



Commission tackles abusive lawsuits against journalists and human rights defenders 'SLAPPs'

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Today, the European Commission is taking action to improve protection of journalists and human rights defenders from abusive court proceedings. Strategic lawsuits against public participation, commonly known as 'SLAPPs', are a particular form of harassment used primarily against journalists and human rights defenders to prevent or penalise speaking up on issues of public interest. The proposed Directive covers SLAPPs in civil matters with cross-border implications. It enables judges to swiftly dismiss manifestly unfounded lawsuits against journalists and human rights defenders. It also establishes several procedural safeguards and remedies, such as compensation for damages, and dissuasive penalties for launching abusive lawsuits. The Commission is also adopting a complementary Recommendation to encourage Member States to align their rules with the proposed EU law also for domestic cases and in all proceedings, not only civil matters. The Recommendation also calls on Member States to take a range of other measures, such as training and awareness raising, to fight against SLAPPs.

Vice-President for Values and Transparency, Věra **Jourová** said: *"We promised to defend better journalists and human rights defenders against those that try to silence them. The new law does that. In a democracy, wealth and power cannot give anyone an advantage over truth. With these measures we are helping to protect those who take risks and speak up when the public interest is at stake – when they report for example on allegations of money laundering and corruption, environmental and climate matters or other issues that are important to us all."*

Commissioner for Justice, Didier **Reynders**, said: *"The active exercise of the fundamental right to freedom of expression and information is key for a healthy and thriving democracy. The EU will always protect that right. Today, we are taking important steps to safeguard journalists and civil society who are increasingly under threat from SLAPPs. SLAPPs delay or even prevent the publication of statements of public interest. SLAPPs also put an unnecessary burden on courts. We are now providing instruments to keep that abusive practice in check."*

Proposal for an EU law against SLAPPs

The proposed Directive provides courts and targets of SLAPPs with the tools to fight back against manifestly unfounded or abusive court proceedings. The proposed safeguards will apply in civil matters with cross-border implications. The safeguards are expected to benefit in particular journalists and persons 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, but all persons engaged in public participation on matters of public interest are covered. The safeguards have been targeted to ensure the balance of access to justice and privacy rights with the protection of freedom of expression and information. The main elements of the proposal are:

- **Early dismissal of a manifestly unfounded court proceedings** – courts will be able to take an early decision to dismiss the proceedings if a case is manifestly unfounded. In such a situation, the burden of proof will be on the claimant to prove that the case is not manifestly unfounded;
- **Procedural costs** – it will be for the claimant to bear all the costs, including the defendant's lawyers' fees, if a case is dismissed as abusive;
- **Compensation of damages** – the target of SLAPP will have a right to claim and obtain full compensation for the material and immaterial damage;
- **Dissuasive penalties** – to prevent claimants from starting abusive court proceedings, the courts will be able to impose dissuasive penalties on those who bring such cases to the court.
- **Protection against third-country judgements** – Member States should refuse recognition of a judgment coming from a non-EU country, against a person domiciled in a Member State, if the proceedings would be found to be manifestly unfounded or abusive under the Member

State's law. The target will also be able to ask for compensation of the damages and the costs in a Member State where he or she is domiciled in.

Recommendation for Member States

The Commission Recommendation also adopted today complements the Directive and encourages Member States to ensure that:

- **National legal frameworks provide the necessary safeguards**, similar to those at EU level, to address domestic cases of SLAPPs. This includes ensuring the procedural safeguards of an early dismissal of manifestly unfounded court proceedings. Member States would also need to ensure that their rules applicable to defamation, which is one of the most common grounds for launching SLAPPs, do not have an unjustified impact on the freedom of expression, on the existence of an open, free and plural media environment, and on public participation.
- **Training** is available for legal professionals and potential SLAPP targets to improve their **knowledge and skills** to effectively deal with these court proceedings. The European Judicial Training Network (EJTN) will be involved to ensure coordination and that information is disseminated in all Member States;
- **Awareness raising and information campaigns** are organised, so that journalists and human rights defenders do recognize when they are facing a SLAPP;
- **Targets of SLAPP have access to individual and independent support**, such as from law firms that defend SLAPP targets pro bono;
- **Aggregated data collected at national level** on manifestly unfounded or abusive court proceedings against public participation is reported to the Commission on a yearly basis, starting as of 2023.

Next Steps

The proposed Directive will have to be negotiated and adopted by the European Parliament and the Council before it can become EU law.

The Commission Recommendation is directly applicable. Member States will need to report on implementation to the Commission 18 months after adoption of the Recommendation.

Background

The [European Democracy Action Plan](#), adopted in December 2020, announced a series of initiatives to support and safeguard media freedom and pluralism. In this context, the Commission presented in September 2021 its first-ever [Recommendation to Member States on the safety of journalists](#). Another step is made today with measures to protect journalists and civil society organisations against abusive litigation. The use of SLAPPs is increasing in the EU, with targets often facing multiple lawsuits simultaneously and in multiple jurisdictions. Such court proceedings have a negative impact on the willingness and ability of journalists and human rights defenders to continue their work, and a chilling effect on freedom of expression, freedom of information and a pluralistic public debate.

The prevalence of SLAPP is a matter of serious concern in some Member States, as identified by the [2020](#) and [2021 Rule of Law Reports](#). In 2021, the [Media Freedom Rapid Response](#) (MFRR) documented 439 alerts (with 778 persons or entities related to media being attacked) in 24 EU Member States, including SLAPPs. In more than 1 out of 5 of those incidents (22.1% – 97 alerts) media actors faced legal consequences.

Together with increasing threats to their physical and online safety, legal threats and abusive litigation add to an environment where hostile activity against journalists is growing and can have a serious impact on their willingness and ability to continue their work. A tragic example of the use of SLAPP is the journalist Daphne Caruana Galizia who was facing more than 40 lawsuits at the time of her assassination in 2017. The aim of SLAPPs lawsuits is not to access justice but to harass, intimidate and silence defendants with the length of procedures, the financial pressure and the threat of criminal sanctions. Journalists are not the only targets; human rights defenders and civil society organisations, especially those working on human rights and the environment also face SLAPP.

As part of its efforts to protect the independence and the pluralism of the media, and as announced by President **von der Leyen** in her [2021 State of the Union speech](#), the Commission will present the Media Freedom Act. This initiative is expected to be adopted in the [third quarter of this year](#).

For More Information

[The Commission proposal for a Directive](#)

[The Commission Recommendation](#)

[Factsheet on Making EU democracies stronger: Better protection for journalists and human rights defenders](#)

Coalition Against SLAPPs in Europe ([CASE](#))

[The Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists - 2022 Annual Report](#)

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