

EP Increases Efforts to Counteract Strategic Lawsuits Against Public Participation (SLAPPs)

Anna Pingen

On 11 November 2021, the European Parliament adopted a [resolution on strengthening democracy and media freedom and pluralism in the EU](#). This follows after several initiatives had called for a regulation of Strategic Lawsuits Against Public Participation (SLAPPs):

- The study commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the JURI Committee researchers from the University of Aberdeen, which recommended that the EU take legislative initiative with regard to SLAPPs (→ [eucrim 2/2021, 102](#));
- The statement by 119 organisations issued on 8 June 2020 (→ [eucrim 2/2020, 106](#)).

In their resolution, the MEPs proposed a series of measures to counteract the threat that SLAPPs pose to persons with a watchdog function (e.g. journalists, NGOs, and representatives from civil society) in Europe. SLAPPs are lawsuits or other legal actions, as well as the threats of such actions, brought forward by powerful actors (e.g. private individuals and entities, public officials, public bodies, and publicly controlled entities) using a variety of legal bases, mostly in civil and criminal law. The purpose of these actions is to prevent investigation and reporting on breaches of Union/national law, on corruption, or on other abusive practices or to block or otherwise undermine public participation.

The MEPs stressed that SLAPPs are often meritless and based on exaggerated and often abusive claims that are initiated to intimidate, professionally discredit, harass, wear out, put psychological pressure on, or consume the financial resources of those they target, with the ultimate objective of blackmailing and forcing them into silence through the judicial procedure itself. They see this practice as having a direct and detrimental impact on democratic participation, societal resilience, and dialogue – silencing the diversity of critical public thought and opinion. SLAPPs constitute direct attacks on the exercise of fundamental rights and have effects on the rule of law, posing threats to media freedom and public democratic participation, including freedom of expression, freedom of information, freedom of assembly, and freedom of association. In particular, the MEPs expressed concern over the fact that SLAPPs are increasingly being funded directly or indirectly from state budgets and being combined with other indirect and direct state measures against independent media outlets, independent journalism, and a free civil society.

The MEPs pointed out that SLAPPs not only undermine the right of effective access to justice by SLAPP victims but also constitute a misuse of Member States' justice systems and legal frameworks (e.g. by

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hampering the ability of Member States to successfully address ongoing, common challenges as outlined in the Justice Scoreboard). They urged the Commission to propose measures to address SLAPP cases, such as rules for the early dismissal of SLAPPs and other court actions that have the purpose of preventing public participation, which should include appropriate sanctions such as civil penalties or administrative fines. The Commission should also raise awareness of SLAPPs among judges and prosecutors across the Union.

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