

Strategic Lawsuits Against Public Participation

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Abstract

The Strategic Lawsuits Against Public Participation Bill 2026 proposes to complete transposition of the EU Anti-SLAPP directive ([Directive \(EU\) 2024/1069](#)). Part 7 of the [Defamation \(Amendment\) Act 2026](#) introduced safeguards to prevent strategic litigation against public participation (SLAPPs) in defamation proceedings only. Primarily, the Bill intends to introduce procedural safeguards to SLAPPs in respect of all other civil and commercial proceedings outside of defamation proceedings.



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Executive Summary

- The [Strategic Lawsuits Against Public Participation Bill 2026](#) ('the Bill') was published on 1 July 2026 and is scheduled for Second Stage debate on Tuesday 29 September 2026 in Dáil Éireann.
- Part 7 of the [Defamation \(Amendment\) Bill](#) (now the Defamation (Amendment) Act), introduced new measures intended to complete transposition of [Directive \(EU\) 2024/1069 of the European Parliament and of the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings](#) ('the EU Anti-SLAPP directive') by combatting abusive court proceedings against public participation (SLAPPs) in defamation proceedings only. The [Bill Digest](#) for the Defamation (Amendment) Bill was published on 18 September 2024 and provides an overview of how the Defamation (Amendment) Bill (now the Defamation (Amendment) Act 2026) proposed to amend the law on defamation in Ireland, including introducing SLAPPs in defamation proceedings only.
- The Bill contains 16 sections across four Parts and proposes to complete transposition of the EU Anti-SLAPP directive' by introducing procedural safeguards to combat abusive court proceedings against public participation (SLAPPs) in respect of all other civil and commercial proceedings outside of defamation proceedings.
- The Bill also proposes to repeal Part 7 of the [Defamation \(Amendment\) Act 2026](#) ('the 2026 Act') which introduced safeguards to prevent SLAPPs in defamation proceedings only.¹ It intends to insert an updated Part 4A directly into the Defamation Act 2009 and also to extend application of the provisions to domestic cases.
- The Bill was granted a waiver from pre-legislative scrutiny by the Oireachtas Committee on Justice, Home Affairs and Migration on 9 March 2026.²
- The policy and legal background has already been set out in detail in the [L&RS Note on Strategic Lawsuits Against Public Participation \(SLAPP\)](#) and members can also access the [Bill Resource page](#) which provides links to select media, parliamentary materials, Government publications, commentary, related legislation and relevant EU law. (available internally only).

¹ For information on the Defamation (Amendment) Bill see Oireachtas Library & Research Service, 2024. [L&RS Bill Digest: Defamation \(Amendment\) Bill 2024. Bill No. 67 of 2024.](#)

² Email correspondence with the officials from the Department of Justice, Home Affairs and Migration.

Contents

Executive Summary	2
Introduction.....	4
Purpose of proposed legislation	4
Background.....	6
EU Anti-SLAPP Directive	6
European Commission Recommendation (EU) 2022/758	7
Previous related legislation.....	8
Regulatory Impact Analysis (RIA)	9
Overview of approaches in other jurisdictions.....	10
Malta.....	10
Poland	11
Legislative proposal	13
Principal provisions of the Bill.....	13
Part 1	13
Part 2	14
Part 3	16
Part 4	19

Table of Tables

Table 1 Glossary and abbreviations 3

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Term	Meaning
CMPPF	Centre for Media Pluralism and Media Freedom
EU Anti-SLAPP Directive	Directive (EU) 2024/1069 of the European Parliament and of the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings
MPM	Media Pluralism Monitor
Recommendation (EU) 2022/758	Recommendation (EU) 2022/758 on protecting journalists and human rights defenders from unfounded or abusive court proceedings (Recommendation (EU) 2022/758)
SLAPP	Strategic Litigation Against Public Participation

Source: Compiled by the Library & Research Service

Introduction

The [Strategic Lawsuits Against Public Participation Bill 2026](#) ('the Bill') was published on 1 July 2026 and is scheduled for Second Stage debate on Tuesday 29 September 2026 in Dáil Éireann. The General Scheme of the Bill was [published on 11 February 2026](#) in a joint press release also announcing the passage of the Defamation (Amendment) Bill through both houses of the Oireachtas.³ Announcing the publication of the General Scheme, Minister for Justice, Home Affairs and Migration, Jim O'Callaghan stated:

Strategic Lawsuits Against Public Participation (SLAPPS) are recognised, nationally and internationally, as a significant challenge to press freedom, and a danger to democracy itself, given the effect they have on the work of investigative journalists and others including those involved in protection of human rights.

The EU Anti-SLAPP Directive requires minimum protective measures to be available for those targeted by manifestly unfounded or abusive civil proceedings as a result of their engagement in matters of public interest.

Our legislation will however go beyond the minimum requirements of the directive - in that it will apply to all defamation proceedings not just to those with cross-border implications.⁴

The Bill was granted a waiver from pre-legislative scrutiny by the Oireachtas Committee on Justice, Home Affairs and Migration on 9 March 2026.⁵

This Bill Digest sets out the aim and purpose of the Bill and provides a short summary of the policy and legal background, which has already been set out in the [L&RS Note on Strategic Lawsuits Against Public Participation \(SLAPP\)](#). It also provides an analysis of the principal provisions of the Bill. Members can access the [Bill Resource page](#) which provides links to select media, parliamentary materials, Government publications, commentary, and relevant EU law (available internally only).

Purpose of proposed legislation

The Strategic Lawsuits Against Public Participation Bill proposes to complete transposition of [Directive \(EU\) 2024/1069 of the European Parliament and of the Council of 11 April 2024 on](#)

³ Department of Justice, Home Affairs and Migration, '[Minister Jim O'Callaghan announces passage of Defamation Bill through Oireachtas and publishes General Scheme of SLAPPS Bill](#)', *Press Release*, 11 February 2026.

⁴ Department of Justice, Home Affairs and Migration, '[Minister Jim O'Callaghan announces passage of Defamation Bill through Oireachtas and publishes General Scheme of SLAPPS Bill](#)', *Press Release*, 11 February 2026.

⁵ This was advised in email correspondence with officials from the Department of Justice, Home Affairs and Migration.

protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings (‘the EU Anti-SLAPP directive’) by introducing procedural safeguards to combat abusive court proceedings against public participation (SLAPPs) in respect of all other civil and commercial proceedings outside of defamation proceedings. Part 7 of the *Defamation (Amendment) Act 2026* (‘the 2026 Act’) introduced safeguards to prevent SLAPPs in defamation proceedings only.⁶ The Bill proposes to repeal Part 7 of the 2026 Act and insert an updated Part 4A directly into the *Defamation Act 2009*. The Bill also intends to extend application of the provisions to domestic cases.

⁶ For information on the Defamation (Amendment) Bill see Oireachtas Library & Research Service, 2024. [L&RS Bill Digest: Defamation \(Amendment\) Bill 2024, Bill No. 67 of 2024.](#)

Background

As noted in the introduction, the policy and legal context of the Bill has been set out in the [L&RS Note on Strategic Litigation Against Public Participation \(SLAPP\)](#) ('the SLAPP Note') which was published in September 2025. The SLAPP Note provides a broad overview of developments in relation to SLAPPs in the US, the EU and Ireland and includes a summary of [Directive \(EU\) 2024/1069](#)⁷ (the 'EU Anti-SLAPP Directive') which is the basis for the changes proposed by this Bill. It also examines Part 7 of the [Defamation \(Amendment\) Bill](#) (now the Defamation (Amendment) Act), which introduced new measures to tackle SLAPPs in defamation proceedings only. The [Bill Digest](#) for the Defamation (Amendment) Bill was published on 18 September 2024 and provides an overview of how the Defamation (Amendment) Bill (now the Defamation (Amendment) Act 2026) proposed to amend the law on defamation in Ireland, including introducing SLAPPs in defamation proceedings only.

EU Anti-SLAPP Directive

The objective of the EU Anti-SLAPP Directive 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 to criminal matters with cross-border implications. The EU Anti-SLAPP Directive was published in the Official Journal of the European Union on 16 April 2024 and entered into force on 6 May 2024⁸ and Member States had until 7 May 2026 to implement it into their legal orders.⁹ A press release from the European Commission on 15 July 2026 advised that it has decided to open infringement procedures by sending letters of formal notice to 14 Member States, including Ireland, for failing to communicate complete transposition of the EU Anti-SLAPP Directive.¹⁰

⁷ [European Parliament and of the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings \('Strategic lawsuits against public participation'\)](#).

⁸ The Official Journal is the official publication (gazette) for EU legal acts, other acts and official information from EU institutions, bodies, offices and agencies. Directives require EU countries to achieve a certain result but leave individual countries to devise their own laws to reach these goals. EU countries must adopt measures to incorporate them into national law (transpose) in order to achieve the objectives set by the directive - see European Commission, '[Types of EU Law](#)' (accessed 28 April 2026).

⁹ European Parliament, Legislative Train Schedule, '[Initiative against abusive litigation targeting journalists and rights defenders in "A New Push for European Democracy"](#)', 20 August 2024.

¹⁰ European Commission, '[Commission takes action to ensure complete and timely transposition of EU directives](#)', *Press release*, 15 July 2026. The other countries are Bulgaria, Czechia, Germany, Greece, Spain, Italy, Luxembourg, Hungary, the Netherlands, Austria, Portugal, Romania, and Slovakia.

The **Centre for Media Pluralism and Media Freedom** (CMPF) carries out research on the state of the media across Europe and beyond and has developed a scientific tool called the **Media Pluralism Monitor** (MPM) to assess potential weaknesses in national media systems that could hinder media pluralism.¹¹ The EU considers media pluralism and freedom as “the pillars of modern democracy and enablers of free and open debate”¹², which flow from the right to freedom of expression under Article 11 of the EU Charter of Fundamental Rights (the ‘Charter’) and Article 10 of the European Convention on Human Rights (the ‘ECHR’). Potential weaknesses identified by the CMPF include the presence of SLAPPs and it has observed that:

It would be desirable that this transposition [of the EU Anti-SLAPP Directive] 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.¹³

The **MPM 2026** also noted that the EU Anti-SLAPP Directive “focuses on cross-border civil lawsuits, which however only account for 8,5% of the SLAPP cases across Europe”.¹⁴ It should be noted that while Ireland does not have a criminal offence of defamation there are countries where it is a criminal offence. This will be briefly touched upon in the section on other jurisdictions.

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. However, they can offer guidance on the interpretation or content of EU law.¹⁵ Recommendation (EU) 2022/758 is part of a set of measures, together with the **EU Anti-SLAPP Directive (Directive (EU) 2024/1069)**, which were announced in the **European Democracy Action Plan**. 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.¹⁶ This guidance was largely

¹¹ The MPM focuses on four key areas of media pluralism — Fundamental Protection, Market Plurality, Political Independence, and Social Inclusiveness and assesses risk in each of the four areas as well as assigning a general risk score to each of the 27 countries assessed under the MPM. It uses a six-tier risk scale: Very low risk, Low risk, Medium-low risk, Medium-high risk, High risk and Very high risk.

¹² European Commission, ‘**Media freedom and pluralism**’, webpage, (last accessed 21 August 2026).

¹³ Centre for Media Pluralism and Media Freedom, ‘**Monitoring Media Pluralism in the European Union – Results of the MPM 2026**’, June 2026 at 42.

¹⁴ Centre for Media Pluralism and Media Freedom, ‘**Monitoring Media Pluralism in the European Union – Results of the MPM 2026**’, June 2026 at 38.

¹⁵ See <https://eur-lex.europa.eu/EN/legal-content/glossary/recommendation.html>

¹⁶ See <https://eur-lex.europa.eu/EN/legal-content/glossary/recommendation.html>

reiterated in Recommendation CM/Rec(2024)2 on countering the use of strategic lawsuits against public participation (SLAPPs), which was adopted on 5 April 2024, by the Committee of Ministers of the Council of Europe (international organisation focused on human rights, democracy, and the rule of law).

Previous related legislation

- *Defamation (Amendment) Act 2026*
- *Defamation Act 2009*
- *Personal Injuries Assessment Board Act 2003*

Regulatory Impact Analysis (RIA)

The [Regulatory Impact Analysis \(RIA\) for the Bill](#), dated December 2025, was made available online on 30 April 2026.¹⁷ The RIA contains three policy options as follows:

1. Do Nothing
2. Transpose the remaining requirements of the Directive by secondary legislation.
3. Transpose the remaining requirements of the Directive by primary legislation through a Strategic Lawsuits Against Public Participation Bill.

The RIA undertakes an analysis of costs, benefits, and impacts for all options in regard to drafting the Bill.

For Option 1, the RIA notes that this could give rise to significant financial and reputational risks and therefore the option was not recommended. The RIA also does not recommend Option 2 for several reasons, including that the protections contained in the [EU Anti-SLAPP Directive \(Directive \(EU\) 2024/1069\)](#) would not apply to domestic proceedings without primary legislation. It could also give rise to legal risks if transposition takes place through secondary legislation alone. Option 3 is the recommended approach as the RIA observes that there is an increasing recognition that SLAPPs are being used in cases outside of defamation proceedings, including data protection. The RIA notes that it is not expected that Option 3 will give rise to any additional costs and that this option will extend the protections contained in the [EU Anti-SLAPP Directive \(Directive \(EU\) 2024/1069\)](#) to domestic proceedings, which the RIA suggests is the intention expressed by the majority of EU Member States.

¹⁷ Department of Justice, Home Affairs and Migration, '[Minister Jim O'Callaghan announces passage of Defamation Bill through Oireachtas and publishes General Scheme of SLAPPS Bill](#)', *Press Release*, published on 11 February 2026 and last updated on 30 April 2026.

Overview of approaches in other jurisdictions

The following section provides a brief overview of the approach to SLAPPs in selected jurisdictions where the Directive has been transposed into domestic law. For these purposes, this section will focus on two countries – Malta and Poland.

Malta

In July 2024, Malta's government transposed the EU Anti-SLAPP Directive by means of Legal Notice 177 of 2024, which introduces the [Strategic Lawsuits Against Public Participation \(SLAPP\) Order](#).¹⁸ The Strategic Lawsuits Against Public Participation (SLAPP) Order applies to civil or commercial proceedings of a cross-border nature and does not apply in criminal matters or arbitration. The Order provides for security for costs and early dismissal with a cap of €10,000 for a dissuasive penalty on the plaintiff at the discretion of the Court. It also states that legal aid will be provided for such proceedings.

This is against the backdrop of the assassination of Daphne Caruana Galizia, a Maltese journalist, in 2017 by an explosive device planted under her car seat outside her home in Malta. At the time of her death, she faced 48 lawsuits in Malta and other countries attempting to deter her from her investigations and reporting.¹⁹ As noted by Commissioner McGrath at the High-Level Event on Combatting Strategic Lawsuits Against Public Participation (SLAPPs) in May 20206, Daphne's death "sounded an alarm across Europe and marked a turning point. It triggered awareness. It mobilised civil society. And it drove political action"²⁰, ultimately culminating in the [EU Anti-SLAPP package](#).

While the Maltese Government states that it was the first country to transpose the EU's Anti-SLAPP Directive, "... once again being a catalyst of change in favour of the best interests of journalists..."²¹ the Maltese law has faced criticism. This has included claims that the "legislation is not strong enough and limits its provisions to cases instituted in foreign courts and concerning transnational issues."²² In January 2025 it was reported that Malta's Opposition attempted to introduce amendments to the law to apply to domestic cases and

¹⁸ See Legislation Malta - <https://legislation.mt/eli/sl/460.40/eng>

¹⁹ 'Speech by Commissioner McGrath at the High-Level Event on Combatting Strategic Lawsuits Against Public Participation (SLAPPs)', 7 May 2026.

²⁰ 'Speech by Commissioner McGrath at the High-Level Event on Combatting Strategic Lawsuits Against Public Participation (SLAPPs)', 7 May 2026.

²¹ 'Malta transposes EU's anti-SLAPP directive', *Times of Malta*, 31 July 2024.

²² Daniel Ellul, 'Government shoots down PN amendments to anti-SLAPP law', *Times of Malta*, 29 January 2025.

increase penalties a court can impose on anyone who initiates a vexatious SLAPP suit but these were rejected by the Maltese Government.²³

In the [MPM 2026](#), Malta received an overall general assessment of 71%, which is classified as high risk and the second highest from the results of the MPM 2026.²⁴ The [MPM 2026 Country Report on Malta](#) highlighted that while the Strategic Lawsuits Against Public Participation (SLAPP) Order was introduced that “nothing changed in practice”²⁵. It also observed that “the law does not cover domestic SLAPP cases” and “Malta remains the country with the highest number of SLAPPs per capita in Europe (Coalition Against SLAPPs in Europe, 2026).”²⁶

Poland

Reports from the International Federation of Journalists advise that on 19 June 2026, the Polish President, Karol Nawrocki, signed into law the Act on Special Protection Measures in Civil Proceedings for Persons Participating in Public Debate known as the ‘Anti-SLAPP Act’.²⁷ It stated that the legislation will offer protection against SLAPPs, both domestic and cross-border lawsuits, thus appearing to implement the EU Anti-SLAPP Directive and Council of Europe recommendation on SLAPP.²⁸ The Anti-SLAPP Act includes early dismissal mechanisms for vexatious lawsuits, security deposits for claimants, and the reversal of the burden of proof on the claimant in SLAPP cases. As highlighted by [Article 19](#), an international human rights organisation campaigning for freedom of expression and information, the effectiveness of the protections offered under the Anti-SLAPP Act “will depend significantly on judicial practice”.²⁹

While journalistic organisations welcomed the law as a “step in the right direction”³⁰, defamation remains a criminal offence under Article 212 of the Penal Code and is “frequently used in the country to target journalists, activists, and whistleblowers acting in the public

²³ Daniel Ellul, ‘[Government shoots down PN amendments to anti-SLAPP law](#)’, *Times of Malta*, 29 January 2025.

²⁴ Hungary is the highest at 75% overall risk score - see Centre for Media Pluralism and Media Freedom, ‘[Monitoring Media Pluralism in the European Union – Results of the MPM 2026](#)’, June 2026 at 13.

²⁵ Centre for Media Pluralism and Media Freedom, ‘[Monitoring media pluralism in the European Union: results of the MPM2026. Country report: Malta](#)’, June 2026 at 6.

²⁶ Centre for Media Pluralism and Media Freedom, ‘[Monitoring media pluralism in the European Union: results of the MPM2026. Country report: Malta](#)’, June 2026.

²⁷ International Federation of Journalists, ‘[Poland: New Anti-SLAPP law strengthens protection for media freedom](#)’, 25 June 2026.

²⁸ International Federation of Journalists, ‘[Poland: New Anti-SLAPP law strengthens protection for media freedom](#)’, 25 June 2026.

²⁹ Article 19, ‘[Poland: Anti-SLAPP Act is a victory for media freedom](#)’, 23 June 2026.

³⁰ International Federation of Journalists, ‘[Poland: New Anti-SLAPP law strengthens protection for media freedom](#)’, 25 June 2026.

interest.”³¹ Article 19 also observed that Poland has experienced some of the highest numbers of SLAPPs for a long time according to the Coalition Against SLAPPs in Europe (CASE).³²

The MPM 2026 was published prior to the enactment of the new Anti-SLAPP Act in Poland, therefore its findings do not reflect the most up to date position. Nevertheless, Poland received an overall assessment of 52% risk which is a medium high score, ranking 17 out of the 27 countries assessed as part of the MPM.³³

³¹ International Federation of Journalists, ‘[Poland: New Anti-SLAPP law strengthens protection for media freedom](#)’, 25 June 2026.

³² Article 19, ‘[Poland: Anti-SLAPP Act is a victory for media freedom](#)’, 23 June 2026.

³³ Centre for Media Pluralism and Media Freedom, ‘[Monitoring media pluralism in the European Union: results of the MPM2026. Country report: Poland](#)’, June 2026 at 5.

Legislative proposal

The Strategic Lawsuits Against Public Participation Bill 2026 contains 16 sections across four Parts. According to the Long Title of the Bill, the Bill proposes to give further effect to the EU Anti-SLAPP Directive, apply to domestic cases not just cross border ones, amend the *Defamation Act 2009*, and repeal sections 19 and 20 of the *Defamation (Amendment) Act 2026*, as well as related matters. The following section provides an analysis of the Principal Provisions of the Bill but does not purport to provide an exhaustive examination of all issues raised by the Bill.

Principal provisions of the Bill

Part 1

Part 1 of the Bill contains **sections 1 to 3**. Section 1 sets out the short title of the Bill once enacted as well as providing for the commencement of the Bill by Ministerial order, in whole or for particular provisions on particular days. Section 2 provides for definitions relevant to the Bill including “abusive court proceedings against public participation” and “matter of public interest” and “proceedings”. Section 3 provides for the repeal of sections 19 and 20 of the *Defamation (Amendment) Act 2026* which introduced SLAPPs in defamation cases. In a [letter from the Irish Human Rights and Equality Commission \(IHREC\) to the Minister on the General Scheme of the Strategic Lawsuits Against Public Participation Bill](#), IHREC recommended the definition of “proceedings” as defined in the General Scheme, should include:

“procedures for interim and precautionary measures and counteractions [or ‘counter-claims’, to align with the wording of the Defamation (Amendment) Bill]” to ensure that interlocutory proceedings in the context of both defamation actions or other civil actions are included.”³⁴

It appears that this has not been incorporated into the definition of “proceedings” within the Bill. It is also of note that IHREC made a general observation that criminal conduct such as exploitation, intimidation, harassment and/or threats can all form components of criminal offences under Irish law and may be used in SLAPPs. While Ireland does not have a criminal offence of defamation such as in countries like Poland, IHREC did recommend that “such criminal conduct should be prosecuted alongside the protections of the Anti-SLAPP Directive and the General Scheme.”³⁵

³⁴ Irish Human Rights and Equality Commission, ‘[Letter to Minister O’Callaghan on the General Scheme of the Strategic Lawsuits Against Public Participation Bill](#)’, March 2026. All of the observations from the letter are not included in this Bill Digest.

³⁵ Irish Human Rights and Equality Commission, ‘[Letter to Minister O’Callaghan on the General Scheme of the Strategic Lawsuits Against Public Participation Bill](#)’, March 2026.

Part 2

Part 2 of the Bill contains **sections 4 to 14** relating to the transposition of the EU Anti-SLAPP Directive in civil and commercial proceedings and its application to domestic as well as cross border proceedings. Section 4 of the Bill provides that Part 2 of the Bill applies to proceedings brought against a person on account of his or her engagement in public participation. Section 5 provides that a defendant who considers that proceedings have been initiated on account of their engagement in public participation, must inform the court of this. Section 6 of the Bill provides that a person or body with a *bona fide* interest in safeguarding or promoting the rights of a defendant may make written and oral submissions to the court. The submissions may be made following a request by the defendant and are permitted at the court's discretion. They may also provide assistance to the defendant other than by providing funding for the proceedings.

Section 7 proposes to allow the court, on the defendant's application, to require the plaintiff to provide security for the defendant's costs and/or any damages claimed by the defendant, where it considers there is a *prima facie* case that the proceedings are a SLAPP, and that having regard to the circumstances of the case it is in the interests of justice to do so. The amount of costs must be determined by the court, in the interests of justice, having regard to certain non-exhaustive indicators including the economic situation of both parties. Any determination of security for costs or an appeal to such an application, must be carried out as expeditiously as possible.

Section 8 of the Bill provides that a defendant may bring an application to strike out the claim as being manifestly unfounded, and the court must determine the application and any relevant appeal to it as expeditiously as possible. In such proceedings, the onus is on the plaintiff to substantiate their claim to enable the court to assess whether the claim is manifestly unfounded. The term 'manifestly unfounded' in relation to a claim, includes where—

(a) the indorsement or pleading—

- (i) is unnecessary,
- (ii) is an abuse of the process of the court, or
- (iii) in the case of an interim or interlocutory application, may unreasonably prejudice or delay the fair trial of the action, or

(b) the claim—

- (i) discloses no reasonable cause of action,
- (ii) amounts to an abuse of the process of the court,
- (iii) is bound to fail, or
- (iv) has no reasonable chance of succeeding.

IHREC in their letter to the Minister observed that the wording in the relevant Head 5(2) of ‘manifestly unfounded’ in the General Scheme “does not adequately transpose the Directive as the purpose of this concept is to serve as the threshold for the early dismissal of an entire claim.”³⁶ It noted that subsection (a) appears to relate to only part of a claim whereas subsection (b) relates to a full claim and recommended that it should be made clear that these are examples of an “abusive claim” rather than a “manifestly unfounded claim”. The wording in the Bill appears to be unchanged from the General Scheme.

Section 9 provides that a defendant may also make an application for a declaration by the court that the proceedings or part thereof amount to abusive court proceedings against public participation. Where the court makes such a declaration it must, insofar as it considers appropriate, take the declaration into account when making an award of costs or any other order providing for the payment of costs. The court also may where it thinks fit, order the costs to be paid as between ‘legal practitioner and client’³⁷ or on a ‘legal practitioner and own client’ basis, and must act as expeditiously as possible consistent with the administration of justice.

Section 10 proposes to allow the defendant before, during or at the conclusion of the trial of the action, to make an application for a declaration by the court that the proceedings or part thereof amount to abusive court proceedings against public participation. Where the court makes such a declaration, it provides that it must, insofar as it considers appropriate, take the declaration into account under the same criteria as outlined in section 9.

Section 11 of the Bill proposes that where there has been a finding under section 9 or 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. In deciding whether to make an order for damages, and determining the amount, the court must have regard to all of the circumstances of the case and the interests of justice. Section 11(2) sets out seven matters the court may consider when determining the amount of damages to be paid including the nature of the public participation concerned and the conduct of the proceedings. Where an application for an order for the payment of damages is made, the plaintiff and the defendant may make submissions to the court and give evidence, and the court may direct that evidence be given in relation to the application.³⁸ 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 their application for damages. Section 11(5) and section 11(6) provide that damages recoverable in the Circuit Court and the District Court, respectively, must

³⁶ Irish Human Rights and Equality Commission, ‘*Letter to Minister O’Callaghan on the General Scheme of the Strategic Lawsuits Against Public Participation Bill*’, March 2026.

³⁷ These are the costs which have been reasonably incurred, but may not have been absolutely necessary, and are not recoverable under usual ‘party and party’ costs. *Office of the Legal Costs Adjudicators*.

³⁸ Section 11(3) of the Bill.

not exceed the higher of any limit of those courts' jurisdictions for damages. Section 11(7) provides that the *Personal Injuries Assessment Board Act 2003* does not apply to an application for damages.

Section 12 of the Bill provides that where a court finds in the course of proceedings that the proceedings are abusive court proceedings against public participation, the court must direct that any written judgment of the court or, where there is no written judgment, any order of the court related to that finding, must be published on the website of the Courts Service where feasible and as soon as possible.

Section 13 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) provides that this will not affect the application of any bilateral or multilateral agreement between the State and a third country concluded before 6 May 2024.

Section 14 of the Bill provides for redress for abusive court proceedings against public participation taken by a plaintiff domiciled in a third country where the defendant is domiciled in the State. The defendant may make an application on notice to the plaintiff, for a declaration by a court in the State that the proceedings or part thereof amount to abusive court proceedings against public participation. The defendant may also make an application 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 have yet to conclude. Section 14 does not impact the application of any bilateral or multilateral agreement between the State and a third country concluded before 6 May 2024.

Part 3

Part 3 of the Bill consists of **section 15**, which inserts a new Part 4A (Additional Provisions Regarding Defamation Proceedings Brought on Account of Engagement in Public Participation) into the *Defamation Act 2009*. Part 7 (sections 19 and 20) of the *Defamation (Amendment) Act 2026* ('the 2026 Act') introduced safeguards to prevent SLAPPs in defamation proceedings by inserting a new Part 4A into the 2009 Act. Section 3 of the Bill proposes to repeal sections 19 and 20 of the 2026 Act.

Section 15 of the Bill proposes to insert a new Part 4A into the 2009 Act, largely mirroring the Part 4A introduced under the 2026 Act. Under the new proposed Part 4A, twelve sections from 34A to 34IB would be inserted into the 2009 Act. The new proposed section 34A deals with interpretation and largely reflects what is in the current section 34A of the 2009 Act, with the addition of the definition of 'plaintiff', 'defendant' and 'third country'. The proposed section 34B provides that Part 3 applies to defamation proceedings brought against a person on account of their engagement in public participation, including those falling within the scope of the EU Anti-SLAPP Directive. The new section 34C provides that where a defendant is of the view that defamation proceedings have been initiated on account of his or her engagement in

public participation, the defendant must inform the court of this. The proposed 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.

The new section 34D provides that a plaintiff may need to provide security for a defendant's costs and security for damages where the defendant has made such an application in defamation proceedings and the court is satisfied that the proceedings are abusive proceedings against public participation, and it is in the interests of justice to do so. The court must have regard to the circumstances of the case including factors such as whether the provision of security to the defendant would be unduly burdensome or prejudicial to the plaintiff, and the conduct of the proceedings by the parties. Section 34E 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 must decide that application as promptly as possible, consistent with the administration of justice. The plaintiff must substantiate their claim in order to enable the court to assess whether it is manifestly unfounded. It also provides numerous examples where a claim would be considered manifestly unfounded, such as where the indorsement or pleading is an abuse of the process of the court or the claim discloses no reasonable cause of action, or is an abuse of the court process.

The new section 34F provides that where a defendant applies to have a claim struck out as manifestly unfounded, they may also apply to the court for a declaration that the proceedings are abusive court proceedings against public participation. Where the court makes such a declaration, it must take the declaration into account when making an award of costs or any other order providing for the payment of costs. 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. The proposed section 34G 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. Where the court makes such a declaration, it must, 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 and must act as promptly as possible, consistent with the administration of justice.

The new proposed section 34H provides that the court may make an order for damages in the case of a section 34F or 34G declaration. It contains seven subsections and provides that the court, in its absolute discretion, can order the plaintiff to pay damages to the defendant as a

result of injury, loss or damage suffered by the defendant as a result of the proceedings.³⁹ In deciding whether to make an order and where applicable, determining the amount of any damages to be paid, the court must have regard to all of the circumstances of the case and the interests of justice, and may take into account certain matters as it considers appropriate including but not limited to the nature of the public participation concerned and the conduct of the proceedings.⁴⁰ Where an application for an order for damages is made, the plaintiff and defendant may make submissions to the court and give evidence, and the court may direct that evidence be given in relation to the application.⁴¹ Where the court makes an order under section 34H(1), the court may, if it considers it appropriate to do so, apply the provisions of section 34F(2) or 34G(2), as the case may be, to costs incurred as a result of an application made by the defendant under subsection (1)(b).⁴² Section 34H(5) provides that damages recoverable in the Circuit Court must not exceed the higher of any limit of that court's jurisdiction for damages. The *Personal Injuries Assessment Board Act 2003* must not apply to an application for damages.⁴³ Section 34H must not affect the operation of sections 31 and 32 of the 2009 Act, which relate to damages and aggravated and punitive damages in defamation proceedings.⁴⁴

The proposed section 34I of the Bill provides that where a court finds in the course of defamation proceedings that the proceedings are abusive court proceedings against public participation, it must direct that any written judgment of the court or, in the absence of a written judgment of the court, any order of the court, related to that finding, must be published on the website of the Courts Service where practicable and as soon as possible.

The new section 34IA of the Bill prohibits the recognition or enforcement of a judgment in defamation proceedings, which are 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 does not affect the application of any bilateral or multilateral agreements between the State and a third country concluded before 6 May 2024.

The proposed section 34IB of the Bill provides redress for abusive court proceedings against public participation initiated in a third country. A defendant in defamation proceedings brought in a third country on account of their public participation, domiciled in the State may make an application, on notice to the plaintiff, for a declaration by the court that those third country

³⁹ Section 34H(1) of the Bill.

⁴⁰ Section 34H(2) of the Bill.

⁴¹ Section 34H(3) of the Bill.

⁴² Section 34H(4) of the Bill.

⁴³ Section 34H(6) of the Bill.

⁴⁴ Section 34H(7) of the Bill.

proceedings amount to abusive court proceedings against public participation.⁴⁵ A defendant may apply for compensation in respect of the damage and costs incurred in connection with the third country proceedings.⁴⁶ The court may stay the proceedings before it where the proceedings before the court or tribunal of the third country are not concluded.⁴⁷ This section does not affect the application of any bilateral or multilateral agreement between the State and a third country concluded before 6 May 2024.⁴⁸

Part 4

Part 4 of the Bill consists of **section 16**, which provides for the amendment of section 21 of the *Defamation (Amendment) Act 2026* to delete “(inserted by section 19)”. Section 19 and 20 of the 2026 Act are being repealed by section 3 of the Bill.

⁴⁵ Section 32IB(1) of the Bill.

⁴⁶ Section 34IB(2) of the Bill.

⁴⁷ Section 34IB(3) of the Bill.

⁴⁸ Section 34IB(4) of the Bill.