



**An Bille um Chásanna Dlí Straitéiseacha i gcoinne na
Rannpháirtíochta Poiblí, 2026**
Strategic Lawsuits Against Public Participation Bill 2026

Meabhrán Miniúcháin
Explanatory Memorandum



**AN BILLE UM CHÁSANNA DLÍ STRAITÉISEACHA I
GCOINNE NA RANNPHÁIRTÍOCHTA POIBLÍ, 2026
STRATEGIC LAWSUITS AGAINST PUBLIC PARTICIPATION
BILL 2026**

EXPLANATORY MEMORANDUM

Purpose of the Bill

The purpose of the Bill, as set out in its long title, is:

- to give further effect to the EU Anti-SLAPP Directive (Directive (EU) 2024/1069);
- to apply the provisions of the Directive to domestic proceedings;
- for those purposes, to amend the Defamation Act 2009;
- to repeal sections 19 and 20 of the Defamation (Amendment) Act 2026; and
- to provide for related matters.

Provisions of the Bill

PART 1

PRELIMINARY AND GENERAL

Section 1: Short title and commencement

Section 1 provides for a short title and commencement provision. It provides that the Act shall commence by order of the Minister for Justice, Home Affairs & Migration on such day and in respect of such provisions as set out in the relevant order.

Section 2: Interpretation

Section 2 provides for the interpretation of terms used in the Bill which largely mirror those used in the EU Anti-SLAPP Directive 2024/1069. This includes ‘abusive court proceedings against public participation’, ‘proceedings’, ‘matter of public interest’, and ‘public participation’.

Section 3: Repeals

Section 3 provides for the repeal of sections 19 and 20 of the Defamation (Amendment) Act 2026, which comprise Part 7 of the Defamation (Amendment) Act 2026 and provide for the insertion of a new Part 4A in the Defamation Act 2009. *Section 15* will instead insert an updated version of Part 4A in the Defamation Act 2009 which will align with the provisions in Part 2 as set out below.

PART 2

TRANSPOSITION OF DIRECTIVE (EU) 2024/1069 RELATING TO PROCEEDINGS AND APPLICATION OF PROVISIONS TO DOMESTIC PROCEEDINGS

Section 4: Proceedings to which Part applies

Section 4 provides that Part 2 applies to proceedings brought against a person on account of their engagement in public participation. The proceedings in question are those of a civil or commercial nature in line with the requirements of the EU Anti-SLAPP Directive but the protections go beyond the scope of the Directive and apply to domestic as well as cross-border proceedings. The protections provided for in Part 2 correspond with those outlined in the Directive. Part 2 does not however apply to defamation proceedings which are governed by Part 3 below.

Section 5: Information to be given to court

Section 5 provides that where proceedings are initiated against a defendant, and he or she is of the view that they were initiated on account of his or her engagement in public participation that defendant must inform the court.

Section 6: Appointment of person or body with legitimate interest to make submissions and assist defendant

Section 6 provides that a court seised of proceedings relating to a defendant's engagement in public participation may permit a person or body with a legitimate interest in safeguarding or promoting the rights of persons engaging in public participation to make written and oral submissions to the court and to provide assistance to the defendant, other than by providing funding for the proceedings.

Section 7: Security for costs and security for damages

Section 7 provides that in proceedings brought against a person on account of their engagement in public participation, the court may, on application by the defendant, require the plaintiff to provide security for the defendant's costs and/or any damages claimed by the defendant, if it considers there is a *prima facie* case that the proceedings are abusive proceedings against public participation, and that it is in the interests of justice to do so, having regard to the circumstances of the case. It includes certain non-exhaustive indicators for the court to consider when conducting its assessment.

Section 8: Application to strike out claim and appeal

Section 8(1) provides that where a defendant in proceedings brought on account of his or her engagement in public participation applies to a court to have the claim struck out as manifestly unfounded, the court shall decide that application as expeditiously as possible, consistent with the administration of justice. The same applies to a court deciding an appeal against the first court's decision.

Section 8(2) provides that where a defendant makes an application under *subsection (1)*, it shall be for the plaintiff to substantiate their claim.

Section 8(3) provides various non-exhaustive examples where a claim would be manifestly unfounded, such as where the claim discloses no reasonable cause of action, or is an abuse of the court process.

Section 9: Application for declaration where application made to strike out claim and costs

Section 9(1) provides that where a defendant applies under *section 8(1)* to strike out a claim, he or she may also apply to the court for a declaration that the proceedings are abusive court proceedings against public participation.

Section 9(2) provides that where the court makes such a declaration, it shall (insofar as it considers appropriate) take that declaration into account when making an order for payment of the costs of the proceedings. The court may, if it thinks fit, order those costs to be paid on a 'legal practitioner and client' basis, or a 'legal practitioner and own client' basis (these are both more advantageous to the defendant than the usual basis on which costs are awarded). Where the court makes such an award or order in relation to costs, it shall act as expeditiously as possible, consistent with the administration of justice.

Section 10: Application for declaration before, during or at conclusion of trial of action and costs

Section 10(1) provides that in proceedings brought on account of the defendant's engagement in public participation, the defendant may apply before, during, or after the trial of those proceedings for the court to make a declaration that the proceedings are abusive court proceedings against public participation.

Section 10(2) adds that where the court makes such a declaration, it shall, in so far as it considers appropriate, take that declaration into account when making an order in relation to the costs of the proceedings. The court may, if it thinks fit, order those costs to be paid on a 'legal practitioner and client' basis, or a 'legal practitioner and own client' basis. Where the court makes such an award or order in relation to costs, it shall act as expeditiously as possible, consistent with the administration of justice.

Section 11: Order for damages in case of declaration

Section 11(1) provides that where there has been a finding under *section 9* or *section 10* that the proceedings amount to abusive court proceedings against public participation, the court may, on application by the defendant, order the plaintiff to pay damages to the defendant for any injury, loss or damage suffered by the defendant as a result of the proceedings.

Section 11(2) provides that the court shall have regard to all of the circumstances of the case and the interests of justice when considering making an order for damages. It also provides a non-exhaustive list of factors that the court may consider.

Section 11(3) provides that the plaintiff and defendant may make submissions to the court when it is determining a question of damages. The court may also direct that evidence be given.

Section 11(4) provides that when making an order for damages the court may apply the provisions of *section 9(2)* or *section 10(2)* to costs incurred by the defendant in his or her application for damages.

Section 11(5) and *section 11(6)* provide that damages recoverable in the Circuit Court and the District Court, respectively, shall not exceed the higher of any limit of those courts' jurisdictions in tort.

Section 11(7) provides that the Personal Injuries Assessment Board Act 2003 shall not apply to an application for damages.

Section 12: Publication of certain judgments and court orders

Section 12 provides that where a court finds proceedings to be abusive court proceedings against public participation, the court shall direct that any written judgment of the court or, where no written judgment is available, any order of the court related to that finding, shall be published on the Courts Service website, where practicable, and as soon as so practicable.

Section 13: Refusal by court to recognise or enforce certain third country judgments

Section 13(1) prohibits the recognition or enforcement of a judgment in proceedings initiated in a third country that would have been considered abusive court proceedings against public participation, or manifestly unfounded, had they been initiated in the State.

Section 13(2) stipulates that the section shall not affect the application of any bilateral or multilateral agreements between the State and a third country concluded before 6 May 2024 in line with the provisions of Article 18 of the Directive.

Section 14: Redress for abusive court proceedings against public participation in third country

Section 14(1) provides that a defendant in proceedings brought in a third country on account of his or her engagement in public participation who is domiciled in the State may make an application, on notice to the plaintiff, for a declaration by a court in the State that those third country proceedings amount to abusive court proceedings against public participation.

Section 14(2) provides that when making an application under *section 14(1)* a defendant may apply for compensation in respect of the damage and costs incurred in connection with the third country proceedings.

Section 14(3) provides that a court may stay an application under *section 14(1)* where the third-country proceedings are not concluded.

Section 14(4) provides that the section shall not affect the application of any bilateral or multilateral agreements between the State and a third country concluded before 6 May 2024.

PART 3

AMENDMENT OF ACT OF 2009

Section 15: Insertion of Part 4A into Act of 2009.

Section 15 inserts a new Part 4A (Additional Provisions Regarding Defamation Proceedings Brought on Account of Engagement in Public Participation) in the Defamation Act 2009. The new Part 4A contains twelve sections (34A – 34IB) which largely mirror the provisions contained in Part 2 above. Defamation proceedings are a common vehicle for strategic lawsuits against public participation and the inclusion of Part 3 ensures that safeguards applying to defamation proceedings are specifically referenced in defamation legislation. The provisions set out in Part 3 are as follows:

Section 34A: Interpretation (Part 4A)

New *section 34A* interprets a number of terms used in the new Part 4A which largely mirror those used in the EU Anti-SLAPP Directive 2024/1069 and align with the terms defined in *section 2* above.

Section 34B: Defamation proceedings to which Part applies

New *section 34B* provides that Part 4A applies to defamation proceedings brought against a person on account of his or her engagement in public participation, including those falling within the scope of the EU Anti-SLAPP Directive.

Section 34C: Information to be given to court

New *section 34C* provides that where defamation proceedings are initiated against a defendant, and he or she is of the view that they were initiated on account of his or her engagement in public participation that defendant must inform the court.

Section 34CA: Appointment of person or body with legitimate interest to make submissions and assist defendant

New *section 34CA* provides that a court seised of defamation proceedings relating to a defendant's engagement in public participation may permit a person or body with a legitimate interest in safeguarding or promoting the rights of persons engaging in public participation to make written and oral submissions to the court and to provide assistance to the defendant, other than by providing funding for the proceedings.

Section 34D: Security for costs and security for damages

New *section 34D* provides that in defamation proceedings alleged to be abusive proceedings against public participation, the court may, on application by the defendant, require the plaintiff to provide security for the defendant's costs and/or any damages claimed by the defendant, if it considers there is a *prima facie* case that the proceedings are abusive proceedings against public participation, and that it is in the interests of justice to do so, having regard to the circumstances of the case. It includes certain non-exhaustive indicators for the court to consider when conducting its assessment.

Section 34E: Application to strike out claim and appeal

New *section 34E(1)* provides that where a defendant in defamation proceedings brought on account of his or her engagement in public participation applies to a court to have the claim struck out as manifestly unfounded, the court shall decide that application as expeditiously as possible, consistent with the administration of justice. The same applies to a court deciding an appeal against the first court's decision.

Section 34E(2) provides that where a defendant makes an application under *subsection (1)*, it shall be for the plaintiff to substantiate their claim.

Section 34E(3) provides various non-exhaustive examples where a claim would be manifestly unfounded, such as where the claim discloses no reasonable cause of action, or is an abuse of the court process.

Section 34F: Application for declaration where application made to strike out claim and costs

New *section 34F(1)* provides that where a defendant applies under *section 34E(1)* to strike out a claim, he or she may also apply to the court for a declaration that the proceedings are abusive court proceedings against public participation.

Section 34E(2) provides that where the court makes such a declaration, it shall (insofar as it considers appropriate) take that declaration into account when making an order for payment of the

costs of the proceedings. The court may, if it thinks fit, order those costs to be paid on a 'legal practitioner and client' basis, or a 'legal practitioner and own client' basis (these are both more advantageous to the defendant than the usual basis on which costs are awarded).

Section 34G: Application for declaration before, during or at conclusion of trial of action and costs

New *section 34G(1)* provides that in defamation proceedings that relate to the defendant's engagement in public participation, the defendant may apply before, during, or after the trial of those proceedings for the court to make a declaration that the proceedings are abusive court proceedings against public participation.

Section 34G(2) adds that where the court makes such a declaration, it shall, in so far as it considers appropriate, take that declaration into account when making an order in relation to the costs of the proceedings. The court may, if it thinks fit, order those costs to be paid on a 'legal practitioner and client' basis, or a 'legal practitioner and own client' basis. Where the court makes such an award or order in relation to costs, it shall act as expeditiously as possible, consistent with the administration of justice.

Section 34H: Order for damages in case of section 34F or 34G declaration

New *section 34H(1)* provides that where there has been a finding under *section 34F* or *section 34G* that defamation proceedings amount to abusive court proceedings against public participation, the court may, on application by the defendant, order the plaintiff to pay damages to the defendant for any injury, loss or damage suffered by the defendant as a result of the proceedings.

Section 34H(2) provides that the court shall have regard to all of the circumstances of the case and the interests of justice when considering making an order for damages. It also provides a non-exhaustive list of factors that the court may consider.

Section 34H(3) provides that the plaintiff and defendant may make submissions to the court when it is determining a question of damages. The court may also direct that evidence be given.

Section 34H(4) provides that when making an order for damages the court may apply the provisions of *section 34F(2)* or *section 34G(2)* to costs incurred by the defendant in his or her application for damages.

Section 34H(5) provides that damages recoverable in the Circuit Court shall not exceed the higher of any limit of that court's jurisdictions in tort.

Section 34H(6) provides that the Personal Injuries Assessment Board Act 2003 shall not apply to an application for damages.

Section 34H(7) provides that the section shall not impact the operation of sections 31 and 32 of the Defamation Act 2009 which relates to damages in defamation actions.

Section 34I: Publication of certain judgments and court orders

New *section 34I* provides that where a court finds proceedings to be abusive court proceedings against public participation, the court shall direct that any written judgment of the court or, where no written judgment is available, any order of the court related to that

finding, shall be published on the Courts Service website, where practicable, and as soon as so practicable.

Section 34IA: Refusal by court to recognise or enforce certain third country judgments

New *section 34IA(1)* prohibits the recognition or enforcement of a judgment in defamation proceedings initiated in a third country that would have been considered abusive court proceedings against public participation, or manifestly unfounded, had they been initiated in the State.

Section 34IA(2) stipulates that the section shall not affect the application of any bilateral or multilateral agreements between the State and a third country concluded before 6 May 2024.

Section 34IB: Redress for abusive court proceedings against public participation in third country

New *section 34IB(1)* provides that a defendant in defamation proceedings brought in a third country on account of his or her public participation who is domiciled in the State may make an application, on notice to the plaintiff, for a declaration by the court that those third country proceedings amount to abusive court proceedings against public participation.

Section 34IB(2) provides that when making an application under *section 34IB(1)* a defendant may apply for compensation in respect of the damage and costs incurred in connection with the third country proceedings.

Section 34IB(3) provides that a court may stay an application under *section 34IB(1)* where the third-country proceedings are not concluded.

Section 34IB(4) provides that the section shall not affect the application of any bilateral or multilateral agreements between Ireland and a third country concluded before 6 May 2024.

PART 4

MISCELLANEOUS

Section 16: Amendment of *section 21* of Defamation (Amendment) Act 2026

Section 16 amends *section 21* of the Defamation (Amendment) Act 2026 to reflect the repeal of *section 19* of that Act.

*An Roinn Dlí agus Cirt, Gnothai Baile agus Imirce,
Meitheamh, 2026.*

