



2022/0117(COD)

24.5.2023

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Legal Affairs

on the proposal for a directive of the European Parliament and of the Council
on protecting persons who engage in public participation from manifestly
unfounded or abusive court proceedings (“Strategic lawsuits against public
participation”)

(COM(2022)0177 – C9-0161/2022 – 2022/0117(COD))

Rapporteur for opinion (*): Ramona Strugariu

(*) Associated committee – Rule 57 of the Rules of Procedure

PA_Legam

SHORT JUSTIFICATION

Strategic lawsuits against public participation (SLAPPs) are not a new problem to the European Union. The occurrence of such lawsuits has been on a constant rise in Europe, as documented by several independent organisations monitoring the phenomenon. Research and awareness on the matter grew higher following the assassination of the Maltese investigative journalist Daphne Caruana Galizia, in October 2017. At the time of her death, Daphne Caruana Galizia had 48 such lawsuits intended against her. These abusive proceedings continued even after her death, when they were passed on to her family, causing enormous financial and psychological burdens to their targets.

Research done by the Coalition Against SLAPPs in Europe (CASE) has highlighted the sustained increase in the number of SLAPPs since 2016, with figures increasing by over 400 % in 2021. The CASE research underlines the scale of the problem highlighting that in Croatia alone, by April 2021, they had identified nearly 1000 active lawsuits against media. The research presented various examples from different Member States such as Poland, France, Italy, Malta or Slovenia, underlining the European dimension of the issue and the need for a common European solution.

SLAPPs may be either fully or partially unfounded claims. However, the two common points designating SLAPPs are the abusive use of the judicial process and their use in relation to public participation. SLAPPs are therefore brought for purposes other than genuinely asserting, vindicating or exercising a right and rather aim to prevent, restrict or penalise public participation. Through the abusive use of the judicial system, SLAPPs not only produce significant financial and psychological damage to their victims, but also restrict access to justice to other citizens, by overburdening the judicial system. Such claims are often characterised by an imbalance of power, but not always. The existence of multiple proceedings, the disproportionate nature of the claim, as well as the use of dilatory and vexatious tactics are further indications of the abusive nature of SLAPPs. The approach chosen is to create a clear definition that includes both manifestly unfounded claims as well as claims that hold some legal merits, but which entail the aforementioned characteristics and lead to an abuse of rights.

The victims of SLAPPs cover a wide variety of subjects. Victims may be both natural or legal persons, ranging from journalists and media outlets, to activists, editors, human rights defenders and even single private individuals. The common point of these categories is their engagement in public participation. SLAPPs may be used directly or indirectly against anyone engaged in public participation and may also target subjects involved in preparatory or supporting activities thereof. This Directive must offer the appropriate protection for all such categories.

In order to address the issue in an efficient and comprehensive manner, the definition of public participation must also be broadened, as to include activities carried out in the exercise of various rights, besides that of freedom of expression and information. Practical situations have demonstrated that the definition should include a non-exhaustive list, covering among others the freedoms of association and assembly, as well as academic freedoms. Given the high number of SLAPPs against journalists and media workers, it is essential that media

pluralism and media freedom are covered by the definition of what constitutes a matter of public interest linked to the engagement in public participation.

In order for this Directive to produce the desired effect of protecting those engaging in public participation from abusive litigation, its provisions must outline several procedural safeguards, including an effective early dismissal mechanism, available either ex officio or at the application of the defendant. The admissibility of an early dismissal mechanism cannot be subject to a higher threshold than that of other procedural safeguards. The Directive must not discriminate between different categories of SLAPPs. To achieve this, the mechanism shall be broadened and made accessible to all victims of SLAPPs. The proposed approach with regard to procedural safeguards, and to the early dismissal mechanism in particular, is to abandon the Commission dichotomy between manifestly unfounded and abusive cases.

For the purposes of an effective early dismissal mechanism, the burden of proof for the court assessment on the matter shall lie with the claimant. The proposed approach is to ask the claimant to only establish a prima facie case as to each element of the cause of action, where it is satisfied that the claim is not abusive. This threshold balances the rights of the defendant, with that of access to justice on the side of the claimant, given the abandonment of the initial availability of the early dismissal mechanism only for manifestly unfounded cases.

The Commission proposal is an excellent first step towards ending abusive litigation against public participation and comes at a time when statistics highlighted the need for a common European solution. The proposal would however only address a small part of the problem, as Union level competence is limited on matters of procedural law. It is therefore essential that further measures are taken by the Member States complementing those taken at Union level. Upon entry into force of this Directive, Member States should not limit the extension of these provisions only to cross border cases in matters of civil and commercial law, but also extend them to domestic cases and to cases governed by criminal law. At the same time, following the period of review, the Commission should also take into consideration the possibility of tackling criminal cases of SLAPPs, through the appropriate legal measures.

The implementation of the recommendation accompanying this legislative proposal is also essential for its effectiveness. In this regard, Member States should also consider introducing dedicated rules governing the ethic codes of lawyers and other legal practitioners, as to sanction the participation in initiating SLAPPs or disguising them as founded claims.

Finally, as another step forward, the Commission should review the Brussels Ia and RomeII Regulations, in order to address any other potential instances of forum shopping, not covered by this Directive.

AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Legal Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive

Title

Text proposed by the Commission

Proposal for a

DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

on protecting persons who engage in public
participation from ***manifestly unfounded***
or abusive court proceedings (“Strategic
lawsuits against public participation”)

Amendment 2

Proposal for a directive

Citation 2 a (new)

Text proposed by the Commission

Amendment 3

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) Article 10(3) of the Treaty on European Union states that every Union citizen has the right to participate in the democratic life of the Union. The Charter of Fundamental Rights of the European Union (the ‘Charter’) provides, inter alia, for the rights to respect for private and family life (Article 7), the protection of personal data (Article 8), freedom of expression and information, which includes respect for the freedom and pluralism of the media (Article 11), and to an effective remedy and to a fair trial (Article 47).

Amendment

Proposal for a

DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

on protecting persons who engage in public
participation from abusive court
proceedings (“Strategic lawsuits against
public participation”)

Amendment

***Having regard to the opinion of the
European Economic and Social
Committee,***

Amendment

(2) Article 10(3) of the Treaty on European Union states that every Union citizen has the right to participate in the democratic life of the Union. The Charter of Fundamental Rights of the European Union (the ‘Charter’) provides, inter alia, for the rights to respect for private and family life (Article 7), the protection of personal data (Article 8), freedom of expression and information, which includes respect for the freedom and pluralism of the media (Article 11), ***freedom of assembly and association (Article 12), freedom of the arts and sciences (Article 13), and the right*** to an effective remedy and to a fair trial (Article 47). ***Article 12 of the Charter explicitly guarantees the right of everyone to form and to join trade unions for the protection of his or her***

interests, which is further consolidated in Article 28 of the Charter, guaranteeing the right of collective bargaining and action.

Amendment 4
Proposal for a directive
Recital 3

Text proposed by the Commission

(3) The right to freedom of expression and information as set forth in Article 11 of the Charter includes the right to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. Article 11 of the Charter should be given the meaning and scope of the correspondent Article 10 of the European Convention on Human Rights (“ECHR”) on the right to freedom of expression as interpreted by the European Court of Human Rights (“ECtHR”).

Amendment

(3) The right to freedom of expression and information as set forth in Article 11 of the Charter includes the right to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. Article 11 of the Charter should be given the meaning and scope of the correspondent Article 10 of the European Convention on Human Rights (“ECHR”) on the right to freedom of expression as interpreted by the European Court of Human Rights (“ECtHR”). ***The right to freedom of expression has consistently been regarded by the ECtHR as one of the ‘essential foundations’ of a democratic society and both the Charter and the ECHR provide for a very wide right to express oneself freely.***

Amendment 5
Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) As recognised by consistent jurisprudence of the ECtHR in relation to the interpretation of relevant provisions of the ECHR, in the light of which the Charter is to be interpreted and applied pursuant to its Article 52(3), the right to freedom of expression and information is closely interlinked with the exercise of other rights and freedoms, including the

right to freedom of assembly and of association and the freedom of the arts and sciences, including academic freedom. The ECHR also imposes a positive obligation on contracting states to safeguard the freedom and pluralism of the media and to create a favourable environment for participation in the public debate.

Amendment 6
Proposal for a directive
Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) *The right to freedom of expression is a fundamental right that is to be exercised within the framework of ‘the balancing of rights’ principle, as prescribed by the case-law of the ECtHR and in compliance with Article 54 of the Charter.*

Amendment 7
Proposal for a directive
Recital 4

Text proposed by the Commission

Amendment

(4) The purpose of this Directive is to provide protection *to* natural *and* legal persons *who engage* in public participation on matters of public interest, in particular journalists and human rights defenders, against court proceedings, which are initiated against them to deter them from public participation (commonly referred to as strategic lawsuits against public participation or ‘SLAPPs’).

(4) The purpose of this Directive is to provide *minimum rules at Union level in order to ensure the* protection *of* natural *or* legal persons *engaging* in public participation on matters of public interest, in particular journalists, *media outlets/organizations, publishers* and human rights defenders, *including civil society, non-governmental organisations and trade unions, as well as researchers, academics or artists, human rights, environmental, women's and LGBTIQ+ rights defenders, activists, trade unions, bloggers, whistleblowers or political opposition*, against court proceedings, which are initiated against them, *as well as*

the threats thereof, to deter them from public participation (commonly referred to as strategic lawsuits against public participation or ‘SLAPPs’).

Amendment 8
Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Natural and legal persons who engage in public participation play an important role in upholding public debate, fundamental rights and democratic values, social inclusion, environmental protection and the rule of law, as well as strengthening democracy, gender equality, media freedom and pluralism in the Union.

Amendment 9
Proposal for a directive
Recital 5

Text proposed by the Commission

Amendment

(5) Journalists play an important role in facilitating public debate and in the imparting and reception of information, opinions and ideas. It is essential that ***they*** are afforded the necessary space to contribute to an open, free and fair debate and to ***counter*** disinformation, information manipulation and interference. Journalists should be able to conduct their activities effectively to ensure that citizens have access to a plurality of views in European democracies.

(5) Journalists play an important role in facilitating public debate and in the imparting and reception of information, opinions and ideas. ***Independent, impartial, professional and responsible journalism, as well as access to pluralistic information, are key pillars of democracy.*** It is essential that ***journalists*** are afforded the necessary space to contribute to an open, free and fair debate and to ***report independently of any pressure, all of which is essential to countering*** disinformation, information manipulation and interference. Journalists should be able to conduct their activities effectively ***and without fear*** to ensure that citizens have access to a plurality of views in European democracies. ***Nevertheless, journalists face an increasingly difficult environment***

for exercising their profession, in which SLAPPs, together with commercial and political pressure, heavy workloads, career precarity or self-censorship pose a significant threat to the public access to information.

Amendment 10
Proposal for a directive
Recital 6

Text proposed by the Commission

(6) Investigative journalists in particular play a key role in **combating** organised crime, corruption **and** extremism. Their work carries particularly high risks and they are experiencing a growing number of attacks and harassment. A robust system of safeguards **is** needed to enable **them** to fulfil their crucial role as watchdogs on matters of **legitimate** public interest.

Amendment

(6) Investigative journalists **and media organisations** in particular play a key role in **uncovering inter alia**, organised crime, **abuse of power**, corruption, **malpractice, nepotism, revolving doors situations, fundamental rights violations and violent** extremism. Their work carries particularly high risks and they are experiencing a growing number of attacks, **killings, threats, intimidation** and harassment. A robust system of safeguards **and protection, including protection of their physical safety and life and investigation of assassinations against them, are** needed to enable **investigative journalists** to fulfil their crucial role as watchdogs on matters of public interest, **without fear of punishment for searching for information and delivering it to the public.**

Amendment 11
Proposal for a directive
Recital 7

Text proposed by the Commission

(7) Human rights defenders also play an important role in European democracies, especially in upholding fundamental rights, democratic values, social inclusion, environmental protection and the rule of law. They should be able to participate actively in public life and make

Amendment

(7) Human rights defenders also play an important role in European democracies, especially in upholding fundamental rights, democratic values, social inclusion, environmental protection, **gender equality** and the rule of law. They should be able to participate actively in

their voice heard on policy matters and in decision-making processes without fear of intimidation. Human rights defenders refer to individuals or organisations engaged in defending fundamental rights and a variety of other rights, such as environmental and climate rights, women's rights, LGBTIQ rights, the rights of the people with a minority racial or ethnic background, labour rights or religious freedoms. Other participants in public debate, such as academics **and** researchers, also deserve adequate protection.

public life, **ensure accountability** and make their voice heard on policy matters and in decision-making processes without fear of intimidation. Human rights defenders refer to individuals, **groups**, or organisations engaged in defending fundamental rights and a variety of other rights, such as **civil, political, economic, social, cultural**, environmental and climate rights, women's rights, LGBTIQ rights, the rights of the people with a minority racial or ethnic background, labour rights, **trade union rights** or religious freedoms. Other participants in public debate, such as academics, researchers, **artists, whistleblowers and political opposition, as well as individual persons**, also deserve adequate protection, **as they too are targeted by SLAPPs**.

Amendment 12
Proposal for a directive
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Academics and researchers, exercising both their right and obligation to express themselves within their area of expertise, contribute fundamentally to the public discourse and the dissemination of knowledge, and ensure that the democratic debate can happen on an informed basis. The use of legal instruments for intimidation purposes attempting to prevent academics and researchers from communicating on matters related to their scientific activities is a direct violation of academic freedom and jeopardises the crucial role of scholars in all areas of their work, including in combatting disinformation and misinformation.

Amendment 13
Proposal for a directive
Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) Environmental defenders also play a key role to protect fundamental rights and to reach the environmental objectives set by the European Union, and must in no way be persecuted or harassed for their involvement in activities to protect human rights, environmental and climate rights. In recent years, environmental defenders have been subjected to ever increasing incidences of killings, threats, harassment, intimidation, smear campaigns, criminalisation and judicial harassment.

Amendment 14
Proposal for a directive
Recital 7 c (new)

Text proposed by the Commission

Amendment

(7c) Women's and LGBTIQ+ rights defenders also play an instrumental role in promoting and defending gender equality as well as providing support and protection to victims of gender-based violence. Women's rights and LGBTIQ+ rights defenders and organisations are increasingly under attack and face threats, including to their lives, and violence that lead to self-censorship. Over the years, SLAPPs have increasingly been used to criminalise solidarity, as well as against activists defending women's rights, gender equality and LGBTIQ+ rights, in order to hinder progress in achieving gender equality, increasingly questioning their role as public watchdogs and contributing to the shrinking space for civil society in the Union.

Amendment 15
Proposal for a directive
Recital 9

Text proposed by the Commission

(9) To foster this environment, it is important to protect journalists and human rights defenders from court proceedings against public participation. Such court proceedings are not initiated for the purpose of access to justice, **but** to silence public debate **typically using** harassment and intimidation.

Amendment

(9) To foster this environment, it is important to protect **natural or legal persons who engage in public participation, in particular** journalists, **whistleblowers, activists, academics, researchers, artists** and human rights defenders, **including civil society organisations and trade unions** from court proceedings against public participation. Such court proceedings are not initiated for the purpose of access to justice, **in order to genuinely assert, vindicate or exercise a right, but to prevent, restrict or penalise public participation, ultimately seeking to** silence public debate **and prevent investigation and reporting on breaches of Union and national law, corruption or other abusive practices. Such practices often use** harassment and intimidation.

Amendment 16
Proposal for a directive
Recital 10

Text proposed by the Commission

(10) SLAPPs are typically initiated by powerful entities, for example **individuals**, lobby groups, corporations **and state organs. They** often involve an imbalance of power between the parties, with the claimant having a more powerful financial or political position than the defendant. **Although not being an indispensable** component of such cases, where present, an imbalance of power significantly increases the harmful effects as well as the chilling effects of court proceedings against public participation.

Amendment

(10) SLAPPs are typically initiated by powerful **individuals or** entities, for example lobby groups, corporations, **public officials, publicly controlled entities and authorities, including politicians and judicial authorities in an attempt to** silence public debate. **SLAPP victims can be sued for expressing critical views on the behaviour or denouncing wrongdoing, and** often involve an imbalance of power between the parties, with the claimant having a more powerful financial or political position than the defendant. **An imbalance of power is a significant and reoccurring** component of such cases, **but may be absent in some cases which fulfil**

the SLAPP criteria, if other components characterising a SLAPP are present. Cases where an imbalance of power is not present should be interpreted cautiously, in order to avoid SLAPP allegations being vexatiously levelled at NGOs, human rights defenders, activists, journalists and others who turn to the courts in good faith to defend themselves against defamatory comments by powerful actors. Where present, an imbalance of power significantly increases the harmful effects as well as the chilling effects of court proceedings against public participation.

Amendment 17
Proposal for a directive
Recital 11

Text proposed by the Commission

(11) Court proceedings against public participation may have an adverse impact on the credibility and reputation of ***journalists and human rights defenders*** and exhaust their financial and other resources. Because of such proceedings, the publication of information on a matter of public interest may be delayed or altogether avoided. The length of procedures and the financial pressure may have a chilling effect on journalists and human rights defenders. The existence of such practices may therefore have a deterrent effect on their work by contributing to self-censorship in anticipation of possible future court proceedings, which leads to the impoverishment of public debate to the detriment of society as a whole.

Amendment

(11) Court proceedings against public participation may have an adverse impact on the credibility and reputation of ***natural or legal persons engaging in public participation*** and exhaust their financial and other resources, ***as well as cause them psychological harm***. Because of such proceedings, the publication of information on a matter of public interest may be delayed or altogether avoided. The length of procedures and the financial pressure may have a chilling effect on journalists, ***whistleblowers, activists, academics, researchers, artists*** and human rights defenders, ***including civil society, non-governmental organisations and trade unions engaging in public participation***. The existence of such practices may therefore have a deterrent effect on their work by contributing to self-censorship in anticipation of possible future court proceedings, which leads to the impoverishment of public debate to the detriment of society as a whole.

Amendment 18
Proposal for a directive
Recital 12

Text proposed by the Commission

(12) Those targeted by court proceedings against public participation may face multiple cases simultaneously, sometimes initiated in several jurisdictions. Proceedings initiated in the jurisdiction of one Member State against a person resident in another Member State are usually more complex and costly for the defendant. Claimants in court proceedings against public participation may also use procedural tools to drive up the length and cost of the litigation, and bring cases in a jurisdiction they perceive to be favourable for their case, rather than to the court best placed to hear the claim. Such practices also place unnecessary and harmful burdens on national court systems.

Amendment 19
Proposal for a directive
Recital 13

Text proposed by the Commission

(13) The safeguards provided in this Directive should apply to any natural or legal person on account of their engagement in public participation. They should also protect natural or legal persons who, either on a professional or on a personal basis, support, assist or provide goods or services to another person for

Amendment

(12) Those targeted by court proceedings against public participation may face multiple cases simultaneously, ***which can be civil, administrative or criminal or a combination of those,*** sometimes initiated in several jurisdictions. ***Reportedly, most cases of abusive court proceedings against public participation are criminal and domestic cases.*** Proceedings initiated in the jurisdiction of one Member State against a person resident in another Member State are usually more complex and costly for the defendant. Claimants in court proceedings against public participation may also use procedural tools to drive up the length and cost of the litigation, and bring cases in a jurisdiction they perceive to be favourable for their case, rather than to the court best placed to hear the claim. ***The length of procedures, the financial pressure and the threat of sanctions, in particular criminal sanctions, constitute powerful tools to intimidate and silence critical voices.*** Such practices also place unnecessary and harmful burdens on national court systems ***and lead to a misuse of their resources.***

Amendment

(13) The safeguards provided in this Directive should apply to any natural or legal person on account of their ***direct or indirect*** engagement in public participation. They should also protect natural or legal persons who, either on a professional or on a personal basis, support, assist or provide goods or services

purposes directly linked to public participation on a matter of public interest. This involves for example internet providers, publishing houses or print shops, which face or are threatened with court proceedings for providing services to the person targeted with court proceedings.

to another person for purposes directly linked to public participation on a matter of public interest. This involves for example ***family members, media outlets***, internet providers, publishing houses or print shops, which face or are threatened with court proceedings for ***assisting, providing support or*** services to the person targeted with court proceedings.

Amendment 20
Proposal for a directive
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) This Directive also aims at discouraging the abusive use of pre-trial procedures, such as warning letters and cease-and-desist declarations that are used to silence natural and legal persons engaging in public participation. By giving natural and legal persons engaging in public participation the tools to fight abusive claims in court effectively, the Directive also helps to prevent such intimidation tactics.

Amendment 21
Proposal for a directive
Recital 14

Text proposed by the Commission

Amendment

(14) This Directive should apply to any type of legal claim or action of a civil or commercial nature with cross-border implications whatever the nature of the court or tribunal. ***This*** includes civil claims brought in criminal proceedings. It also includes interim and precautionary measures, counteractions or other particular type of remedies available under other instruments.

(14) This Directive should apply to any type of legal claim or action of a civil or commercial nature with cross-border implications, ***including claims pending before a national court at the time of its entry into force, irrespective of*** whatever the nature of the court or tribunal. ***Court proceedings under this Directive entail all proceedings before a court or tribunal in civil matters, including claims in expedite procedures, such as injunctions. It also*** includes civil claims brought in criminal

proceedings, *as they are in essence civil, not criminal claims*. It also includes interim and precautionary measures, counteractions or other particular type of remedies available under other instruments.

Amendment 22
Proposal for a directive
Recital 16

Text proposed by the Commission

(16) Public participation should mean any statement or activity by a natural or legal person expressed or carried out in exercise of the right to freedom of expression and information on a matter of public interest, such as the creation, exhibition, advertisement or other promotion of journalistic, political, scientific, academic, artistic, commentary or satirical communications, publications or works, and any preparatory activities directly linked thereto. ***It*** can also include activities related to the exercise of the right to freedom of association and peaceful assembly, such as the organisation of or participation to lobbying activities, demonstrations and protests or activities resulting from the exercise of the right to good administration and the right to an effective remedy, such as the filing of complaints, petitions, administrative and judicial claims and participation in public hearings. ***Public participation should also include preparatory, supporting or assisting activities that have a direct and inherent link to the statement or activity in question and that are targeted to stifle public participation. In addition, it can cover other activities meant to inform or influence public opinion or to further action by the public, including activities by any private or public entity in relation to an issue of public interest, such as the organisation of or participation to research, surveys, campaigns or any other***

Amendment

(16) Public participation should mean any statement or activity, by a natural or legal person expressed or carried out in ***the*** exercise of ***fundamental and human rights and freedoms such as*** the right to freedom of expression and information on a matter of public interest, such as the creation, exhibition, advertisement or other promotion of journalistic ***content, news and current affairs***, political, scientific, academic, artistic, commentary or satirical communications, publications or works, and any preparatory activities directly linked thereto. ***Future public interest refers to the fact that a matter may not yet be of public interest, but may become so once the public becomes aware of it, for example through a publication or individual complaint. Public participation*** can also include activities related to the exercise of ***academic and artistic freedom***, the right to freedom of association and peaceful assembly, such as the organisation of or participation to lobbying activities, demonstrations and protests or activities resulting from the exercise of the right to good administration and the right to an effective remedy, such as the filing of complaints, petitions, administrative and judicial claims and participation in public hearings.

collective actions.

Amendment 23
Proposal for a directive
Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) Public participation should also include preparatory, supporting or assisting activities that have a direct and inherent link to the statement or activity in question. Such activities should directly concern a specific act of public participation, including those based on a contractual link between the person engaging in public participation and the person providing the preparatory, supporting or assisting activity. In addition, public participation can cover other activities meant to inform or influence public opinion or to further action by the public, including activities by any private or public entity in relation to an issue of public interest, such as the organisation of or participation to research, surveys, campaigns or any other collective actions. Bringing claims not against the person engaging in public participation, but against a media organization, such as an internet platform publishing their work or against the company printing a text or a shop selling the text, can be an effective way of silencing public participation, as without such services opinions cannot be published and thus cannot influence public debate.

Amendment 24
Proposal for a directive
Recital 17

Text proposed by the Commission

Amendment

(17) Public participation should not

(17) Public participation should not

normally cover commercial advertisement and marketing activity, ***which are typically not made in the exercise of freedom of expression and information.***

normally cover commercial advertisement and marketing activity.

Amendment 25
Proposal for a directive
Recital 18

Text proposed by the Commission

(18) The notion of a matter of public interest should include also quality, safety or other relevant aspects of goods, products or services where such matters are relevant to public health, safety, the environment, climate or enjoyment of fundamental rights. A purely individual dispute between a consumer and a manufacturer or a service provider concerning a good, product or service should be covered only when the matter contains an element of public interest, for instance concerning a product or service which fails to comply with environmental or safety standards.

Amendment

(18) The notion of a matter of public interest should include also quality, safety or other relevant aspects of goods, products or services, ***including the conditions under which these are produced and provided***, where such matters are relevant to public health, safety, the environment, climate, ***rule of law*** or enjoyment of fundamental rights, ***including labour rights, media freedom and pluralism, non-discrimination, gender equality and protection from gender-based violence***. A purely individual dispute between a consumer and a manufacturer or a service provider concerning a good, product or service should be covered only when the matter contains an element of public interest, for instance concerning a product or service which fails to comply with environmental or safety standards, ***labour rights, consumer rights or human rights, including the principle of non-discrimination***.

Amendment 26
Proposal for a directive
Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) Allegations of corruption, fraud, money laundering, embezzlement, extortion, coercion, sexual harassment and gender based violence or other forms of intimidation and criminality including

environmental crime are also matters of public interest. Activities aimed to protect the values enshrined in Article 2 TEU, to provide or facilitate public access to information with a view to fighting disinformation, as well as scientific and research activities, also qualify as matters of public interest.

Amendment 27
Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Abusive court proceedings typically involve litigation tactics used in bad faith such as delaying proceedings, causing disproportionate costs to the defendant in the proceedings or forum shopping. These tactics are used by the claimant for other purposes than gaining access to justice. Such tactics are often, although not always, combined with various forms of intimidation, harassment or threats.

Amendment

(20) *Abusive court proceedings are characterized by their main purpose to prevent, restrict or penalize public participation or aim to achieve a chilling effect on public participation in the matter at stake; they thus constitute an abuse of substantive or procedural laws. General principles of law state that rights may not be exercised in an abusive way as established i.e. in Article 54 Charter and Article 17 ECHR. The abusive nature of a court proceeding is to be deducted from a totality of the circumstances of the lawsuit.* Abusive court proceedings typically involve litigation tactics used in bad faith such as *exaggerated or excessive damage claims, requesting disproportionate prior restraint measures, delaying proceedings, initiating multiple proceedings on similar matters*, causing disproportionate costs to the defendant in the proceedings or forum shopping. *The past conduct of the claimant in particular, any history of legal intimidation should also be considered when determining whether the lawsuits are abusive in nature. A previous early dismissal of a similar claim as abusive should be a prima facie indicator for abusiveness.* These tactics are used by the claimant for other purposes than gaining access to justice *in order to genuinely assert, vindicate or exercise a right, leading to an*

*abuse of substantive or procedural laws. Such tactics are often, although not always, combined with various forms of intimidation, harassment or threats, **such as the threat of using SLAPPs. In case of death of the defendant such abusive lawsuits might even be continued against their heirs.***

Amendment 28
Proposal for a directive
Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) Another reoccurring characteristic of SLAPPs is the exploitation of preponderance in terms of economic power, legal resources or political influence by the claimant in order to restrict the public participation of the defendant. This results in an imbalance of power, which causes particular concern if the abusive lawsuits are funded directly or indirectly from the state budgets and are combined with other indirect and direct state measures against independent media outlets, independent journalism and civil society. Such an imbalance of power might be absent in some cases which fulfil other SLAPPs criteria.

Amendment 29
Proposal for a directive
Recital 23

Text proposed by the Commission

Amendment

(23) Defendants should be able to apply for the following procedural safeguards: a request for a security to cover procedural costs, or procedural costs and damages, a request for an early dismissal of **manifestly unfounded** court proceedings, a request for remedies against abusive court proceedings (award of costs, compensation of damages

(23) Defendants should be able to apply for the following procedural safeguards: a request for a security to cover procedural costs, or procedural costs and damages, a request for an early dismissal of **abusive** court proceedings, a request for remedies against abusive court proceedings (award of costs, compensation of damages and

and penalties), or all of them at the same time.

penalties), or all of them at the same time.
Court proceedings brought against natural or legal persons on account of their engagement in public participation should be dealt with in a swift and effective manner, taking into account the circumstances of the case, and the right to an effective remedy and the right to a fair trial.

Amendment 30
Proposal for a directive
Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) Any natural or legal person safeguarding or promoting the rights of persons engaging in public participation or otherwise bearing an interest in the defence of the public participation activity targeted by a SLAPP should have the opportunity to take part in those proceedings or to provide information, either in support of the defendant or on their behalf with the defendant's approval. Such possibility of legal representation should be without prejudice to the right and competences of trade unions and workers' representatives to engage on behalf of or in support of workers in judicial proceedings, in accordance with other Union and national rules.

Amendment 31
Proposal for a directive
Recital 25 a (new)

Text proposed by the Commission

Amendment

(25a) Proceedings against public participation expose those targeted to high financial and psychological harm, while confronting them with the need to establish often hard to prove facts like the

abusive nature of a lawsuit court proceeding. In such situations, the defendants should have the right to receive the support necessary to make their case, subject to their prior approval. This includes, but is not limited to, the support and providing of information. The defendant should have the right to seek such support from any natural or legal person with a legitimate interest or expertise in safeguarding or promoting the rights of persons engaging in public participation. This encompasses i.e. journalists and academics as well as non-governmental organisations, Union bodies or agencies, international organisations and their bodies, professional and representative associations, trade unions and other collective bodies acting in the interest of the defendant or with particular knowledge of the claimant, particularly of their engagement against public participation.

Amendment 32
Proposal for a directive
Recital 30

Text proposed by the Commission

(30) If a defendant has applied for early dismissal, it should be for the claimant in the main proceedings to prove in the accelerated procedure that the claim is not ***manifestly unfounded***. This does not represent a limitation of access to justice, taking into account that the claimant carries the burden of proof in relation to that claim in the main proceedings and ***only*** needs to ***meet the much lower threshold of showing*** that the claim is not ***manifestly unfounded*** in order to avoid an early dismissal.

Amendment

(30) If a defendant has applied for early dismissal, it should be for the claimant in the main proceedings to prove in the accelerated procedure that the claim is not ***abusive***. This does not represent a limitation of access to justice, taking into account that the claimant carries the burden of proof in relation to that claim in the main proceedings and needs to ***establish*** that the claim is not ***abusive***, in order to avoid an early dismissal, ***as well as that, when applying for dismissal, the defendant should provide the court with the elements indicating abusiveness.***

Amendment 33
Proposal for a directive
Recital 30 a (new)

Text proposed by the Commission

Amendment

(30a) Early dismissal of fully or partially unfounded claims does not constitute an undue infringement of the right of access to justice. Under this Directive, Member States should empower their tribunals and courts with the possibility to adopt early decisions to dismiss, but such decisions should be adopted by the judge on a case-by-case basis, in claims where the aim of the claimant is not to genuinely assert, vindicate or exercise a right. Moreover, claimants should always be entitled to lodge an appeal against the early decision to dismiss.

Amendment 34
Proposal for a directive
Recital 34 a (new)

Text proposed by the Commission

Amendment

(34a) The provisions and safeguards of this Directive apply, in accordance with the interpretation^{1a} by the Court of Justice of the European Union of the principle ‘tempus regit actum’, to all pending court proceedings against public participation on the date of entry into force of the national law implementing the Directive and thereafter.

^{1a} Case No. C-610/10, European Commission v Kingdom of Spain

Amendment 35
Proposal for a directive
Recital 35 a (new)

(35a) This Directive should be without prejudice to existing rights of representation and intervention as guaranteed by other Union or national law.

Amendment 36
Proposal for a directive
Recital 36

(36) This Directive is complementary to the Commission recommendation on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings (“Strategic lawsuits against public participation”). This recommendation is addressed to Member States and it provides a comprehensive toolbox of measures including training, awareness-raising, support to targets of abusive court proceedings and data collection, reporting and monitoring of court proceedings against public participation.

(36) This Directive is complementary to the Commission recommendation on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings (“Strategic lawsuits against public participation”). This recommendation is addressed to Member States and it provides a comprehensive toolbox of measures including training, awareness-raising, support to targets of abusive court proceedings and data collection, reporting and monitoring of court proceedings against public participation. ***When transposing this Directive, Member States should also ensure the implementation of the Commission’s recommendation. In this regard, Member States should pay particular attention to the implementation of the recommendations concerning, in particular, the inclusion of safeguards similar to those provided for by the present Directive for domestic cases not covered by the scope of this Directive, the provision of legal assistance to defendants in an affordable and easily accessible manner, and ensure the inclusion in their national transposition laws of targeted provisions to that effect.***

Amendment 37
Proposal for a directive
Recital 36 a (new)

Text proposed by the Commission

Amendment

(36a) This Directive provides support and preventive measures, including the establishment of national funds by Member States, operated by an independent body, such as civil society organisations, and with support from the Commission, non-financial support mechanisms such as the provision of legal aid and psychological support, as well as training, awareness-raising and data collection measures. It also seeks to ensure the collection of data by establishing common criteria at EU level. National focal points, coordinated by the Commission and operated by independent civil society organisations managing Union funding, should be established to gather and share information on all organisations that provide guidance and support for targets of abusive court proceedings against public participation. Such organisations might include associations of legal professionals, media and press councils, umbrella associations for human rights defenders, associations at Union and national level, law firms defending targets of abusive court proceedings against public participation pro bono, legal clinics of universities and other non-governmental organisations.

Amendment 38
Proposal for a directive
Recital 36 b (new)

Text proposed by the Commission

Amendment

(36b) This directive is not intended to solve all SLAPPs being deployed against persons engaging in public participation. Particular focus should be drawn in the future to the abuse of the criminal law

system as well as the administrative law system. In particular, the offence of defamation posed particular dangers of being misused as basis for SLAPPs. The Commission and Member States should work on solutions to address these dangers.

Amendment 39
Proposal for a directive
Recital 36 c (new)

Text proposed by the Commission

Amendment

(36c) Training for journalists, other media professionals and human rights defenders should strengthen their capacity to deal with abusive court proceedings against public participation. It should focus on recognising such court proceedings, how to manage being targeted by them and inform them of their rights and obligations in order for them to be able to take the necessary steps to protect themselves against such proceedings. Training should also be provided to legal professionals in order to increase awareness of abusive court proceedings and be able to detect them at a very early stage.

Amendment 40
Proposal for a directive
Recital 36 d (new)

Text proposed by the Commission

Amendment

(36d) Member States should establish dedicated national funds, operated by an independent body, such as civil society organisations, and with support from the Commission, to support and compensate victims of abusive court proceedings. The national funds should be partially funded by penalties. Resources provided through the national funds should also be

distributed to organisations providing guidance and support for targets of SLAPPs in order to ensure that such organisations are provided with sufficient resources in order to perform their tasks adequately.

Amendment 41
Proposal for a directive
Recital 36 e (new)

Text proposed by the Commission

Amendment

(36e) The collection of data is paramount to document cases of abusive court proceedings and to provide solutions in order to prevent them. This Directive should establish common criteria to standardise the data collection procedures in Member States and ensure that comparable data is collected. Such data should include:

- (i) the number of abusive court proceedings against public participation initiated in the relevant year;*
- (ii) the number of abusive court proceedings against public participation dismissed early as relying on fully or partially unfounded claims in the relevant year, starting from 2022, both dismissed on merits and for procedural reasons;*
- (iii) the number of court proceedings, classified by type of defendant (e.g. journalist, human rights defender, press outlet);*
- (iv) the number of court proceedings, classified by type of claimant (e.g. politician, private person, company, whether the claimant is a foreign entity);*
- (v) figures about acts of public participation on the account of which court proceedings were launched;*
- (vi) figures on the estimated amount of initial damages requested by claimants;*

- (vii) *description of the different legal bases employed by claimants and related figures;*
- (viii) *figures on the length of the proceedings, including all instances;*
- (ix) *figures on cross-border elements;*
- (x) *as available, other data including on judicial costs of proceedings and, as relevant and appropriate, relevant figures on historical backgrounds of cases;*
- (xi) *the type of claim issued on the basis of this Directive and the Recommendation accompanying it.*

Amendment 42
Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive provides safeguards against ***manifestly unfounded or*** abusive court proceedings in civil matters with cross-border implications brought against natural and legal persons, ***in particular*** journalists and ***human*** rights defenders, on account of their engagement in public participation.

Amendment

This Directive provides ***procedural and legal*** safeguards against abusive court proceedings, ***or threats of initiating legal action***, in civil matters with cross-border implications brought ***directly or indirectly*** against natural and ***or*** legal persons, ***such as*** journalists, ***media outlets*** and rights defenders, ***in particular, human rights, environmental, women's and LGBTIQ+ rights defenders, as well as civil society organizations, NGOs, activists, trade unions, artists, researchers, academics, bloggers, whistleblowers or political opposition***, on account of their engagement in public participation, ***including online***.

Amendment 43
Proposal for a directive
Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) This Directive sets minimum standards of protection of natural and legal persons who engage in public

participation, in the field of civil court proceedings. The implementation of this Directive shall in no circumstances constitute grounds for a reduction in the level of safeguards already afforded by Member States in the matters covered by this Directive.

Amendment 44
Proposal for a directive
Article 3 – paragraph 1 – point 1

Text proposed by the Commission

1. ‘public participation’ means any statement or activity by a natural or legal person expressed or carried out in the exercise of ***the right to*** freedom of expression and information on a matter of public interest, ***and preparatory, supporting or assisting*** action ***directly linked thereto***. This includes complaints, petitions, administrative or judicial claims and participation in public hearings;

Amendment

1. ‘public participation’ means any statement or activity by a natural or legal person, expressed or carried out in the exercise of ***fundamental rights and freedoms such as*** freedom of expression and information on a matter of public interest, ***freedom of association and assembly, freedom of press, academic and artistic freedom, freedom of science and culture, the right of collective bargaining*** and action, ***the right to an effective remedy or the right to good administration***. This includes ***any activity regardless of the nature, medium or format, which serves the exercise of public scrutiny, disclosure, dissemination or promotion of information to the public such as*** complaints, petitions, administrative or judicial claims and participation in public hearings, ***as well as any forms of creation, exhibition, advertisement or other promotion of journalistic, political, scientific, academic, artistic, commentary or satirical communications, publications or works. This shall also include any supporting or preparatory activities thereof, in particular the work of media organisations, such as the provision by natural or legal persons, either on a professional or personal basis, of support to another person for purposes directly linked to public participation on a matter***

of public interest;

Amendment 45

Proposal for a directive

Article 3 – paragraph 1 – point 2 – point a

Text proposed by the Commission

(a) public health, safety, the environment, climate or enjoyment of fundamental rights;

Amendment

(a) public health, safety, ***media freedom and pluralism***, the environment, climate or enjoyment of fundamental ***and human*** rights, ***including labour rights, non-discrimination, gender equality and gender-based violence***;

Amendment 46

Proposal for a directive

Article 3 – paragraph 1 – point 2 – point c

Text proposed by the Commission

(c) matters under public consideration or ***review*** by a legislative, executive, or judicial body, or any other ***public*** official proceedings;

Amendment

(c) matters under public consideration or ***under consideration*** by a legislative, executive, or judicial body, or any other official proceedings ***as well as actions or failures to act by public authorities***;

Amendment 47

Proposal for a directive

Article 3 – paragraph 1 – point 2 – point d

Text proposed by the Commission

(d) allegations of corruption, fraud ***or criminality***;

Amendment

(d) allegations of corruption, fraud, ***embezzlement, money laundering, extortion, coercion, sexual harassment and gender based violence, or other forms of intimidation, or any other criminal or administrative offence including environmental crime***;

Amendment 48

Proposal for a directive

Article 3 – paragraph 1 – point 2 – point e

Text proposed by the Commission

Amendment

(e) activities aimed to **fight** disinformation;

(e) activities aimed to **protect the values enshrined in Article 2 TEU, the principle of non-interference in democratic processes, and to provide or facilitate public access to information with a view to fighting** disinformation;

Amendment 49

Proposal for a directive

Article 3 – paragraph 1 – point 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) academic, scientific and research activities;

Amendment 50

Proposal for a directive

Article 3 – paragraph 1 – point 2 – point e b (new)

Text proposed by the Commission

Amendment

(eb) artistic activities;

Amendment 51

Proposal for a directive

Article 3 – paragraph 1 – point 3 – introductory part

Text proposed by the Commission

Amendment

3. ‘abusive court proceedings against public participation’ mean court proceedings brought in relation to public participation that **are fully or partially unfounded** and have as their main purpose to prevent, restrict or penalize public participation. Indications of such a purpose can be:

3. ‘abusive court proceedings against public participation’ mean court proceedings brought in relation to public participation that **make use of the judicial process for purposes other than genuinely asserting, vindicating or exercising a right** and have as their main purpose to prevent, restrict or penalize public participation. Indications of such a purpose can be:

Amendment 52

Proposal for a directive

Article 3 – paragraph 1 – point 3 – point - a (new)

Text proposed by the Commission

Amendment

(- a) the extent to which the claim is manifestly unfounded;

Amendment 53

Proposal for a directive

Article 3 – paragraph 1 – point 3 – point b

Text proposed by the Commission

Amendment

(b) the existence of multiple proceedings initiated by the claimant or associated parties in relation to similar matters;

deleted

Amendment 54

Proposal for a directive

Article 3 – paragraph 1 – point 3 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the use of litigation tactics that inflict unreasonable costs on the defendant, including as regards the choice of jurisdiction, or the use of dilatory motions;

Amendment 55

Proposal for a directive

Article 3 – paragraph 1 – point 3 – point c b (new)

Text proposed by the Commission

Amendment

(cb) the exploitation of preponderance in terms of economic power, legal resources or political or social influence in order to restrict the public participation of the defendant, resulting in an imbalance of power between the two parties;

Amendment 56
Proposal for a directive
Article 3 – paragraph 1 – point 3 – point c c (new)

Text proposed by the Commission

Amendment

(cc) the existence of multiple ongoing or previous proceedings initiated by the claimant or associated parties in relation to matters of public participation;

Amendment 57
Proposal for a directive
Article 3 – paragraph 1 – point 3 – point c d (new)

Text proposed by the Commission

Amendment

(cd) a previous early dismissal of a similar claim as abusive.

Amendment 58
Proposal for a directive
Article 5 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) early dismissal of ***manifestly unfounded*** court proceedings in accordance with Chapter III;

(b) early dismissal of ***abusive*** court proceedings in accordance with Chapter III;

Amendment 59
Proposal for a directive
Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States ***may*** provide that measures on procedural safeguards in accordance with Chapters III and IV can be taken by the court or tribunal seized of the matter ex officio.

3. Member States ***shall*** provide that measures on procedural safeguards in accordance with Chapters III and IV can be taken by the court or tribunal seized of the matter ex officio. ***Member States shall ensure that the court or tribunal seized of the matter takes measures under Articles***

8, 14 and 15 ex officio.

Amendment 60
Proposal for a directive
Article 5 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that court proceedings brought against natural or legal persons on account of their engagement in public participation are dealt with in a swift and effective manner, taking into account the circumstances of the case, the right to an effective remedy and the right to a fair trial.

Amendment 61
Proposal for a directive
Article 7 – title

Text proposed by the Commission

Amendment

Third party intervention

Third party intervention ***in support for defendant***

Amendment 62
Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

Amendment

Member States shall take the necessary measures to ensure that a court or tribunal seised of court proceedings against public participation may accept that non-governmental organisations ***safeguarding or promoting the rights of persons engaging in public participation*** may take part in those proceedings, either in support of the defendant or ***to provide information***.

Member States shall take the necessary measures to ensure that a court or tribunal seised of court proceedings against public participation may accept that ***the European Union Agency for Fundamental Rights, international organisations and their bodies, such as the Council of Europe, non-governmental organisations or collective bodies, such as trade unions or professional organisations,*** may take part ***or provide information*** in those proceedings, either in support of the defendant or ***on their behalf with the***

defendant's approval.

Amendment 63
Proposal for a directive
Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Third party representation

Member States shall take the necessary measures to ensure that in any proceedings covered under this Directive the defendant has the right to have, subject to her or his request, a body, organisation or association act on her or his behalf.

Amendment 64
Proposal for a directive
Chapter III – title

Text proposed by the Commission

Amendment

Early dismissal of ***manifestly unfounded*** court proceedings

Early dismissal of ***abusive*** court proceedings ***against public participation***

Amendment 65
Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall empower courts and tribunals to adopt an early decision to dismiss, in full or in part, court proceedings against public participation as ***manifestly unfounded***.

1. Member States shall empower courts and tribunals to adopt an early decision to dismiss, in full or in part, ***abusive*** court proceedings against public participation as ***defined in Article 3(3)***.

Amendment 66
Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission

2. Member States may establish time limits for the exercise of the right to file *an application for early dismissal. The time limits shall be proportionate and not render such exercise impossible or excessively difficult.*

Amendment

2. *The defendant may apply for a dismissal at any stage of the proceedings; where national civil procedural law systems foresee a separate admissibility stage, Member States may establish time limits for the exercise of the right to file an application for dismissal at that stage of the proceedings.*

Amendment 67

Proposal for a directive

Article 12 – paragraph 1

Text proposed by the Commission

Member States shall ensure that where a defendant has applied for early dismissal, it shall be for the claimant to prove that the claim is not *manifestly unfounded*.

Amendment

Member States shall ensure that where a defendant has applied for early dismissal, it shall be for the claimant to prove that the claim is not *abusive, as defined in Article 3(3);*

Amendment 68

Proposal for a directive

Chapter V a (new)

Text proposed by the Commission

Amendment

Chapter Va

SUPPORT MEASURES

Article 18a

National Fund

1. *Member States shall, with support from the Commission, establish a national fund operated by an independent body, for the compensation of any natural or legal person who has suffered harm as a result of an abusive court proceedings against public participation not covered by already existing national schemes for compensation to victims and to support organizations providing guidance and support for targets of abusive court*

proceedings against public participation.

2. National funds shall be partially funded by the penalties as provided for in Article 16 of this Directive. Member States shall decide on the amount of the penalties to be allocated to the national funds.

Article 18b

Non-financial support mechanisms

1. Member States shall ensure that non-financial support mechanisms are provided to persons engaging in public participation. Such measures shall include the provision of legal aid and psychological support, as well as information concerning the organisations providing guidance and support for targets of abusive court proceedings against public participation. The support and assistance shall be accessible and free of charge.

2. Member States shall establish a national focal point, operated by independent civil society organisations, that gathers and shares information on all organisations that provide guidance and support for targets of abusive court proceedings against public participation.

3. Member States shall facilitate the exchange of information and best practices between organisations that provide guidance and support for targets of abusive court proceedings against public participation.

Amendment 69
Proposal for a directive
Chapter V b (new)

Text proposed by the Commission

Amendment

Chapter Vb

PREVENTIVE MEASURES

Article 18c

Training

- 1. With due respect for judicial independence, the independence of the legal profession and differences in the organisation of the judiciary across the Union, Member States shall support training opportunities for legal professionals such as judiciary and judicial staff at all court levels, qualified lawyers as well as for potential targets of such court proceedings in order to increase awareness of strategic lawsuits against public participation, the procedural safeguards against them provided for in this Directive, and awareness of the needs of natural or legal persons engaging in public participation.***
- 2. Member States shall ensure that training opportunities are extended to individuals and organisations engaging in public participation to equip them with specific knowledge in order to recognise and respond accordingly to abusive court proceedings against public participation. Member States shall ensure that abusive court proceedings against public participation are included in particular in the law and journalism curricular.***
- 3. Member States shall receive support from the Commission in facilitating training and the exchange of practices in order to ensure to the extent possible common objectives and methodology at EU level. In this regard, they should ensure the involvement of legal practitioners and their professional associations.***

Article 18d

Awareness-raising

- 1. Member States shall take appropriate action, such as information and awareness-raising campaigns targeting all relevant stakeholders both from the public and private sector and research and education programmes, in order to foster knowledge about strategic***

lawsuits against public participation and the procedural safeguards set out in this Directive, to raise public awareness and seriously reduce the risk or threat of such lawsuits. Where appropriate, Member States shall act in cooperation with all relevant stakeholders.

2. Member States shall provide support and information on raising awareness activities on existing support structures at EU and national levels, including reference to national focal points that gather and share information on available resources, including on legal assistance and the legal avenues of defence available.

Article 18e

Data collection

1. Member States should, taking into account their institutional arrangements on judicial statistics, entrust one or more authorities to be responsible to collect and aggregate, in full respect of data protection requirements, data on abusive court proceedings against public participation initiated in their jurisdiction.

2. For the purpose of paragraph 1 of this Article, Member States shall establish a register of court decisions concerning matters governed by this Directive and the Recommendation accompanying it. Such register shall be made publicly accessible free of charge at point of use, and comply with Union and national rules on the protection of personal data.

Amendment 70 **Proposal for a directive** **Article 19 a (new)**

Text proposed by the Commission

Amendment

Article 19a

Application in time

The provisions of this Directive shall apply to all abusive court proceedings against public participation, as defined in Article 3(3), initiated or continued at the time of the entry into force of the national law implementing this Directive and thereafter.

Amendment 71
Proposal for a directive
Article 20 – paragraph 1

Text proposed by the Commission

Member States shall provide the Commission with all relevant information regarding the application of this Directive by [5 years from the date of transposition]. On the basis of the information provided, the Commission shall by [6 years from the date of transposition] at the latest, submit to the European Parliament and the Council **a** report on the application of this Directive. The report shall provide an assessment of the evolution of abusive court proceedings against public participation and the impact of this Directive in the Member States. If necessary, the report shall be accompanied by proposals to amend this Directive.

Amendment

Member States shall provide the Commission with all relevant information regarding the application of this Directive by [3 years from the date of transposition] **and thereafter on an annual basis**. On the basis of the information provided, the Commission shall by [4 years from the date of transposition] at the latest, submit to the European Parliament and the Council **an annual** report on the application of this Directive. The report shall provide an assessment of the evolution of abusive court proceedings against public participation and the impact of this Directive in the Member States. If necessary, the report shall be accompanied by proposals to amend this Directive. **Those reports shall be made public.**

Amendment 72
Proposal for a directive
Article 20 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission, based on the application of this Directive on SLAPPs in civil claims brought in criminal proceedings and based on other available information, shall assess if further action against SLAPPs in criminal proceedings is necessary.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (“Strategic lawsuits against public participation”)
References	COM(2022)0177 – C9-0161/2022 – 2022/0117(COD)
Committee responsible Date announced in plenary	JURI 5.5.2022
Opinion by Date announced in plenary	LIBE 5.5.2022
Associated committees - date announced in plenary	15.12.2022
Rapporteur for the opinion Date appointed	Ramona Strugariu 12.1.2023
Previous rapporteur for the opinion	Anna Júlia Donáth
Discussed in committee	22.3.2023
Date adopted	23.5.2023
Result of final vote	+: 51 –: 5 0: 4
Members present for the final vote	Magdalena Adamowicz, Abir Al-Sahlani, Malik Azmani, Pietro Bartolo, Theresa Bielowski, Malin Björk, Vasile Blaga, Karolin Braunsberger-Reinhold, Patrick Breyer, Saskia Bricmont, Annika Bruna, Damien Carême, Clare Daly, Lena Düpont, Lucia Ďuriš Nicholsonová, Laura Ferrara, Nicolaus Fest, Sylvie Guillaume, Andrzej Halicki, Sophia in ‘t Veld, Patryk Jaki, Marina Kaljurand, Assita Kanko, Fabienne Keller, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Nuno Melo, Javier Moreno Sánchez, Maite Pagazaurtundúa, Emil Radev, Paulo Rangel, Diana Riba i Giner, Isabel Santos, Birgit Sippel, Sara Skyttedal, Vincenzo Sofo, Tineke Strik, Ramona Strugariu, Tomas Tobé, Milan Uhrík, Tom Vandendriessche, Elissavet Vozemberg-Vrionidi, Elena Yoncheva
Substitutes present for the final vote	Susanna Ceccardi, Gwendoline Delbos-Corfield, Loucas Fourlas, José Gusmão, Alessandra Mussolini, Matjaž Nemec, Carina Ohlsson, Thijs Reuten, Paul Tang, Róza Thun und Hohenstein, Loránt Vincze, Tomáš Zdechovský
Substitutes under Rule 209(7) present for the final vote	Marie Dauchy, Vlad Gheorghe

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

51	+
NI	Laura Ferrara
PPE	Magdalena Adamowicz, Vasile Blaga, Karolin Braunsberger-Reinhold, Lena Düpont, Loucas Fourlas, Andrzej Halicki, Jeroen Lenaers, Nuno Melo, Alessandra Mussolini, Emil Radev, Paulo Rangel, Sara Skyttedal, Tomas Tobé, Loránt Vincze, Elissavet Vozemberg-Vrionidi, Tomáš Zdechovský
Renew	Abir Al-Sahlani, Malik Azmani, Lucia Ďuriš Nicholsonová, Vlad Gheorghe, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Maite Pagazaurtundúa, Ramona Strugariu, Róza Thun und Hohenstein
S&D	Pietro Bartolo, Theresa Bielowski, Sylvie Guillaume, Marina Kaljurand, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Matjaž Nemec, Carina Ohlsson, Thijs Reuten, Isabel Santos, Birgit Sippel, Paul Tang, Elena Yoncheva
The Left	Malin Björk, Clare Daly, José Gusmão
Verts/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Gwendoline Delbos-Corfield, Alice Kuhnke, Diana Riba i Giner, Tineke Strik

5	-
ECR	Patryk Jaki, Vincenzo Sofo
ID	Susanna Ceccardi, Nicolaus Fest
NI	Milan Uhrík

4	0
ECR	Assita Kanko
ID	Annika Bruna, Marie Dauchy, Tom Vandendriessche

Key to symbols:

+ : in favour

- : against

0 : abstention