

Commissions Actions to Tackle SLAPPs

Anna Pinggen

News

On 27 April 2022, the Commission proposed a [new Directive and complementary Recommendation](#) in order to tackle strategic lawsuits against public participation ('SLAPPs'), which constitute a particular form of harassment directed primarily against journalists and human rights defenders to prevent them from or penalise them for speaking up on issues of public interest. The Commission's measures follow the [European Democracy Action Plan](#) (December 2021) and the Commission's first [Recommendation to Member States on the safety of journalists](#) (September 2021). The prevalence of SLAPPs as a matter of serious concern in some Member States had also already been identified in the 2020 and 2021 Rule of Law Reports.

Directive against SLAPPs

With this [Directive](#), the Commission aims at providing courts and victims of SLAPPs with the tools to fight back against manifestly unfounded or abusive court proceedings. The key elements of the proposal are:

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

The proposed directive still has to be negotiated and adopted by the European Parliament and the Council.

Recommendation for Member States:

With the new [Recommendation](#), the Commission encourages Member States to ensure the following:

- A national legal framework providing the necessary safeguards: This includes ensuring the procedural safeguards for an early dismissal of manifestly unfounded court proceedings;

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Published in
2022, Vol. 17(2) [eucrim](#) p 119
ISSN: 1862-6947
<https://eucrim.eu>



- Training of legal professionals to effectively deal with SLAPPs;
- Raising awareness and organising information campaigns, so that journalists and human rights defenders recognize when they are facing a SLAPP;
- Providing targets of SLAPPs with access to individual and independent support.

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

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The project is co-financed by the Union Anti-Fraud Programme (UAFP), managed by the European Anti-Fraud Office (OLAF).



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