverables</b>               |                       | a1 a2 a3                    | a4 a5 a7 a6                 |                | a8 o1-3            |
|                                   |                       | m1 m2 m3 m4                 |                             |                |                    |

PI : Principal Investigator    D : Doctoral student    PD : Postdoc    ◊ Scientific article (a)    △ Monograph (m)    ◊ Operating tool (o)

**ERC-FUNDED TEAM.** Besides the PI (at 70%), the gender-diverse team will comprise *a*) a post-doc (PD1) in legal sociology (at 50%) as PI's assistant, also working on the theoretical framework of SL (WP1-1) and on drafting the model-law, and practical guide for NGOs (WP3) – J. Kolbe-André, who has assisted the PI in drafting the present application, has expressed interest; *b*) a doctoral student (D1) in law and political science jointly supervised with T. Theuns (Institute of Political Science, Leiden Univ.) to work on WP2; *c*) 2 post-doc (PD2 & PD3) to work on the field studies with the PI; one with a sociological background for F1-F3, and the other with a legal background (F4-F5) – S. Vennetier and K. K. Pham have expressed interest; *d*) a post-doc (PD4) in economic analysis of law, jointly supervised with Prof. B. Deffains (Univ. Paris-Panthéon-Assas), to draft DSL effectiveness indicators, *e*) service providers (lawyers) and partner NGOs to work on WP1-3.

**UNIVERSITY-FUNDED TEAM.** 1 research associate; 1 admin. assistant; participatory research service (Lyon 2).

**SCIENTIFIC BOARD.** Due to their knowledge of the various fields, the scientific board will include: A. Benvenuto (EHESS - F1), F. Vern (Univ. Glasgow - F3), Prof. S. Deboos (Lyon 2 Univ. - F3), J. Chacornac (Univ. Paris-Panthéon-Assas - F4), G. Baars (City, Univ. of London - F4), S. Vergnolle (CNAM - F5) and P. Dunne (Bristol Univ. - F6). Due to their methodological expertise, in addition to Prof. B. Deffains and T. Theuns (mentioned above), the board will include S. Blanchard (Univ. Lyon 2), and C. Dourlens (Univ. Saint Étienne) both in sociology, and M. Doumergue, S. Caillaud (Univ. Lyon 2) and C. Fraisse (Univ. Bretagne Occidentale) each specialist in social psychology. It will also include E. Tsetsekou and E. Giakoumopoulou, heads of divisions on Sexual Orientation and Gender Identity (SOGI), and Roma rights at the Council of Europe, and Prof. G. Marti (Univ. Lyon 3) specialising in legal issues related to democracy in Europe. All have agreed.

**DELIVERABLES.** Besides operational tools (model-law [o<sub>1</sub>], effectiveness indicators [o<sub>2</sub>] and practical guide [o<sub>3</sub>]), to be presented in a final open conference (c<sub>3</sub>), at least 8 articles will be produced; on a theoretical framework for SL (a<sub>1</sub>, a<sub>7</sub>), on each field study apart from F2 (a<sub>2-5</sub>), on the democratic potential of SL in light of field studies and literature (a<sub>6</sub>), on the SL conducted in F2 and the methodological and epistemological issues at stake (a<sub>8</sub>). Four monographs will also be produced, namely, the proceedings of international conferences on the link between SL and democracy (c<sub>1</sub> and m<sub>1</sub>) and on the concept of SL (c<sub>2</sub> and m<sub>2</sub>), a book about SL actors in the field studies examined (m<sub>3</sub>) and a thesis on the democratic aim of SL (m<sub>4</sub>). The following journals will be targeted: *Droit et société / RIEJ / Politix* (a<sub>1</sub>), *Oñati Socio-Legal Series / Law & Society Rev.* (a<sub>7</sub>), *Political Leg. Anthropol. Rev. / Anthropologie et Sociétés* (a<sub>2</sub>), *Disability & Society / Disabil Stud Q.* (a<sub>3</sub>), *Int. J. of Law and Management / RTDcom* (a<sub>4</sub>), *TechReg / ACM SICGAS Computers and Society* (a<sub>5</sub>), *J. Eur. Public Policy / Rev. Trim. Dr. Eur.* (a<sub>6</sub>), *J. Empir. Leg. Stud. / Int. J. Law Context* (a<sub>8</sub>). For the monographs, the following publishers will be targeted: Bruylant, Dalloz, Hart. All work will be openly and readily accessible on the think tank's website and the PI's webpage on HAL.

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**SECTION B: CURRICULUM VITAE**

- **Personal information**

|  |                           |
|--|---------------------------|
| ORCID: 0000-0001-7254-1031   | Moron-Puech, Benjamin     |
| Website: <a href="https://sexandlaw.hypotheses.org/">https://sexandlaw.hypotheses.org/</a> | Date of birth: 05/05/1987 |
|  | Nationality: French       |
- **Education (France)**

|             |   |
|-------------|---|
| 2016 – 2021 | <b>Agrégation</b> gained in Private Law & Criminal Sciences (France) - selection rate: 15%  |
| 2019        | <b>Accreditation to access national health databases</b> (France); training from <i>Institut 4.10</i>   |
| 2018        | <b>French Sign Language</b> (foundation level: A1.2), training from <i>Visuel LSF</i>   |
| 2011 – 2016 | <b>PhD in Law</b> , Institute of Private Law, <i>Université Paris-Panthéon-Assas</i><br>Supervisor: Professor Dominique Fenouillet, head of the Legal Sociology laboratory<br>Topic: ‘Contract or Legal Act? A Study based on the Medical Relationship’<br>( <i>summa cum laude</i> ) |
| 2010 – 2011 | <b>Masters in General Private Law</b> , <i>Université Paris-Panthéon-Assas</i> (Major)<br>Topic of Masters thesis: ‘Intersex Persons and the Law’   |
- **Current position**

|                |   |
|----------------|---|
| 2022 – present | <b>Full Professor</b> / Law Faculty Julie-Victoire Daubié / <i>Université Lyon 2</i> / France |
|----------------|---|
- **Previous positions**

|             |  |
|-------------|--|
| 2017 – 2021 | <b>Senior lecturer</b> / Department of Private Law / <i>Université Paris-Panthéon-Assas</i> , France |
| 2016 – 2017 | <b>Post-doctoral researcher</b> / <i>CNRS, IDEMEC</i> , Aix-Marseille / France                       |
| 2013 – 2015 | <b>Lecturer</b> (ATER) / Department of Private Law / <i>Université Paris-Panthéon-Assas</i> / France |
| 2012 – 2014 | <b>TA</b> (DCME) / Department of Private Law / <i>Université Paris-Panthéon-Assas</i> / France       |
| 2011        | <b>Law clerk</b> at the <i>Conseil Constitutionnel</i> (part time) / France                          |
- **Fellowships, awards & grants**

|      |  |
|------|--|
| 2020 | <b>Guest Professor</b> at Erik Castren Institute, <i>University of Helsinki</i> , Finland  |
| 2018 | Winner of the call for projects from the inter-university <i>Gender Institute</i> , France   |
| 2017 | Prize-winner - André Isoré PhD prize ( <i>la Chancellerie des Universités de Paris</i> )<br>and <i>Université Paris-Panthéon-Assas</i> PhD prize |
| 2016 | Winner of the call for projects, “Plurigenre” programme, <i>Paris Cité Univ.</i> , France  |
- **Supervision of graduate students and postdoctoral fellows**

|             |   |
|-------------|---|
| 2022        | Supervision of 3 PhD theses on family law, gender identity law and contract law<br>Supervision of 2 post-doctoral researchers while drafting SUEDEM, <i>Université Lyon 2</i><br>Jury member (one as <i>rapporteur</i> ) in two PhD defences related to gender identity (upcoming)<br>Monitoring 2 PhD theses on gender markers ( <i>ULB/Belgium</i> ) and incest ( <i>Sciences Po/France</i> ) |
| 2019 – 2020 | Supervision of two Master theses on transgender human rights  |
- **Teaching activities**

|             |  |
|-------------|--|
| 2022 –      | Full professor – Family Law, Law & Gender, Human rights, Contract Law / <i>Univ. Lyon 2</i>          |
| 2021 – 2022 | Contractual teacher – Gender Identity & Bioethics / <i>French National School for the Judiciary</i>  |
| 2020 – 2022 | Contractual teacher – The History of Sexual, Sexed and Gendered Minorities / <i>Paris Cité Univ.</i> |
| 2017 – 2021 | Lecturer – Common Law, Comparative Law and Human Rights / <i>Univ. Paris-Panthéon-Assas</i>          |

2017 – 2022 Contractual teacher – International Human Rights Law on Gender Identity and Sex Characteristics / Grotius Center / *Leiden University*

● **Organisation of scientific meetings**

- 2022 Co-organiser: *LGBT\* human rights in France and in Japan / Tokyo University / Japan*  
Co-organiser: *Imprescriptibility of Sexual Crimes against Minors: European & French perspectives / Université Lumière Lyon 2 / France*
- 2021 Co-organiser: *The “Schiappa Act” against Sexual and Sexist Violence / Université Paris-Panthéon-Assas / France*
- 2020 Co-organiser: *The Ongoing Revision of Bioethics Law / Université Paris-Panthéon-Assas*
- 2018 Organiser: *Gender & Vulnerability / French Institute / Sofia, Bulgaria*  
Panel organizer: *Intersex Right to Bodily Integrity under Public International Law, A French Experience / University of Bologna / Italy*
- 2017 Co-organiser: *From Hermaphroditism towards Intersex/ Paris City Univ. / France*

● **Institutional responsibilities**

- 2022 – Member of the board, Julie-Victoire Daubié Faculty/ *Université Lumière Lyon 2*  
Director of the Doctoral School of Law / *Université Lumière Lyon 2*
- 2012 – 2014 Member of the Scientific Council / *Université Paris-Panthéon-Assas*

● **Reviewing activities**

- 2020 – 2022 Reviewer for journals: *Frontiers in Sociology, International Labor Review, Revue des droits et libertés fondamentaux, Revue du Barreau Canadien, Cahiers de droit*

● **Memberships of scientific societies in comparative law or intersex studies**

- 2021 – 2022 Member, *Henri Capitant Association / France*
- 2019 – 2022 Founding Member, *Réseau Francophone de Recherches sur l'intersexuation (Réfri)*
- 2019 – 2020 Member, *Trans Europe Experts / France*
- 2014 – 2021 Founding Member, *Grotius-Pothier Group / France-Netherlands-Belgium*

● **Major collaborations**

- 2022 – 2025 Member, research project on conversion therapies, T. Perroud, D. Borrillo & J. Charruau (dir.)
- 2021 – 2022 Member, Minister of Health task force on intersex health data, T. Blanc & A.-S. Jannot (dir.)
- 2018 – 2019 Director of research project *Intersex genital mutilation?* with C. Fraïssé & M. Raz
- 2018 Supervisor of a report on *European Law & Bioethics* for Trans Europe Experts, with scholars and Alain Lamassoure (Member of the European Parliament)
- 2016 – 2021 Legal expert for French institutions (Ombudsman, Ethics Council, Senate, National Assembly, State Council, Parliamentary Office for Evaluating Scientific and Technological Choices, Health Minister, National Medical Council, Mayor of Paris, University Sports Federation) or European institutions (Parliamentary Assembly and SOGI Unit of the Council of Europe and DG-Justice for the EU through the firm ICF) in relation to sex characteristics, gender identity and sexual violence
- 2016 – 2018 Member of research project, *Transidentity and Tomorrow's Civil Status*, L. Hérault (ed.)
- 2014 – 2022 Scientific advisor in intersex strategic litigation cases launched by activists

**Appendix: All current grants and on-going and submitted grant applications of the PI (Funding ID)**  
Mandatory information (does not count towards page limits)

**Current grants (Please indicate "No funding" when applicable):**

| <i>Project Title</i>    | <i>Funding source</i>               | <i>Amount (Euros)</i> | <i>Period</i>          | <i>Role of the PI</i>   | <i>Relation to current ERC proposal<sup>1</sup></i>                                   |
|-------------------------|-------------------------------------|-----------------------|------------------------|---|---|
| Les procès stratégiques | Auvergne-Rhone-Alpes region         | €20 000               | juin 2022 – avril 2023 | Coordinating two post-doc helping the PI to draft the research proposal | These two grants enable the PI to have some resources to work on drafting the project |
|                         | Research department of Univ. Lyon 2 | €10 000               | juin 2022 – avril 2023 |   |   |

**On-going and submitted grant applications (Please indicate "None" when applicable):**

| <i>Project Title</i> | <i>Funding source</i> | <i>Amount (Euros)</i> | <i>Period</i> | <i>Role of the PI</i> | <i>Relation to current ERC proposal<sup>2</sup></i> |
|----------------------|-----------------------|-----------------------|---------------|-----------------------|---|
|                      |                       |                       |               |                       |   |
|                      |                       |                       |               |                       |   |
|                      |                       |                       |               |                       |   |

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<sup>1</sup> Describe clearly any scientific overlap between your ERC application and the current research grant or on-going grant application.

## SECTION C: EARLY ACHIEVEMENTS TRACK-RECORD

- **Scientific autobiography**

The PI's main achievement relates to the legal situation of intersex persons, which, in 2010, he became the first French researcher to analyse from a human rights perspective. Due to the French academic context, the PI was not able to conduct PhD studies on this topic and worked on more classical subjects for many years (law of obligations). However, after his PhD, he returned to intersex issues and broadened his research to other countries and other marginalized groups. Only research related to this theme will be outlined hereafter. Since 2014, in parallel to this research, he has been encouraging intersex people to demand their rights through strategic litigation (SL), in which he eventually participated, as a scientific advisor. Such litigation has contributed to making the intersex community visible in Europe and also led the French Parliament last year to pass an Act dealing with the situation of intersex people. The PI's unique experience in SL has enabled him to perceive strengths and weaknesses in such litigation, which he now wishes to study.

- **Overview of PI's achievements** (there is no publication with PhD supervisor in this list)

1. **Book:** 1 — **Chapters:** 11 — **Articles in HSS journals:** 40 (15 peer reviewed) — **Oral papers:** 61
2. **Reports/hearings with impact:** 14 (including 4 changes in French & European legislation)
3. **Third party intervention before ECHR & Constitutional Court:** 5 (2 published: *see below* n<sup>os</sup> 10 & 12)
4. **Interview/article in French media:** 29 (*Le Monde, Libération, La Croix, Parisien, Mediapart, Slate, Le point, Telegramme, Huff Post, France Culture, France 3, C-News*)
5. **Creation of a [research blog](#)** to disseminate the PI's research on intersex and transgender law (67 articles)
6. **Co-curator of exhibition:** *Bodies in the city: architectures, feminisms and built spaces*, Maison de l'architecture, Île-de-France, 2022

- **Selected publications** (French titles translated; the 5 most important publications are listed first)  
[\* = equal contribution / # = first author]

1. "Medecine and intersexuation", *The gender of science. Epistemological and interdisciplinary approaches*, T. Courau, J. Jarty et N. Lapeyre (eds), Le Bord de l'eau, 2022, pp 89-105
2. "Toilet (de)Segregation" with H. Bony & L. Mosconi, *Techniques & Culture*, 2022/1 (n° 77), pp 74-93\*
3. "State normalisation of inclusive language. A review of differences between France and Quebec", with A. Saris and L. Bouvattier, *Cahiers du genre*, Volume 69, Issue 2, July 2020, pp 151-176<sup>#</sup>
4. "Legal difficulties for "rainbow families" in Europe", *Whatever. A Transdisciplinary Journal of Queer Theories and Studies*, vol. 4, 2021, pp 329-356
5. "Limitation period: an unconventional obstacle to the rights of amnesiac victims of sexual violence", *La Revue des Droits de l'Homme*, n° 18, 2020 [online]
6. "Male-female categorization in athletics in the era of sexed and gendered minorities' human rights" with E. Mascarenhas, *Revue interdisciplinaire francophone d'études féministes* [under review]\*
7. "Historicizing the Systems of Gender Identification in Europe (12th-21th century)" with C. Maillet, *Historicising Trans Pasts. Gender & History* and *Clio@Themis* [under review]\*
8. "Comparative perspective on the civil status of sex markers for transgender and intersex persons", *État civil et transidentité. Anatomie d'une relation singulière*, PUP Penser le genre, 2022 pp 211-250
9. "Thinking about the autonomy of intersex people with Jennifer Nedelsky", *Revue juridique de la Sorbonne*, vol. 5, 2022, pp 21-32
10. "Sexed conformation. Classification and legal framework of torture and other inhuman and degrading treatments", *Revue des droits et libertés fondamentaux*, 2022 chron. n° 06 [online]
11. "Bioethics law and intersexuation. Commentary on a precarious article", *Rev. dr. san. & soc.*, 5 2021, pp 827-835
12. "Linguistic and methodological remarks on the upcoming verification of conventionality in the case of 'neutral sex', *Revue des droits et libertés fondamentaux*, 2021 chron. n° 02 [online]

13. “EU Law and transparental & interparental families”, *La famille dans l’ordre juridique de l’Union européenne*, E. Bernard, M. Cresp et M. Ho-Dac (ed.), Bruylant, 2020, pp 155-174
14. “Can grammar be illegal? The response of the GISS & the Fourtic judgement”, *Tribonien*, 3|2019, pp 124-143
15. “Intersex and binarity, an inventory of French law”, *Droits de l’Homme et sexualité*, A. Giami and B. Py (eds.), Édition des archives contemporaines, 2019, pp 193-216
16. “The Legal Situation of Intersex Persons in France”, J. M. Scherpe et al. (ed.), *The Legal Status of Intersex Persons*, Intersentia, 2018, pp 305-317
17. “Rejection of an intersex person’s lawsuit concerning mutilating violence. A new “legal mutilation” by the Court of Cassation ? », *La revue juridique de sciences po*, vol. 15. Le genre au prisme du droit, 2018, pp 71-104
18. “The law of intersex people”, 1st part: *Socio*, vol. 9, Le troisième sexe social, pp 215-237 ; 2nd part: *La Revue des Droits de l’Homme*, vol. 11, 2017 [online].

- **Selected presentation in an international context** (French titles translated)

1. *Historicizing the systems of gender identification (12th-21st centuries)*, with C. Maillet, Gender, History & Law, Unige, Switzerland, Oct. 2022
2. *Strategic litigation and “science of law”? Feedback from the field of sexed and gendered minority rights*, Seminar of the Chaïm Perelman Center, Free University of Brussels, Belgium, May 2022
3. *Defending the human rights of intersex people in France and Europe*, Institut français, Serbia, April 2022
4. *Y v. France (neutral “sex”), Presentation of a third party intervention*, Erik Castren Institute, Stockholm University, Nov. 2020
5. *Civil Status: sex or gender?*, Contemporary civil status in the face of LGBTQI claims: theoretical knowledge and social innovations, Workshop during the 87<sup>th</sup> symposium of ACFAS, Gatineau, Canada, may 2019.
6. *Confronting the universality of the Universal Declaration of Human Rights with intersex reality*, Human rights – 70 years after the adoption of the Universal Declaration of Human Rights, University Saint-Clément-d’Ohrid, Sofia, Bulgaria, Dec. 2018
7. *Deletion of sex and gender markers under public international law*, Intersex Social Sciences, Université de Bologne, June 2018. *From assigning sex to affirming gender, reflections on an ongoing normative evolution*, Protecting trans\* rights after the new Belgian Gender Recognition Act : done deal or work in progress ?, Ghent University, Feb. 2018
8. *The advent of legal recognition of intersex people in France*, Sexual diversity and plurality of genders in francophone countries, Fiertés de Montréal, Canada, Aug. 2017
9. *European Law and Intersex*, Intersexualities. Crossing Bodies, Crossing Borders, March 2017, Porto Univ.
10. *Legal and ethical aspects of medical acts of sexed conformation*”, Gender normativity and its effects on childhood and adolescence, University of Luxembourg, Sept. 2012.

- **Selected presentation in a national context** (French titles translated)

1. *Deletion of ‘sex marker’ or addition of a ‘neutral sex’ on identity cards and passports?*, Le(s) droit(s) à l’épreuve de la non-binarité, Université d’Évry, sept. 2022
2. *Strategic litigation*, summary report, colloquium of doctoral school, Université de Lyon, March 2022
3. *The change of gender markers for transgender children in international law*, Cath. Univ. of Lille, Dec. 2021
4. *Gender, a contemporary form of social critique of the law relating to sexed and gendered minorities*, Seminar: Theories of Law and Freedom, Univ. Paris-Est-Créteil, June 2021
5. *Civil status confronted with trans identity and intersex*, Cour de cassation (Supreme Court), April 2021
6. *Intersex: evolving under the impulse of international law*, Bioethics: recognizing and respecting the rights of intersex people, Espace éthique d’Île-de-France, National Assembly, June 2018
7. *Anomaly and disease. A necessary distinction for the care of corporal minorities*, Ethic Committee of the University-Hospital of Toulouse, May 2018.
8. *What corporal minorities do to law and vice versa*, Deafness & Sign Language Seminar, EHESS, Paris, March 2018