

**Opening Statement on behalf of the Ireland Anti-SLAPPs Network Ireland
Oireachtas Joint Committee on Justice July 4th 2023
Pre-Legislative hearings- Defamation (Amendment) Bill 2023**

The Ireland Anti-SLAPP Network welcomes the invitation to attend the Committee today to discuss the provisions of the draft Defamation (Amendment) Bill. The Anti-SLAPPs network submission, which has been circulated to members, is made on behalf of a number of organisations, which include Index on Censorship, the Irish Council for Civil Liberties, Article 19, the Free Legal Advice Centres, the Irish Environmental Network, the Public Interest Law Alliance, Transparency International Ireland, and several academics including Eoin O'Dell of Trinity College Dublin School of Law.

Strategic lawsuits against public participation (SLAPPs) are brought by powerful and wealthy entities against public watchdogs in an effort to compel them to withhold or remove critical speech, even if it is accurate and in the public interest. By driving information out of the public domain, SLAPPs make it extremely difficult to hold power to account. Put simply, SLAPPs weaponise the law in order to harass and punish those speaking out in the public interest. They threaten not only our freedom of information, but our human rights, our rule of law, and our democracies.

While the draft bill itself primarily addresses defamation, it does contain provisions related to SLAPPs and it must be acknowledged that Ireland's existing defamation laws facilitate SLAPPs. While the use of this tactic to undermine criticism and evade scrutiny has proliferated globally, the Coalition Against SLAPPs in Europe's 2022 report identified Ireland as a jurisdiction of concern in the EU alongside Croatia and Malta.

The network is satisfied that the amendments put forward in our submission would serve to substantially improve the bill beyond its current draft, particularly with regard to putting an end to SLAPPs. Many of the recommendations of the network are drawn from Anti-SLAPP work undertaken by member organisations in the UK and EU.

In order to effectively combat SLAPPs, the legislation must make it possible for all public watchdogs to quickly and cheaply get rid of any abusive legal action. To that end, it is important that the legislation takes account of any case that can reasonably be determined to have been filed with an *improper purpose*. The threshold of "manifestly unfounded", as currently proposed under Head 26, is high and may preclude some SLAPP cases from being struck out. The definition of a SLAPP should also be made more inclusive and include - rather than be limited to - the "features of concern" under Head 24. Finally, the scope of the bill should be widened to include anyone who is already facing a SLAPP. Eoin O'Dell has drafted a proposed addition to Head 1, which we have included in our opening statement and are happy to discuss.

While we strongly welcome the long-awaited publication of this draft bill, we are mindful of the trend towards the slow process of legislation. Given the long-standing demands for reform of Irish defamation laws from both domestic and international actors, including the European Commission among others, we call on the government to prioritise the passage of this legislation in as short a timeframe as practicable while still allowing for proper scrutiny by the legislature and the public. We look forward to the discussion.

Suggested addition to Head 1:

(3) Except insofar as is provided in subsection (4), this Act shall apply for the purposes of any proceedings begun after the commencement of this Act, whenever the cause of action arose, but shall not affect any proceedings commenced before the commencement of this Act.

(4) Notwithstanding subsection (3), in respect of proceedings commenced before the commencement of this Act, a defendant may make an application pursuant to Part V of this Act.