

Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) 2022/0117(COD) Directive</p>	Procedure completed
<p>Protection of journalists and human rights defenders from manifestly unfounded or abusive court proceedings</p>	
<p>Subject 3.30.08 Press, media freedom and pluralism 7.40.02 Judicial cooperation in civil and commercial matters 8.30.10 Principles common to the Member States, EU values</p>	
<p>Legislative priorities Joint Declaration 2023-24 Joint Declaration 2022</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<p> Legal Affairs</p>		17/05/2022
		<p> WÖLKEN Tiemo</p>	
		<p>Shadow rapporteur</p>	
		<p> ADAMOWICZ Magdalena</p>	
		<p> CICUREL Ilana</p>	
		<p> TOUSSAINT Marie</p>	
		<p> LEBRETON Gilles</p>	
		<p> BUXADÉ VILLALBA Jorge</p>	
		<p> AUBRY Manon</p>	
	<p>Committee for opinion</p>		
	<p> Culture and Education</p>		02/05/2023
		<p> KOULOGLOU Stelios</p>	
	<p> Civil Liberties, Justice and Home Affairs (Associated committee)</p>		12/01/2023
		<p> STRUGARIU Ramona</p>	
	<p> Women's Rights and Gender Equality</p>	The committee decided not to give an opinion.	

Key events

27/04/2022	Legislative proposal published	COM(2022)0177	Summary
05/05/2022	Committee referral announced in Parliament, 1st reading		
15/12/2022	Referral to associated committees announced in Parliament		
27/06/2023	Vote in committee, 1st reading		
29/06/2023	Committee report tabled for plenary, 1st reading	A9-0223/2023	Summary
10/07/2023	Debate in Parliament		
11/07/2023	Results of vote in Parliament		
11/07/2023	Decision by Parliament, 1st reading	T9-0264/2023	Summary
11/07/2023	Matter referred back to the committee responsible		
24/01/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations		
27/02/2024	Decision by Parliament, 1st reading	T9-0085/2024	Summary
19/03/2024	Act adopted by Council after Parliament's 1st reading		
11/04/2024	Final act signed		
16/04/2024	Final act published in Official Journal		

Technical information

Procedure reference	2022/0117(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	Treaty on the Functioning of the EU TFEU 081-p2; Rules of Procedure EP 57
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	JURI/9/08925

Documentation gateway

Legislative proposal	COM(2022)0177	27/04/2022	EC	Summary
Document attached to the procedure	SWD(2022)0117	28/04/2022	EC	

Economic and Social Committee: opinion, report		CES3173/2022	26/10/2022	ESC	
Committee draft report		PE745.170	02/03/2023	EP	
Amendments tabled in committee		PE746.688	05/04/2023	EP	
Committee opinion	LIBE	PE745.244	23/05/2023	EP	
Committee opinion	CULT	PE742.481	07/06/2023	EP	
Committee report tabled for plenary, 1st reading/single reading		A9-0223/2023	29/06/2023	EP	Summary
Text adopted by Parliament, partial vote at 1st reading/single reading		T9-0264/2023	11/07/2023	EP	Summary
Text adopted by Parliament, 1st reading/single reading		T9-0085/2024	27/02/2024	EP	Summary
Draft final act		00088/2023/LEX	11/04/2024	CSL	

Additional information

Research document

[Briefing](#)

13/02/2024

Final act

[Directive 2024/1069](#)
OJ OJ L 16.04.2024

Protection of journalists and human rights defenders from manifestly unfounded or abusive court proceedings

PURPOSE: 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).

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: strategic lawsuits against public participation or SLAPPs are a particularly harmful form of harassment and intimidation used against those who work to protect the public interest.

They are unfounded or exaggerated legal proceedings usually initiated by powerful individuals, pressure groups, companies and state bodies against parties who express criticism or communicate messages that are disturbing to the plaintiffs on a matter of public interest. Unlike regular proceedings, SLAPP suits are not brought with the aim of exercising the right of access to justice and obtaining a successful outcome or redress. Rather, the aim is to intimidate defendants and drain their resources. The aim is to achieve a chilling effect, silencing defendants and deterring them from continuing their work.

Typical targets of SLAPPs are journalists and human rights defenders. This extends beyond individual persons to media and publishing houses and civil society organisations, such as those involved in environmental activism. Other persons engaged in public participation such as researchers and academics may also be targeted.

SLAPP-initiating entities and individuals can base their claims on various grounds. The allegations often relate to defamation, but they also relate to breaches of other rules or rights (e.g. data protection or privacy laws). These are often combined with damages/tort claims or at times injunctions (prohibiting or at least delaying publication).

Journalists have an essential role in facilitating public debate and in imparting information, opinions and ideas. Investigative journalists play a key role in combating organised crime, corruption and extremism. A robust system of safeguards is needed to enable them to fulfil their crucial role as watchdogs on matters of legitimate public interest. Human rights defenders should be able to participate actively in public life and make their voice heard on policy matters and in decision-making processes without fear of intimidation.

The prevalence of SLAPPs has been identified as a matter of serious concern in some Member States in the context of the 2020 and 2021 Rule of Law Reports. Many SLAPPs occur in domestic context and do not have cross-border implications. However, SLAPPs often have a cross-border nature and where cross-border implications exist, they add an extra layer of complexity and costs, with even more adverse consequences for defendants.

CONTENT: the proposed Directive provides safeguards against manifestly unfounded or abusive legal proceedings in civil matters having cross-border implications against natural and legal persons, in particular journalists and human rights defenders, on account of their participation in public debate. It applies to civil and commercial matters with cross-border implications, irrespective of the nature of the jurisdiction.

The main elements of the proposal are as follows:

Early dismissal of manifestly unfounded court proceedings

Member States should empower courts to adopt accelerated procedures to dismiss, in whole or in part, court proceedings which distort the public debate as manifestly unfounded. If the defendant has applied for an early dismissal, the burden of proof that the claim is not manifestly unfounded would lie with the claimant.

Remedies against abusive court proceedings

Member States should take the necessary measures (i) to ensure that a claimant who has brought abusive court proceedings against public participation can be ordered to bear all the costs of the proceedings, including the full costs of legal representation incurred by the defendant, unless such costs are excessive; (ii) to ensure that a natural or legal person who has suffered harm as a result of abusive court proceedings against public participation is able to claim and to obtain full compensation for that harm.

Courts dealing with abusive legal proceedings that distort the public debate would be able to impose effective, proportionate and dissuasive sanctions on the party that initiated such proceedings.

Protection against decisions third-country judgements

Member States should refuse to recognise a third-country judgement against a person domiciled in a Member State if the proceedings are found to be manifestly unfounded or abusive under the law of that Member State.

Furthermore, where abusive court proceedings against public participation have been brought against a natural or legal person domiciled in a Member State in a court or tribunal of a third country, that person can seek compensation of the damages and the costs incurred in connection with the proceedings before the court or tribunal of the third country, irrespective of the domicile of the claimant in the proceedings in the third country.

Protection of journalists and human rights defenders from manifestly unfounded or abusive court proceedings

The Committee on Legal Affairs adopted the report by Tiemo WÖLKEN (S&D, DE) 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).

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Scope

The scope of the proposed Directive should apply to matters of a civil or commercial nature having cross-border implications, including interim and precautionary measures, counteractions or other particular types of remedies available under other instruments, whatever the nature of the court or tribunal. It should not extend, in particular, to revenue, customs or administrative matters or the liability of the State for acts and omissions in the exercise of State authority.

Definitions

Members clarified the definition of public participation to mean 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, academic freedom, or freedom of assembly and association, and preparatory, supporting or assisting action directly linked thereto, on a matter of public interest. This includes complaints, petitions, administrative or judicial claims, the participation in public hearings, the creation, exhibition, advertisement or other promotion of journalistic, political, scientific, academic, artistic, satirical communications, publications or work.

Assistance to natural or legal persons engaging in public participation

Member States should ensure that natural or legal persons engaging in public participation have access, as appropriate, to support measures, in particular the following: (a) comprehensive and independent information and advice which is easily accessible to the public and free of charge

on procedures and remedies available, on protection against intimidation, harassment or threats of legal action, and on their rights; and (b) legal aid, legal counselling or other legal assistance; (c) financial assistance and support measures, including psychological support, for those targeted by abusive court proceedings against public participation.

Penalties

Member States should ensure that courts or tribunals imposing penalties take due account of: (i) the economic situation of the claimant; (ii) the nature and number of the elements indicating an abuse identified.

Jurisdiction for defamation claims

A new article has been included stating that in defamation claims or other claims based on civil or commercial law which may constitute a claim under this Directive, the domicile of the defendant should be considered to be the sole forum, having due regard to cases where the victims of defamation are natural persons.

One-stop shop

The report included a new article establishing a one-stop shop comprising dedicated national networks of specialised lawyers, legal practitioners and psychologists, which targets of SLAPPs can contact, and through which they can receive guidance and easy access to information on, and protection against SLAPPs, including regarding legal aid, financial and psychological support.

Training of practitioners

To foster prevention of the initiation of SLAPPs and protection of targeted natural or legal persons, it is crucial to promote relevant information, awareness-raising, campaigns, education and training, including on their rights and protection mechanisms.

Members proposed that, with due respect for the independence of the legal profession, Member States should recommend that those responsible for the training of lawyers make available both general and specialist training to increase the awareness of strategic lawsuits against public participation and the procedural safeguards against them provided for in this Directive.

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.

Cooperation and coordination of services

Member States should take appropriate action to facilitate cooperation between Member States to improve the access of those targeted by manifestly unfounded or abusive court proceedings against public participation to information on procedural safeguards provided for in this Directive and under national law. Such cooperation should be aimed at least at: (a) the exchange of current practices; and (b) the provision of assistance to European networks working on matters directly relevant to those targeted by manifestly unfounded or abusive court proceedings against public participation.

Publicly accessible national register

To ensure that the public can become aware of court decisions, Member States should establish a publicly accessible national register of relevant court decisions falling within the scope of this directive, in accordance with Union and national rules on the protection of personal data. The Commission should establish a publicly accessible Union register on the basis of the information from the registers of the Member States concerning relevant court decisions falling within the scope of this Directive, in accordance with Union rules on the protection of personal data.

Protection of journalists and human rights defenders from manifestly unfounded or abusive court proceedings

The European Parliament adopted by 498 votes to 33, with 105 abstentions, amendments to 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).

The matter was referred back to the committee responsible for inter-institutional negotiations.

Subject matter and scope

Members specified that the Directive provides a set of minimum standards of protection and safeguards against manifestly unfounded or abusive court proceedings in civil matters, as well as the threats thereof, with cross-border implications brought against natural and legal persons engaging in public participation.

The scope of the proposed Directive should apply to matters of a civil or commercial nature having cross-border implications, including interim and precautionary measures, counteractions or other particular types of remedies available under other instruments, whatever the nature of the court or tribunal. It should not extend, in particular, to revenue, customs or administrative matters or the liability of the State for acts and omissions in the exercise of State authority.

Definitions

Members clarified the definition of public participation to mean 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, academic freedom, or freedom of assembly and association on a matter of public interest. This includes complaints, petitions, administrative or judicial claims, the participation in public hearings, the creation, exhibition, advertisement or other promotion of journalistic, political, scientific, academic, artistic, satirical communications, publications or work.

Matters of public interest are those that affect the public in areas such as:

- fundamental rights, including gender equality, media freedom and consumer and labour rights, as well as public health, safety, the environment or climate;
- activities of a person or entity in the public eye or of public interest, including governmental officials and private entities;
- 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;
- 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;
- academic, scientific, research and artistic activities.

Assistance to natural or legal persons engaging in public participation

Member States should ensure that natural or legal persons engaging in public participation have access, as appropriate, to support measures, in particular the following: (a) comprehensive and independent information and advice which is easily accessible to the public and free of charge on procedures and remedies available, on protection against intimidation, harassment or threats of legal action, and on their rights; and (b) legal aid, legal counselling or other legal assistance; (c) financial assistance and support measures, including psychological support, for those targeted by abusive court proceedings against public participation.

Guarantees

In the context of legal proceedings against public participation, the court or tribunal seized has the power to require the claimant to provide security for costs of the proceedings, including the full costs of legal representation incurred by the defendant and damages, if it considers such security appropriate.

Member States should take the necessary measures to ensure that a natural or legal person who has suffered harm as a result of an abusive court proceedings against public participation is able to claim and to obtain full compensation for that harm, covering material or non-material harm, including reputational harm, without the need to initiate separate court proceedings to that end.

Member States should ensure that courts or tribunals imposing penalties take due account of: (i) the economic situation of the claimant; (ii) the nature and number of the elements indicating an abuse identified.

Jurisdiction for defamation claims

A new article has been included stating that in defamation claims or other claims based on civil or commercial law which may constitute a claim under this Directive, the domicile of the defendant should be considered to be the sole forum, having due regard to cases where the victims of defamation are natural persons. In claims regarding a publication as an act of public participation, the applicable law should be considered to be the law of the place to which that publication is directed.

One-stop shop

Members included a new article establishing a one-stop shop comprising dedicated national networks of specialised lawyers, legal practitioners and psychologists, which targets of SLAPPs can contact, and through which they can receive guidance and easy access to information on, and protection against SLAPPs, including regarding legal aid, financial and psychological support.

Training of practitioners

Members proposed that, with due respect for the independence of the legal profession, Member States should recommend that those responsible for the training of lawyers make available both general and specialist training to increase the awareness of strategic lawsuits against public participation and the procedural safeguards against them provided for in this Directive.

Cooperation and coordination of services

Member States should take appropriate action to facilitate cooperation between Member States to improve the access of those targeted by manifestly unfounded or abusive court proceedings against public participation to information on procedural safeguards provided for in this Directive and under national law. Such cooperation should be aimed at least at: (a) the exchange of current practices; and (b) the provision of assistance to European networks working on matters directly relevant to those targeted by manifestly unfounded or abusive court proceedings against public participation.

Publicly accessible national register

To ensure that the public can become aware of court decisions, Member States should establish a publicly accessible national register of relevant court decisions falling within the scope of this directive, in accordance with Union and national rules on the protection of personal data. The Commission should establish a publicly accessible Union register on the basis of the information from the registers of the Member States concerning relevant court decisions falling within the scope of this Directive, in accordance with Union rules on the protection of personal data.

Protection of journalists and human rights defenders from manifestly unfounded or abusive court proceedings

The European Parliament adopted by 546 votes to 47, with 31 abstentions, a legislative resolution 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).

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Subject matter and scope

The purpose of this Directive is to eliminate obstacles to the proper functioning of civil proceedings, while providing protection for natural and legal persons who engage in public participation on matters of public interest, including journalists, publishers, media organisations, whistleblowers and human rights defenders, as well as civil society organisations, NGOs, trade unions, artists, researchers and academics, against court proceedings initiated against them to deter them from public participation.

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

The protection will apply to all cross-border cases except when both the defendant and claimant are from the same EU country as the court or when the case is only relevant to one Member State.

Minimum requirements

Member States may introduce or maintain provisions that are more favourable to protect persons engaged in public participation against manifestly unfounded claims or abusive court proceedings against public participation in civil matters, including national provisions that establish more effective procedural safeguards relating to the right to freedom of expression and information.

Common rules on procedural safeguards

Where legal proceedings are brought against natural or legal persons on the grounds of their participation in the public debate, such persons

should be able to request: (a) security for the estimated costs of the proceedings, which may include the costs of legal representation incurred by the defendant as well as, where provided for under national law, damages; (b) early dismissal of manifestly unfounded legal claims at the earliest possible stage of the proceedings; (c) remedies in response to abusive legal proceedings which distort the public debate.

The amended text stated that Member States should ensure that applications may also be treated in an accelerated manner, where possible, in accordance with national law, taking into account the circumstances of the case, the right to an effective remedy and the right to a fair trial.

Burden of proof and substantiation of claims

The burden of proving that the claim is well founded rests on the claimant who brings the action. Where a defendant has applied for early dismissal, it should be for the claimant to substantiate the claim in order to enable the court to assess whether it is not manifestly unfounded.

Award of costs

Member States should ensure that a claimant who has brought abusive court proceedings against public participation can be ordered to bear all types of costs of the proceedings that can be awarded under national law, including the full costs of legal representation incurred by the defendant unless such costs are excessive.

Where national law does not guarantee the award in full of the costs of legal representation beyond what is set out in statutory fee tables, Member States should ensure that such costs are fully covered, unless they are excessive, by other means available under national law.

Penalties or other equally effective appropriate measures

Member States should ensure that courts or tribunals seised of abusive court proceedings against public participation may impose effective, proportionate and dissuasive penalties or other equally effective appropriate measures, including the payment of compensation for damage or the publication of the court decision, where provided for in national law, on the party who brought those proceedings.

Jurisdiction for actions related to third-country proceedings

Member States should ensure that, where abusive court proceedings against public participation have been brought by a claimant domiciled outside the Union in a court or tribunal of a third-country against a natural or legal person domiciled in a Member State, that person may seek, in the courts or tribunals of the place where that person is domiciled, compensation for the damage and the costs incurred in connection with the proceedings before the court or tribunal of the third-country.

Information and transparency

EU governments should also make sure that potential victims of abusive lawsuits can access information in a single place on procedural safeguards and remedies, including legal aid and financial and psychological support.

Member states should ensure legal aid is provided in cross-border civil proceedings. They should also publish all final judgments in SLAPP (strategic lawsuits against public participation) cases and gather detailed data about them.

Transparency				
WÖLKEN Tiemo	Rapporteur	JURI	19/01/2024	Landesvertretung Niedersachsen
TOUSSAINT Marie	Shadow rapporteur	JURI	28/11/2023	Association Sherpa maison des lanceurs d'alerte
TOUSSAINT Marie	Shadow rapporteur	JURI	21/11/2023	Michael Forst
WÖLKEN Tiemo	Rapporteur	JURI	18/07/2023	Permanent Representation of Spain to the EU
TOUSSAINT Marie	Shadow rapporteur	JURI	14/06/2023	News Media Europe
WÖLKEN Tiemo	Rapporteur	JURI	05/06/2023	PATFox
TOUSSAINT Marie	Shadow rapporteur	JURI	03/05/2023	Association Sherpa
WÖLKEN Tiemo	Rapporteur	JURI	27/04/2023	Permanent Representation of France to the EU
TOUSSAINT Marie	Shadow rapporteur	JURI	20/04/2023	Maison des lanceurs d'alerte
VON CRAMON-TAUBADEL Viola	Shadow rapporteur	CULT	30/03/2023	Committee to Protect Journalists Transparency International Liaison Office to the European Union