

Strategic Litigation Against Public Participation (SLAPP)

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23 September 2025

This L&RS Note explores the now global phenomenon of **Strategic Litigation Against Public Participation (SLAPP)**. This is a type of vexatious legal action which is strategically used by powerful claimants with the aim or effect of suppressing public participation and critical reporting on public interest matters. Claimants are often wealthy and powerful companies or individuals who target people and organisations like activists, NGOs, journalists and whistleblowers.

The Note is not intended to be exhaustive in nature but aims to provide Members with a broad overview of developments in relation to SLAPPs in the US, the EU and in Ireland. Part 7 of the Defamation (Amendment) Bill inserts a new Part 4A into the *Defamation Act 2009*, introducing the concept of SLAPP into Irish law for the first time¹ proposing to give effect to the [EU Anti-SLAPP Directive \(Directive \(EU\) 2024/1069\)](#)².



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The term SLAPP was first coined in 1988 by two professors from the University of Denver when they published work on the identifiable trend of people being sued for speaking out about matters of public concern.³ While SLAPPs and anti-SLAPP law is well-established in the US and Canada, until relatively recently it has been less recognised at an European and UK level. Some commentators such as Coe et al consider this was due to a lack of “official quantitative and qualitative data”, although this has changed in the EU through the work of the [Coalition Against SLAPPs in Europe \(CASE\)](#) who actively track the incidence of SLAPPs in the EU.⁴ CASE is a broad coalition of 110+ non governmental organisations from across Europe who advocate for comprehensive protective measures and reform and have also built up an extensive database on SLAPP lawsuits. Although there is no agreed definition of a SLAPP, CASE provides a comprehensive definition which captures the core elements of SLAPPs as:

[L]egal actions that are threatened, initiated or pursued as a means of harassing or intimidating their target, and which seek to prevent, inhibit, restrict or penalise free expression on matters of public interest and the exercise of rights associated with public participation, including public interest journalism, peaceful protest or boycotts, advocacy, whistleblowing, academic comments, or simply speaking out against the abuse of power. SLAPPs target anyone who works to hold the powerful to account or engage in matters of public interest: so-called “public watchdogs”. This broad category includes journalists, activists, rights defenders, whistleblowers, campaigning organisations, unions or trade associations, and academics. Ultimately, the categorisation of a case as a SLAPP is a value judgement, since one can only ever infer an improper purpose from the circumstances of the case.⁵

In the [United Nations Office of the High Commissioner for Human Rights’s briefing leaflet on SLAPPs](#), it identifies SLAPPs as being characterised by three common elements:

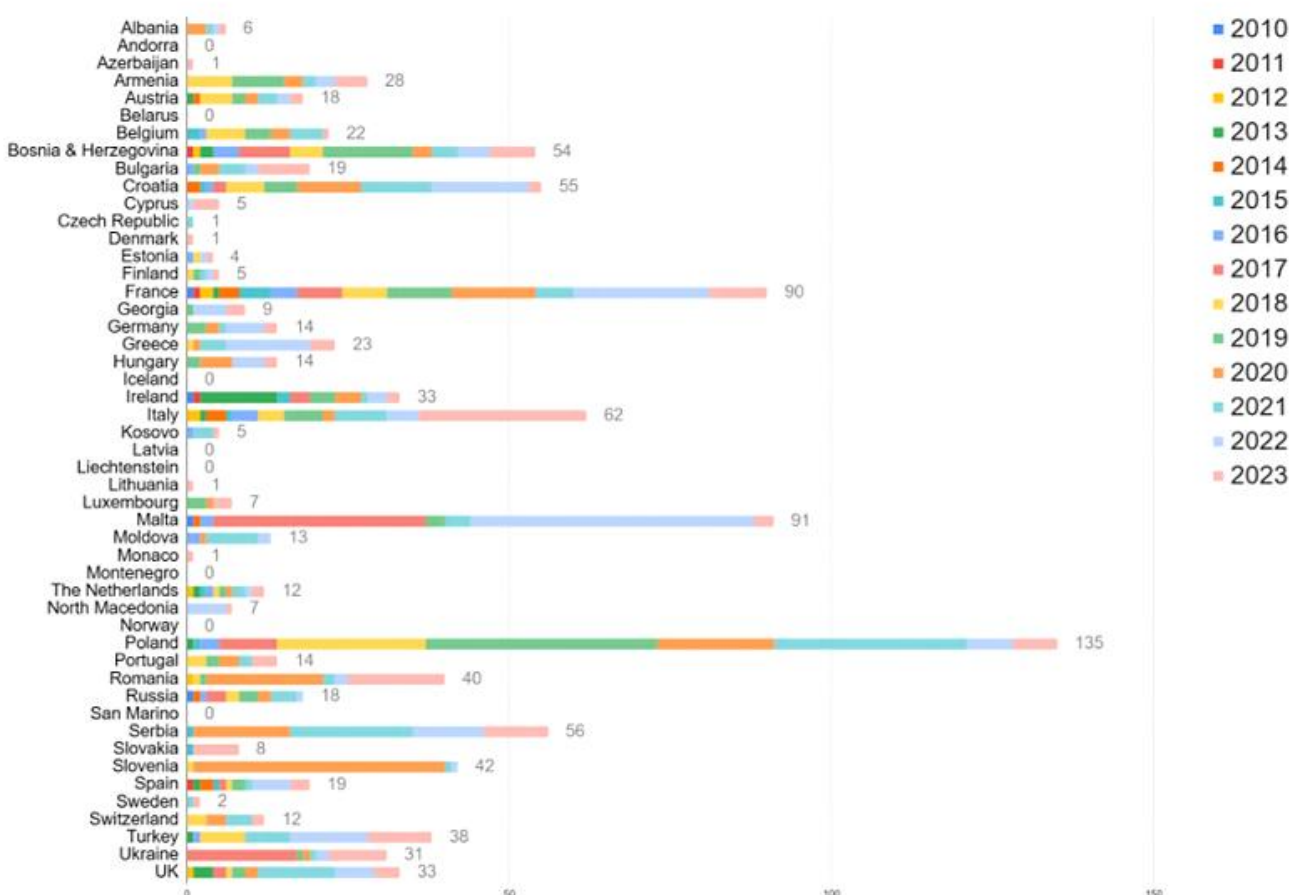
- 1.** Imbalance of power
- 2.** Matters of public interest
- 3.** Abusive legal tactics⁶

While SLAPPs are frequently taken in the form of defamation actions, they can involve a wide range of civil and criminal actions including, privacy, data protection, intellectual property and harassment claims. SLAPPs are one of the techniques used to harass and silence journalists, human rights defenders and activists; disguised in defamation or other claims, with the intention not to pursue justice but to intimidate, silence, and drain the financial and psychological resources of SLAPP targets.⁷ SLAPPs interact with several fundamental rights including the right to freedom of expression as enshrined under Article 11 of the [EU Charter of Fundamental Rights](#) (the ‘Charter’) and Article 10 of the [European Convention on Human Rights](#) (‘ECHR’), and/or the right to freedom of assembly as protected by Article 11 ECHR and Article 12 of the Charter. These rights are also protected under the [Universal Declaration of Human Rights](#) (articles 19, 20 and 21) and the [International Covenant on Civil and Political Rights](#) (articles 19, 21, 22 and 25) respectively.

The Coalition against SLAPPs in Europe (CASE) in their '[2024 Report on SLAPPs in Europe: Mapping Trends and Cases](#)' observe how SLAPP cases are rising across Europe as evidenced by their database which documented over 1,049 cases between 2010 and 2023.⁸ It should be borne in mind that CASE emphasises that the 2024 Report is not an exhaustive survey of SLAPP cases around Europe and that it can “only ever scratch the surface of the SLAPP problem in Europe.”⁹ This is likely due to the fact that people may be fearful of speaking out or reporting SLAPPs and the difficulty in sometimes recognising legal actions as SLAPPs. Instead, the 2024 Report provides “a snapshot of the issue of SLAPPs in Europe between 2010 till 2023.”¹⁰ The following figure illustrates this snapshot of the prevalence of SLAPPs across Europe each year from 2010 to 2023.

Figure 1: CASE database SLAPPs per country per year 2010 -2023

SLAPPs per country per year



Source: Reproduced from '2024 Report on SLAPPs in Europe: Mapping Trends and Cases' at 15.

As can be seen from the figure above, the UK and Ireland both had 33 SLAPP cases recorded for the period 2010- 2023. As noted already, this does not necessarily reflect all SLAPP cases taken in either jurisdiction.

The Centre for Media Pluralism and Media Freedom (CMPF) developed the Media Pluralism Report which is a large scale project that assesses media conditions across Europe. In its most recent report, [Monitoring Media Pluralism in the European Union: Results of the MPM2025](#), it posited that media freedom and pluralism is at a critical juncture, stating that:

... shifting geopolitical dynamics, often boosted by the (ab)use of information technology, have not only disrupted international power structures but have also begun to erode fundamental principles long regarded as the bedrock of liberal democracies. Foundational tenets such as the protection of fundamental rights, including freedom of expression, institutional checks and balances, including the role of the parliaments and opposition parties, and the legitimacy of democratic institutions and ways of deliberation - previously considered settled achievements of Western constitutions - are increasingly subject to contestation, even in countries that used to be beacons of the rule of law and democracy.¹¹

US

In the United States, SLAPPs are considered to represent a violation of citizens' rights under the [First Amendment](#). This relates to the the right to speak freely, the right to a free press, the freedom to petition the government, the right to associate, and the right to assemble.¹² Consequently, at least thirty-four states and the District of Columbia have passed Anti-SLAPP laws including early dismissal mechanisms, merit tests and recovery of costs for those targeted. However, these laws vary widely from state to state meaning protection for victims is inconsistent and those filing SLAPP claims may shop around (forum shop) for the state with the lowest protection.¹³ In response to this, in 2020 the Uniform Law Commission passed the [Uniform Public Expression Protection Act](#) (UPEPA) — a model Anti-SLAPP law aimed at providing consistency among state Anti-SLAPP laws.¹⁴ At the time of writing, Washington, Oregon, Pennsylvania, Ohio, Montana, Utah, Maine, Minnesota, Kentucky, Iowa, Idaho, Delaware, Hawaii and New Jersey have adopted the law and a further nine States have introduced enacting legislation.¹⁵

While the U.S. Constitution provides that the Federal Government and each of the 50 state governments each have specific powers, there are also areas where they share power.¹⁶ Currently, despite various efforts, there is no federal anti-SLAPP law in the U.S. There are also complexities around whether or not a federal court will apply a state's anti-SLAPP law, as this is largely dependent upon the federal circuit in which the court lies.¹⁷ The most recent attempt to introduce an anti-SLAPP federal law was in December 2024 in the form of the [Free Speech Protection Act](#). US Politicians have observed that the lack of protection at federal level leads to "forum shopping and other avenues for SLAPP filers to evade state laws."¹⁸ The Act aims to address "a critical gap in defending Americans' First Amendment rights. The state laws often don't apply in federal courts, so censors frequently file these abusive lawsuits there."¹⁹

European Union

Background

On 16 October 2017 Daphne Caruana Galizia, a Maltese journalist, was assassinated by an explosive device planted under her car seat outside her home in Malta. She had received threats and was the target of several forms of harassment due to her reporting. These included libel suits and asset freezes, which were almost exclusively filed against her by Government and Opposition Members of the Maltese Parliament.²⁰ In 2018, the Guardian reported that a group of six MEPs had written to the vice-president of the European Commission proposing a new EU Directive to tackle abusive lawsuits. In the letter, it reports that the MEPs specifically referred to the case of Galizia who at the time of her murder faced a defamation claim taken by a financial institution that she had publicly criticised.²¹ Initially, the Union considered that it lacked competence to adopt such legislation.²² However, following this, a series of resolutions were delivered by MEPs calling for EU action against legal harassment of journalists, media outlets and activists.²³

In 2020, the European Parliament commissioned a study called "[Safety of journalists and the fighting of corruption in the EU](#)"²⁴ which recommended "an inclusive process of EU legislative reform to tackle the growing problem of SLAPPs" including the "drafting of a dedicated anti-SLAPP EU Directive".²⁵ A further study in 2021 on "[The Use of SLAPPs to Silence Journalists, NGOs and Civil Society](#)"²⁶ also recommended that an anti-SLAPP Directive should be adopted. In the European Commission's [annual rule of law reports](#), strengthening the safety and protection of journalists and addressing strategic lawsuits against public participation has been one of the key measures assessed since the report first began in 2020.²⁷ These issues were also highlighted in the [L&RS Note: European Commission Rule of Law Report 2022](#).

European Commission Recommendation (EU) 2022/758

On 27 April 2022, the European Commission issued [Recommendation \(EU\) 2022/758 on protecting journalists and human rights defenders from unfounded or abusive court proceedings \(Recommendation \(EU\) 2022/758\)](#). Recommendations are non binding and directly applicable to Member States, but can offer guidance on the interpretation or content of EU law.²⁸

Recommendation (EU) 2022/758 is part of a set of measures, together with the [EU Anti-SLAPP Directive \(Directive \(EU\) 2024/1069\)](#) (examined below), which were announced in the [European Democracy Action Plan](#) issued on 3 December 2020.

To ensure efficient protection against SLAPPs, Recommendation (EU) 2022/758 advises that Member States should ensure there are necessary safeguards in national legal frameworks governing civil, criminal, commercial and administrative proceedings. It also calls on Member States to take a range of other measures to fight against SLAPPs. These include advising that Member States' legal frameworks should:

- contain safeguards, including for domestic cases, against manifestly unfounded or abusive court proceedings;
- allow for the early dismissal of SLAPPs and for legal remedies such as imposing costs and penalties on initiators of the legal action;

- have defamation rules that are clear, do not impact unfairly on freedom of expression and do not carry excessive and disproportionate penalties;
- reconcile the right to protection of personal data with the right to freedom of expression and information.²⁹

Proposed measures include training guidelines for lawyers, judicial staff and potential targets of SLAPPs as well as legal training providers and legal associations. It also advised that awareness raising initiatives such as information campaigns on SLAPPs should be undertaken, as well as ensuring that targets and defendants of SLAPPs have access to independent support and legal assistance. The recommendation also asks Member States to designate one or more authorities to collect data on SLAPPs, to provide the national aggregated data to the European Commission annually from the end of 2023 and to publish the information on their website.³⁰

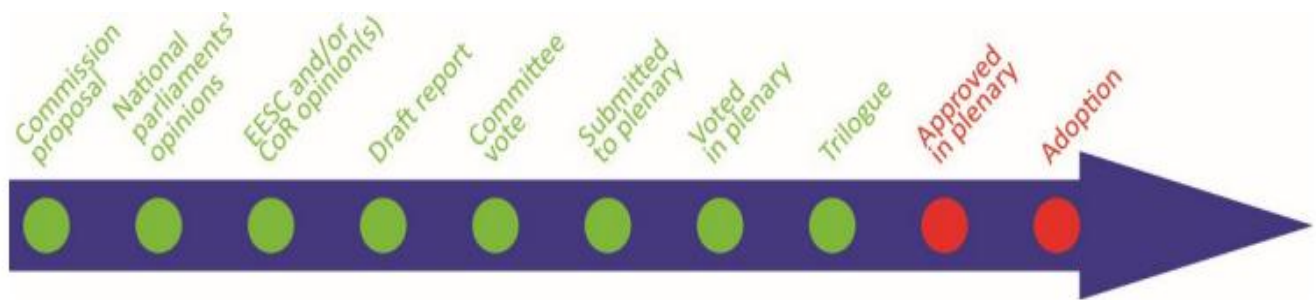
EU Anti-SLAPP Directive (Directive (EU) 2024/1069)

On the same day the Recommendation (EU) 2022/758 was announced, the European Commission also revealed its [proposal for a Directive on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings \("Strategic lawsuits against public participation"\)](#). A Directive is a legislative act that sets out a goal that EU countries must achieve, but individual countries can devise their own laws to reach these goals.³¹ The proposal is one of the actions under the European Democracy Action Plan that aims to strengthen media pluralism and media freedom in the EU. The proposal states that it:

... aims to protect targets of SLAPPs and prevent the phenomenon from further expanding in the EU. Currently, none of the Member States has specific safeguards against such proceedings and only a few are currently considering the introduction of specific safeguards. There are also no EU-wide rules that address SLAPPs. By developing a common EU understanding on what constitutes a SLAPP and by introducing procedural safeguards, the proposal aims to provide courts with effective means to deal with SLAPPs and targets with the means to defend themselves.³²

The proposal provided that the Directive would apply to SLAPP cases in civil and commercial matters with cross-border implications only and would not apply to criminal matters. Cross border was defined in a broad way including a presumption of cross-border implications unless both parties and the relevant court were domiciled in the same Member State.³³ While the proposal acknowledged that many many SLAPPs occur domestically, it observed that where SLAPPs have cross-border implications, they add an extra layer of complexity and costs, with potentially more adverse consequences for defendants.³⁴

The figure below sets out the development of the Directive (EU) 2024/1069 from the initial proposal to its final adoption. When the figure was produced by the European Parliamentary Research Service the Directive had not yet been adopted (hence the approved in plenary and adoption remaining red). The Directive was adopted in April 2024 and the following section provides an overview of some of the key issues which were highlighted and negotiated during the legislative process. It does not attempt to cover all aspects of the process.

Figure 2: Development of the Anti-SLAPP Directive

Source: Reproduced from Rafał Mańko, European Parliamentary Research Service, '[Strategic lawsuits against public participation \(SLAPPs\)](#)', February 2024

The Committee on Legal Affairs (JURI) was appointed the lead committee, and the Committee on Civil Liberties, Justice and Home Affairs (LIBE) as the associate committee. The draft report was presented on 2 March 2023, including, among others, amendments which sought to strengthen the protection of SLAPP victims by extending the scope of the Directive to human rights defenders such as academics, activists and researchers, not just journalists and media organisations. It also called for Member States to provide those being targeted with support, including legal aid.³⁵ The report was [adopted by JURI on 27 June 2023](#) and then underwent plenary (full) debate in July 2023, with the European Parliament adopting its amendments to the Commission proposal. Some of these amendments included:

- a minimum harmonisation clause
- redefining the scope of the Directive to include matters of a civil or commercial nature which have cross-border implications
- clarification of 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
- a provision requiring that a natural or legal person who has suffered material/non material harm as a result of a SLAPP, should be able to claim and to obtain full compensation for this harm, without having to initiate separate court proceedings.³⁶

On 9 June 2023, the Council (Justice and Home Affairs) approved a [general approach](#) to the proposal for the Directive. This general approach was the basis for negotiations with the European Parliament as part of the ordinary legislative procedure.³⁷ Some of the main changes introduced by the general approach included:

- a minimum harmonisation clause which allows for a higher level of protection in the laws of the Member States
- a modified definition of abusive court proceedings as 'proceedings brought in relation to public participation that have as their main purpose the prevention, restriction or penalisation of public participation and which pursue unfounded claims'

- a new rule requiring Member States to ensure that an application for early dismissal is treated in an accelerated manner in accordance with national law taking into account the circumstances of the case, the right to an effective remedy and right to a fair trial.

The European Parliament and the Council of the EU negotiated the final text (known as trilogue negotiations) reaching a [compromise text](#) on 29 November 2023. The following table sets out some of the main changes from when the text of the proposal was first introduced to the final compromise text which was adopted.

Table 1: Changes between Commission proposal of an Anti-SLAPP Directive and the Compromise Text

| Commission proposal | Compromise text |
|--|--|
| Application of Directive to matters of a civil or commercial nature with cross-border implications. | Broadened to resumption of cross-border nature of case unless it is shown that both parties are domiciled in the same Member State and all other relevant elements are connected to that country. |
| No reference to the Brussels Ia Regulation , which deals with jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. | Reference added to the Brussels Ia Regulation as regards the understanding of the notion of 'domicile', which is crucial for the definition of a cross border case. |
| Definition of 'matter of public interest' refers to any matter which affects the public to such an extent that the public may legitimately take an interest in it, in areas such as, for example, public health, safety, the environment, climate, or enjoyment of fundamental rights. | Broadens the definition of 'matters of public interest' to incorporate among other things, EU values, as proposed by the European Parliament. |
| Where a defendant has applied for early dismissal, the burden of proof rests on the claimant in the main proceedings to prove that the claim is not manifestly unfounded. | Introduces an explicit rule on the burden of proof making it clear that the claimant, and not the defendant, must prove facts they raise before the court. |
| Proposes 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. | Introduces a compromise version of the rule on reimbursement of costs incurred by SLAPP victims, according to which if national law does not guarantee full coverage of the costs of legal representation beyond the statutory fees, Member States have to ensure that such costs are fully covered, unless these costs are excessive. |
| Proposed that Member States must take the necessary measures to ensure that a person | Deletes the rule on compensation for SLAPP victims and as a compromise, introduces |

| | |
|---|---|
| <p>who has suffered harm as a result of an abusive court proceedings against public participation is able to claim and obtain full compensation for that harm.</p> | <p>'payment of compensation for damages' where courts or tribunals may impose effective, proportionate and dissuasive penalties, or other equally effective appropriate measures, including the payment of compensation for damages or the publication of the court decision, where provided for in national law, on the party who brought those proceedings.</p> |
| <p>Proposed that Member States must provide that courts or tribunals dealing with abusive court proceedings against public participation may impose effective, proportionate and dissuasive penalties on the party who brought those proceedings.</p> | <p>Introduces the requirement for Member States to provide SLAPP victims with access to information and to publish the judgments delivered by the highest courts in SLAPP cases in an electronic format.</p> |

Source: Compiled by L&RS from European Parliament, Legislative Train Schedule, '[Initiative against abusive litigation targeting journalists and rights defenders In "A New Push for European Democracy"](#)', European Parliamentary Research Service, '[Strategic lawsuits against public participation \(SLAPPs\)](#)', Briefing: EU Legislation in Progress, February 2024 and [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/2022/177 final](#)

The final text of the proposed law was approved by the European Parliament (27 February 2024) and by the Council (19 March 2024), and was officially signed (on 11 April 2024), appearing in the Official Journal of the European Union (official publication for EU legislation) on 16 April 2024. Member States have until 7 May 2026 to implement the Directive into their legal systems.³⁸

While the Anti-SLAPP Directive is regarded by most as a vital step forward towards safeguarding the rule of law in the EU, commentators have observed:

... its limitations render it crucial that Member States treat the Directive as a foundation and build national legislation which is more robust in substance and more far-reaching in scope.³⁹

As mentioned above, the Centre for Media Pluralism and Media Freedom (CMPF) developed the Media Pluralism Report and in its most recent report, [Monitoring Media Pluralism in the European Union: Results of the MPM2025](#), the CMPF found that many key issues highlighted in previous reports around SLAPPs remain. These include the fact that in 21 out of the 32 countries analysed by CMPF, defamation remains a crime, and in some cases is punishable by imprisonment.⁴⁰ As the [EU Anti-SLAPP Directive \(Directive \(EU\) 2024/1069\)](#) only applies to civil or commercial matters with cross-border implications, it does not provide protection for those targeted by abusive criminal proceedings. CMPF suggest:

It would be desirable that this transposition includes domestic and criminal cases too, considering that the Directive only focuses on cross-border civil lawsuits, while most SLAPPs are domestic and might involve criminal charges.⁴¹

Council of Europe Recommendation

On 5 April 2024, the Committee of Ministers of the Council of Europe (international organisation focused on human rights, democracy, and the rule of law) adopted [Recommendation CM/Rec\(2024\)2 on countering the use of strategic lawsuits against public participation \(SLAPPs\)](#). As with recommendations from the European Commission, recommendations from the Council of Europe are also non binding but are intended to guide Member States to respond to SLAPPs with effective strategies.

Recommendation CM/Rec(2024)2 defines the concepts of public participation and public interest broadly, extending it to everyone including civil society organisations, environmental associations and activists, academics and human rights defenders, not just journalists and other media actors. The guidelines within the Recommendation are intended to apply to civil lawsuits, as well as to administrative and criminal law and the Recommendation covers both domestic and other types of SLAPPs, such as cross-border, multiple or coordinated, and SLAPPs targeting anonymous public participation. Recommendation CM/Rec(2024)2 also provides ten indicators to assist Member States in identifying SLAPPs. These include:

- the claimant tries to exploit an imbalance of power, such as their financial advantage or political or societal influence, to put pressure on the defendant
- the arguments put forward by the claimant are partially or fully unfounded
- the remedies requested by the claimant are disproportionate, excessive or unreasonable
- the claims amount to abuse of laws or procedures.⁴²

Irish law

Defamation (Amendment) Bill 2024

The [Defamation \(Amendment\) Bill 2024](#) (the Bill) was published on 2 August 2024 and at the time of writing was at Committee stage in the Seanad. The Bill intends to amend the [Defamation Act 2009](#) (2009 Act) introducing several significant changes to Irish defamation law. One of the changes being introduced under Part 7 of the Bill is new measures to tackle strategic lawsuits against public participation (SLAPPs) to give effect to the [EU Anti-SLAPP Directive \(Directive \(EU\) 2024/1069\)](#). The Directive provides for minimum requirements that Member States must transpose into their own legal systems to ensure they are in compliance with the Directive's goal.

The Bill Digest for the Bill can be accessed [here](#). The following part of the Note sets out the relevant section of the Bill at the time it was presented at Second Stage to Dáil Éireann.

Part 7 of the Defamation (Amendment) Bill 2024

Part 7 contains section 17 of the Bill which inserts a new Part 4A into the 2009 Act, titled 'Additional Provisions Regarding Defamation Proceedings Relating to Engagement in Public Participation'. This will introduce eight new sections dealing with what can be identified as potential 'SLAPP' proceedings. 'SLAPP' stands for 'Strategic Lawsuits Against Public Participation', which are essentially abusive proceedings taken in the form of an unfounded defamation action, that are an attempt to prevent or restrict public participation.

The proposed section 34A to be inserted by the Bill provides for several definitions including 'public participation', 'matter of public interest' as well as 'abusive court proceedings against public participation'. Abusive court proceedings against public participation is defined as

“...defamation proceedings or part thereof that pursue unfounded claims and that are not brought to genuinely assert or exercise a right, but that have as their main purpose the prevention, restriction or penalisation of public participation, frequently exploiting an imbalance of power between the parties...”.⁴³

This definition largely reflects the definition of 'abusive court proceedings against public participation' contained in Article 4 of the [Directive \(EU\) 2024/1069](#).⁴⁴

As highlighted above, the objective of Directive (EU) 2024/1069 is to provide 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. It applies to matters of a civil or commercial nature (but not criminal) with cross-border implications. No other legislation dealing with SLAPPs exists at the EU level and, although Member States have until 7 May 2026 to transpose its provisions into national law,⁴⁵ Ireland is only one of three countries who, as of February 2024, had taken steps to introduce specific measures to address SLAPPs.⁴⁶ Malta has now transposed the EU Directive but the anti-SLAPP law in Malta has been criticised for not going far enough by various organisations.⁴⁷

The definitions of 'public participation' and 'matter of public interest' also mirror those in Article 4 of [Directive \(EU\) 2024/1069](#). New section 35B provides that Part 4A applies to defamation

proceedings relating to the engagement by a person in public participation, including those falling within the scope of Article 2 of [Directive \(EU\) 2024/1069](#). New section 35C provides that where a defendant in defamation proceedings is of the view that these have been initiated due to their engagement in ‘public participation’ and falls within the scope of Article 2 of [Directive \(EU\) 2024/1069](#), the defendant must inform the court of this.

New section 35D provides that where the defendant in defamation proceedings relating to the engagement by them in public participation makes such an application for security for costs, the court must act as quickly as possible to determine the application, in accordance with the administration of justice.

New section 35E refers to an application to strike out a claim or appeal as ‘manifestly unfounded’. Such applications must be heard as quickly as possible consistent with the administration of justice. ‘Manifestly unfounded’ in this context includes:

- where the legal argument is unnecessary,
- an abuse of the process of the court or,
- could unreasonably prejudice or delay a fair trial of the action.

It also refers to when the claim:

- discloses no reasonable cause of action
- amounts to an abuse of the process of the court,
- is bound to fail,
- has no reasonable chance of succeeding, or
- the statement in respect of which the proceedings have been brought is not reasonably capable of being found to have a defamatory meaning.

During pre-legislative scrutiny, the Ireland Anti-SLAPP Network, which is a coalition of civil society organisations, media lawyers, and academics working together against SLAPPs, in its [opening statement to the Joint Committee on Justice](#) proposed that the threshold of ‘manifestly unfounded’ under Head 26 of the General Scheme “was high and may preclude some SLAPP cases from being struck out.” It also submitted that the definition of a SLAPP should “be made more inclusive and include - rather than be limited to - the “features of concern” proposed under Head 24” of the General Scheme.⁴⁸ The Joint Committee on Justice included these recommendations in its [Report on Pre-Legislative Scrutiny of the General Scheme of the Defamation \(Amendment\) Bill](#) published in September 2023 and these appear to have been incorporated into the final Bill.

The new section 34F provides that where an application is made to strike out a claim under section 34E, the defendant may also apply for a declaration from the court that the defamation proceedings amount to ‘abusive court proceedings against public participation’. Where the court makes such a declaration, it must take this into account, as much as it considers appropriate, when awarding costs. The court may also order all types of costs of the proceedings to be awarded, including the costs of legal representation incurred by the defendant. This provides an additional layer of protection for defendants in such proceedings.

The new section 34G provides that in defamation proceedings against a defendant relating to their engagement in public participation, they can apply, before, during or at the end of the trial of the action for a declaration by the court that the proceedings or part of them amount to ‘abusive court proceedings against public participation’. When making a declaration, the court must as far as it considers appropriate, take that declaration into account when making an order relating to costs. As with section 34F, the court may order all types of costs of the proceedings to be awarded, including the costs of legal representation incurred by the defendant. This again provides an additional layer of protection for defendants in such proceedings.

Finally, the new section 34H provides that where the Circuit Court finds defamation proceedings to be ‘abusive court proceedings against public participation’, then the order related to that decision and any written judgment must be published on the Courts Service website, where feasible and as soon as possible.

Commentary on Part 7 of Defamation (Amendment) Bill

There have been some observations around the limitations of the introduction of SLAPPs into Irish law, primarily that protection will only be provided from defamation claims. Ireland’s Anti-SLAPP Network released a statement in response to what it considers is a failure of the Defamation (Amendment) Bill to protect public interest speech.⁴⁹ Specifically, it states that the Bill:

... falls short of transposing the Directive’s full set of minimum standards and protections, which Ireland is legally required to implement in full by May 2026. The anti-SLAPP provisions in the Bill apply only to defamation proceedings, even though SLAPPs frequently exploit other causes of action including privacy, copyright, and data protection to intimidate and silence public interest speech. The government has provided no clear explanation of how it intends to extend protections beyond defamation in line with its EU obligations.⁵⁰

The statement goes on to warn:

The legislation also omits key components of the Directive that could have been readily included. These include provision for third-party interventions in support of SLAPP defendants (Article 9), security for damages (Article 10) and a reversal of the burden of proof (Article 12). The legislation also fails to incorporate the protections against SLAPPs initiated in non-EU countries (Articles 16 and 17). By failing to incorporate these core safeguards, the Irish government exposes itself to potential infringement proceedings from the European Commission.⁵¹

On 9 July 2025, during Second Stage in the Seanad, the Minister for Justice, Home Affairs and Migration, Jim O’Callaghan, T.D., acknowledged the concern that not all the details of the SLAPP Directive had been transposed with the Bill but noted that it was “appropriate that we just transpose the defamation aspect of the SLAPP directive into the Defamation (Amendment) Bill.”⁵² He stated that other aspects of the SLAPP Directive will, where possible, “be transposed in other

legislation or through secondary legislation, if possible.”⁵³ The Minister went on to observe that SLAPPs were not that prevalent in Ireland and that he had not seen examples of SLAPPs but was interested to hear from other Members if they had. He noted also that “it is all very subjective. One person's SLAPP is another person's constitutional right to respect his or her good name.”⁵⁴

During the debate, Senator Linda Nelson Murray observed that “...in Ireland, with 5.3 million people living in the country, we have the exact same number of defamation cases as the entire UK.”⁵⁵ This appears to reflect the data presented in Figure 1 from the 2024 CASE report above which shows that both Ireland and the U.K. have 33 reported SLAPPs between 2010-2023. Several Senators during the debate pointed to the fact that they considered that the Bill does not go far enough and brought forward several Committee amendments including a stronger test instead of ‘manifestly unfounded’ for establishing a SLAPP and procedures including the ability to stay (pause) proceedings.

A new Strategic Lawsuits Against Public Participation Bill has been introduced onto the [Autumn 2025 Government Legislation Programme](#) “to transpose the Anti-SLAPP Directive in so far as it is not already provided for in the Defamation (Amendment) Bill 2024. This Bill will extend the safeguards to all civil and commercial matters as required by the Directive.”⁵⁶ The SLAPP Bill is currently under All Other Legislation and the Legislative Programme advises that the Heads of the Bill are in preparation.

Example of non-defamation SLAPP in Irish law

While SLAPPs are most often taken as defamation claims, they can also be taken in other areas and that is one of the challenges in trying to protect against them. One such recent example in Ireland [reported in the Irish Times](#), involved a former landlord who tried to use new anti-stalking laws to “silence” a journalist, and prevent her from writing stories about him for five years by taking out a civil restraining order against her.⁵⁷ Judge Anthony Halpin dismissed the case, expressing his shock at the law being used in this way, and held that the claimant “endeavoured to use this legal remedy to ‘suppress’ the legitimate publication of facts he did not want in the public domain.”⁵⁸ The Court ordered the claimant to pay the journalist’s legal bill and counsel for the journalist, Ronan Lupton SC, “described the civil restraining order application as a collateral attack that trampled on the right of freedom of expression.”⁵⁹ The journalist had previously written about the same landlord, exposing subletting overcrowded substandard accommodation including a five bedroom house which had 70 tenants.⁶⁰

Conclusion

This Note has provided Members with a broad overview of developments in relation to SLAPPs in the US, the EU and in Ireland. SLAPPs are clearly a very real and concerning threat to the right to freedom of expression and to access public information, rights which are central to a well functioning democracy and one which upholds the rule of law. The EU Anti-SLAPP Directive is a significant step forward in offering protection against SLAPPs but it remains to be seen if it goes

far enough, particularly in the context of shifting geopolitical uncertainty and the digital transformation of information access and sharing.

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