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Protection of journalists and human rights defenders from manifestly unfounded or abusive court proceedings

Amendments adopted by the European Parliament on 11 July 2023 on the 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)0177 – C9-0161/2022 – 2022/0117(COD))⁽¹⁾

(Ordinary legislative procedure: first reading)

(C/2024/4029)

Amendment 1

Proposal for a directive

Citation 2 a (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>Having regard to the opinion of the European Economic and Social Committee,</i>

Amendment 2

Proposal for a directive

Recital 2

<i>Text proposed by the Commission</i>	<i>Amendment</i>
(2) Article 10(3) of the Treaty on European Union states that every Union citizen has the right to participate in the democratic life of the Union. The Charter of Fundamental Rights of the European Union (the ‘Charter’) provides, inter alia, for the rights to respect for private and family life (Article 7), the protection of personal data (Article 8), freedom of expression and information, which includes respect for the freedom and pluralism of the media (Article 11), and to an effective remedy and to a fair trial (Article 47).	(2) Article 10(3) of the Treaty on European Union states that every Union citizen has the right to participate in the democratic life of the Union. The Charter of Fundamental Rights of the European Union (the ‘Charter’) provides, inter alia, for the rights to respect for private and family life (Article 7), the protection of personal data (Article 8), freedom of expression and information, which includes respect for the freedom and pluralism of the media (Article 11), <i>freedom of assembly and of association (Article 12)</i> and to an effective remedy and to a fair trial (Article 47).

⁽¹⁾ The matter was referred back for interinstitutional negotiations to the committee responsible, pursuant to Rule 59(4), fourth subparagraph (A9-0223/2023).

Amendment 3

Proposal for a directive

Recital 3 a (new)

Text proposed by the Commission	Amendment
	<p>(3a) <i>The right to freedom of expression is a fundamental right that is to be exercised with a sense of duty and responsibility, taking into account people’s fundamental right to obtain impartial information as well as the respect for the fundamental right to protect one’s reputation, protection of personal data and privacy. In cases of a conflict between these rights, all parties are to have access to courts with due respect to the fair trial principle.</i></p>

Amendment 4

Proposal for a directive

Recital 3 b (new)

Text proposed by the Commission	Amendment
	<p>(3b) <i>In its resolution of 11 November 2021 on strengthening democracy and media freedom and pluralism in the Union, the European Parliament called on the Commission to propose a package of both soft and hard law to address the increasing number of strategic lawsuits against public participation or ‘SLAPPs’ concerning journalists, NGOs, academics and civil society in the Union. Parliament proposed legislative measures in the areas of civil and criminal procedural law, such as an early dismissal mechanism for abusive civil lawsuits, the right to the full award of costs incurred by the defendant, and the right to compensation for damage. The resolution of 11 November 2021 also included a call for adequate training for judges and legal practitioners on SLAPPs, a specific fund to provide financial support for the victims of SLAPPs and a public register of court decisions on SLAPP cases. In addition, Parliament called for the revision of Regulation (EU)</i></p>

Text proposed by the Commission	Amendment
	<p>No 1215/2012 of the European Parliament and of the Council ^(1a) ('Brussels I Regulation') and of Regulation (EC) No 864/2007 of the European Parliament and of the Council ^(1b) ('Rome II Regulation') in order to prevent 'libel tourism' or 'forum shopping'.</p> <hr/> <p>^(1a) Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p.1).</p> <p>^(1b) Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) (OJ L 199, 31.7.2007, p. 40).</p>

Amendment 5

Proposal for a directive

Recital 4

Text proposed by the Commission	Amendment
<p>(4) The purpose of this Directive is to provide protection to natural and legal persons who engage in public participation on matters of public interest, in particular journalists and human rights defenders, against court proceedings, which are initiated against them to deter them from public participation (commonly referred to as strategic lawsuits against public participation or 'SLAPPs').</p>	<p>(4) The purpose of this Directive is to provide for minimum rules at Union level in order to ensure the protection of natural and legal persons who engage in public participation on matters of public interest, including journalists, publishers, media organisations, whistleblowers and human rights defenders, as well as civil society organisations, NGOs, trade unions, artists, researchers and academics, against court proceedings initiated against them, as well as the threats thereof, to deter them from public participation (commonly referred to as strategic lawsuits against public participation or 'SLAPPs').</p>

Amendment 6

Proposal for a directive

Recital 5

Text proposed by the Commission	Amendment
(5) Journalists play an important role in facilitating public debate and in the imparting and reception of information, opinions and ideas. It is essential that they are afforded the necessary space to contribute to an open, free and fair debate and to counter disinformation, information manipulation and interference. Journalists should be able to conduct their activities effectively to ensure that citizens have access to a plurality of views in European democracies.	(5) Journalists play an important role in facilitating public debate and in the imparting and reception of information, opinions and ideas. Independent, professional and responsible journalism, as well as access to pluralistic information, are key pillars of democracy. It is essential that journalists are afforded the necessary space to contribute to an open, free and fair debate and to counter disinformation, information manipulation and interference. Journalists should be able to conduct their activities effectively and without fear to ensure that citizens have access to a plurality of views in European democracies.

Amendment 7

Proposal for a directive

Recital 6

Text proposed by the Commission	Amendment
(6) Investigative journalists in particular play a key role in combating organised crime, corruption and extremism. Their work carries particularly high risks and they are experiencing a growing number of attacks and harassment. A robust system of safeguards is needed to enable them to fulfil their crucial role as watchdogs on matters of legitimate public interest.	(6) Investigative journalists and media organisations in particular play a key role in uncovering and combating organised crime, abuse of power , corruption, fundamental rights violations and extremism. Their work carries particularly high risks and they are experiencing a growing number of attacks, killings, threats, intimidation and harassment. A robust system of safeguards and protection, including protection of their physical safety, is needed to enable investigative journalists to fulfil their crucial role as watchdogs on matters of public interest, without fear of punishment for searching for the truth and informing the public.

Amendment 8

Proposal for a directive

Recital 7

Text proposed by the Commission	Amendment
(7) Human rights defenders also play an important role in European democracies, especially in upholding fundamental rights, democratic values, social inclusion, environmental protection and the rule of law. They should be able to participate actively in public life and make their voice heard on policy matters and in decision-making processes without fear of intimidation. Human rights defenders refer to individuals or organisations engaged in defending fundamental rights and a variety of other rights, such as environmental and climate rights, women's rights, LGBTIQ rights, the rights of the people with a minority racial or ethnic background, labour rights or religious freedoms. Other participants in public debate, such as academics and researchers, also deserve adequate protection.	(7) Human rights defenders also play an important role in European democracies, especially in upholding fundamental rights, democratic values, social inclusion, environmental protection, gender equality and the rule of law. Considering the Union's environmental and climate policies, attention should also be given to the protection of environmental rights defenders. Human rights defenders should be able to participate actively in public life, promote accountability and make their voice heard on policy matters and in decision-making processes without fear of intimidation. Human rights defenders refer to individuals or organisations engaged in defending fundamental rights and a variety of other rights, such as environmental and climate rights, women's rights, LGBTIQ+ rights, the rights of the people with a minority racial or ethnic background, labour rights, or religious freedoms.

Amendment 9

Proposal for a directive

Recital 7 a (new)

Text proposed by the Commission	Amendment
	(7a) Participants in public debate, other than journalists, media organisations or human rights defenders, such as academics, researchers or artists, also deserve adequate protection. In a democratic society, they should be able to research, teach, learn, perform and communicate without fear of reprisal. Academics and researchers contribute fundamentally to public discourse and dissemination of knowledge, as well as ensure that the democratic debate can take place on an informed basis and counter disinformation.

Amendment 10

Proposal for a directive

Recital 9

Text proposed by the Commission	Amendment
(9) To foster this environment, it is important to protect journalists and human rights defenders from court proceedings against public participation. Such court proceedings are not initiated for the purpose of access to justice, but to silence public debate typically using harassment and intimidation.	(9) To foster this environment, it is important to protect natural and legal persons from court proceedings against public participation. Such court proceedings are not initiated for the purpose of access to justice, but to silence public debate and prevent investigation of and reporting on breaches of Union and national law, including corruption or other abusive practices typically using harassment and intimidation.

Amendment 11

Proposal for a directive

Recital 10

Text proposed by the Commission	Amendment
(10) SLAPPs are typically initiated by powerful entities, for example individuals, lobby groups, corporations and state organs. They often involve an imbalance of power between the parties, with the claimant having a more powerful financial or political position than the defendant. Although not being an indispensable component of such cases, where present, an imbalance of power significantly increases the harmful effects as well as the chilling effects of court proceedings against public participation.	(10) SLAPPs are typically initiated by powerful entities, for example individuals, lobby groups, corporations, public officials, publicly controlled entities, politicians, judicial authorities and state organs in an attempt to silence public debate . They often involve an imbalance of power between the parties, with the claimant having a more powerful financial or political position than the defendant. Although not being an indispensable component of such cases, where present, an imbalance of power significantly increases the harmful effects as well as the chilling effects of court proceedings against public participation.

Amendment 12

Proposal for a directive

Recital 11

Text proposed by the Commission	Amendment
(11) Court proceedings against public participation may have an adverse impact on the credibility and reputation of journalists and human rights defenders and exhaust their financial and other resources. Because of such proceedings, the publication of information on a matter of public interest may be delayed or altogether avoided. The length of procedures and the financial pressure may have a chilling effect on journalists and human rights defenders . The existence of such practices may therefore have a deterrent effect on their work by contributing to self-censorship in anticipation of possible future court proceedings, which leads to the impoverishment of public debate to the detriment of society as a whole.	(11) Court proceedings against public participation may have an adverse impact on the credibility and reputation of natural and legal persons that engage in public participation and exhaust their financial and other resources. Because of such proceedings, the publication of information on a matter of public interest may be delayed or altogether avoided. The length of procedures and the financial pressure may have a chilling effect on natural and legal persons that engage in public participation . The existence of such practices may therefore have a deterrent effect on their work by contributing to self-censorship in anticipation of possible future court proceedings, which leads to the impoverishment of public debate to the detriment of society as a whole.

Amendment 13

Proposal for a directive

Recital 12

Text proposed by the Commission	Amendment
(12) Those targeted by court proceedings against public participation may face multiple cases simultaneously, sometimes initiated in several jurisdictions. Proceedings initiated in the jurisdiction of one Member State against a person resident in another Member State are usually more complex and costly for the defendant. Claimants in court proceedings against public participation may also use procedural tools to drive up the length and cost of the litigation, and bring cases in a jurisdiction they perceive to be favourable for their case, rather than to the court best placed to hear the claim. Such practices also place unnecessary and harmful burdens on national court systems.	(12) Those targeted by court proceedings against public participation may face multiple cases simultaneously, which can be civil, administrative or criminal or a combination of those , sometimes initiated in several jurisdictions. Proceedings initiated in the jurisdiction of one Member State against a person resident in another Member State are usually more complex and costly for the defendant. Claimants in court proceedings against public participation may also use procedural tools to drive up the length and cost of the litigation, and bring cases in a jurisdiction they perceive to be favourable for their case (forum shopping), rather than to the court best placed to hear the claim. The length and variety of procedures, the financial pressure and the threat of penalties, constitute powerful tools to intimidate and silence critical voices. Such practices also place unnecessary and harmful burdens on national court systems and lead to misuse of their resources, thus constituting an abuse of judicial systems.

Amendment 14

Proposal for a directive

Recital 13

Text proposed by the Commission	Amendment
(13) The safeguards provided in this Directive should apply to any natural or legal person on account of their engagement in public participation. They should also protect natural or legal persons who, either on a professional or on a personal basis, support, assist or provide goods or services to another person for purposes directly linked to public participation on a matter of public interest. This involves for example internet providers, publishing houses or print shops, which face or are threatened with court proceedings for providing services to the person targeted with court proceedings.	(13) The safeguards provided in this Directive should apply to any natural or legal person on account of their direct or indirect engagement in public participation. They should also protect natural or legal persons who, either on a professional or on a personal basis, support, assist or provide goods or services to another person for purposes directly linked to public participation on a matter of public interest. This involves for example lawyers, family members , internet providers, publishing houses or print shops, which face or are threatened with court proceedings for assisting , providing support or services to the person targeted with court proceedings.

Amendment 15

Proposal for a directive

Recital 15

Text proposed by the Commission	Amendment
(15) The Directive does not apply to claims arising out of liability of the State for actions or omissions in the exercise of State authority (acta iure imperii) and claims against officials who act on behalf of the State and liability for acts of public authorities, including liability of publicly appointed office-holders.	(15) The Directive does not apply to claims arising out of liability of the State for actions or omissions in the exercise of State authority (acta iure imperii) and claims against officials who act on behalf of the State and liability for acts of public authorities, including liability of publicly appointed office-holders, unless national law provides for it. In line with established case law of the Court of Justice of the European Union, court proceedings might still fall within the scope of ‘civil and commercial matters’ as referred to in this Directive where a State or a public body is a party, if the acts or omissions do not occur in the exercise of State authority.

Amendment 16

Proposal for a directive

Recital 15 a (new)

Text proposed by the Commission	Amendment
	<p>(15a) <i>This Directive lays down minimum rules, thus enabling the Member States to adopt or maintain provisions that are more favourable to persons engaging in public participation, including national law establishing more effective procedural safeguards, such as a double penalty whereby, in full respect of the right to a fair trial, the court is able to not only award the costs or compensation to the defendant but also impose a penalty to be paid to the State by the claimant when it is clear that the litigation it commenced was vexatious, frivolous or in bad faith. The implementation of this Directive should not serve to justify any regression in relation to the level of protection that already exists in each Member State.</i></p>

Amendment 17

Proposal for a directive

Recital 16

Text proposed by the Commission	Amendment
<p>(16) Public participation should mean any statement or activity by a natural or legal person expressed or carried out in exercise of the right to freedom of expression and information on a matter of public interest, such as the creation, exhibition, advertisement or other promotion of journalistic, political, scientific, academic, artistic, commentary or satirical communications, publications or works, and any preparatory activities directly linked thereto. It can also include activities related to the exercise of the right to freedom of association and peaceful assembly, such as the organisation of or participation to lobbying activities, demonstrations and protests or activities resulting from the exercise of the right to good administration</p>	<p>(16) Public participation should mean any statement, activity or preparatory, supporting or assisting action directly linked thereto, by a natural or legal person expressed or carried out in the exercise of fundamental and human rights and freedoms such as right to freedom of expression and information on a matter of public interest, such as the creation, exhibition, advertisement or other promotion of journalistic, political, scientific, academic, artistic, commentary or satirical communications, publications or works, and any preparatory activities directly linked thereto. It can also include activities related to the exercise of academic and artistic freedom, the right to freedom of association and peaceful assembly, such as the organisation of</p>

<i>Text proposed by the Commission</i>	<i>Amendment</i>
and the right to an effective remedy, such as the filing of complaints, petitions, administrative and judicial claims and participation in public hearings. Public participation should also include preparatory, supporting or assisting activities that have a direct and inherent link to the statement or activity in question and that are targeted to stifle public participation. In addition, it can cover other activities meant to inform or influence public opinion or to further action by the public, including activities by any private or public entity in relation to an issue of public interest, such as the organisation of or participation to research, surveys, campaigns or any other collective actions.	or participation to lobbying activities, demonstrations and protests or activities resulting from the exercise of the right to good administration and the right to an effective remedy, such as the filing of complaints, petitions, administrative and judicial claims and participation in public hearings. Public participation should also include preparatory, supporting or assisting activities that have a direct and inherent link to the statement or activity in question and that are targeted to stifle public participation. In addition, it can cover other activities meant to inform or influence public opinion or to further action by the public, including activities by any private or public entity in relation to an issue of public interest, such as the organisation of or participation to research, surveys, campaigns or any other collective actions.

Amendment 18

Proposal for a directive

Recital 18

<i>Text proposed by the Commission</i>	<i>Amendment</i>
(18) The notion of a matter of public interest should include also quality, safety or other relevant aspects of goods, products or services where such matters are relevant to public health, safety, the environment, climate or enjoyment of fundamental rights. A purely individual dispute between a consumer and a manufacturer or a service provider concerning a good, product or service should be covered only when the matter contains an element of public interest, for instance concerning a product or service which fails to comply with environmental or safety standards.	(18) The notion of a matter of public interest <i>should include matters relevant to the enjoyment of fundamental rights, including gender equality, protection from gender-based violence and non-discrimination, and the protection of the rule of law, media freedom and pluralism, and the environment.</i> It should include also quality, safety or other relevant aspects of goods, products or services where such matters are relevant to public health, safety, the environment, climate, consumer and labour rights. A purely individual dispute between a consumer and a manufacturer or a service provider concerning a good, product or service should be covered only when the matter contains an element of public interest, for instance concerning a product or service which fails to comply with environmental or safety standards.

Amendment 19

Proposal for a directive

Recital 19 a (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	(19a) Allegations of corruption, fraud, embezzlement, money laundering, extortion, coercion, sexual harassment and gender-based violence, or other forms of intimidation and criminality, or any other criminal or administrative offence, including financial criminality and environmental crime, qualify as matters of public interest. Activities aimed to protect the values enshrined in Article 2 TEU, the principle of non-interference in democratic processes, and providing or facilitating public access to information with a view to fighting disinformation also qualify as matters of public interest.

Amendment 20

Proposal for a directive

Recital 20

<i>Text proposed by the Commission</i>	<i>Amendment</i>
(20) Abusive court proceedings typically involve litigation tactics used in bad faith such as delaying proceedings, causing disproportionate costs to the defendant in the proceedings or forum shopping. These tactics are used by the claimant for other purposes than gaining access to justice. Such tactics are often, although not always, combined with various forms of intimidation, harassment or threats.	(20) <i>The imbalance of power between the parties which is characteristic of SLAPPs typically derives from the misuse of economic advantage or political influence by the claimant against the defendant, together with the lack of legal merit. Other indicators for</i> abusive court proceedings typically involve litigation tactics used in bad faith such as relying on one or more fully or partially unfounded claims, making excessive claims, delaying proceedings or discontinuing cases at a later stage of the proceedings, initiating multiple proceedings on similar matters, causing disproportionate costs to the defendant in the proceedings or forum shopping. The past conduct of the claimant and, in particular, any history of legal intimidation should also be considered when determining whether the court proceedings are abusive in nature. These tactics are used by the claimant for other purposes than gaining access to justice or genuinely exercising a right. Such tactics are often, although not always, combined with various forms of intimidation, harassment or threats.

Amendment 21

Proposal for a directive

Recital 20 a (new)

Text proposed by the Commission	Amendment
	<p>(20a) Manifestly unfounded or abusive court proceedings against public participation are becoming more sophisticated and more effective, with one of the techniques used being multiple lawsuits filed against the same person on the same subject matter, meaning that all of them have to be defended and dealt with simultaneously and in parallel by the same person, which increases costs disproportionately.</p>

Amendment 22

Proposal for a directive

Recital 20 b (new)

Text proposed by the Commission	Amendment
	<p>(20b) SLAPPs are consistently characterised by an imbalance of power between the claimant and the defendant in terms of financial and legal resources. This imbalance of power gives rise to particular concern if the abusive lawsuits are funded directly or indirectly from state budgets and are combined with other indirect and direct state measures against independent media organisations, independent journalism and civil society.</p>

Amendment 23

Proposal for a directive

Recital 20 c (new)

Text proposed by the Commission	Amendment
	<p>(20c) Abusive court proceedings against public participation often infringe on defendants' right to defence recognised by the Charter, and might also impact on their right to a fair trial and the presumption of innocence.</p>

Amendment 24

Proposal for a directive

Recital 22

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(22) A matter should be considered to have cross-border implications unless both parties are domiciled in the same Member State as the court seised. Even where both parties are domiciled in the same Member State as the court seised, a matter should be considered to have cross-border implications in two other types of situations. The first situation is where the specific act of public participation concerning a matter of public interest at stake is relevant to more than one Member State. That includes for instance public participation in events organised by Union institutions, such as appearances in public hearings, or statements or activities on matters that are of specific relevance to more than one Member State, such as cross-border pollution or allegations of money laundering with potential cross-border involvement. The second situation where a matter should be considered to have cross-border implications is when the claimant or associated entities have initiated concurrent or previous court proceedings against the same or associated defendants in another Member State. These two types of situations take into consideration the specific context of SLAPPs.</p>	<p>(22) A matter should be considered to have cross-border implications unless both parties are domiciled in the same Member State as the court seised. Even where both parties are domiciled in the same Member State as the court seised, a matter should be considered to have cross-border implications in two other types of situations. The first situation is where the specific act of public participation is relevant to, more than one Member State due to the cross-border dimension of the act itself or due to a legitimate interest which the public may take in the matter concerned by the act, including if the act is accessible via electronic means. Such situations include for instance public participation acts, such as events organised by Union institutions, appearances in public hearings or widely disseminated publications. They could include as well statements or activities on matters, such as cross-border pollution, or allegations of money laundering with potential cross-border involvement. An act of public participation should be considered to be accessible in more than one Member State, in particular, if it is carried out on the internet, for example in the case of social media campaigns or online media coverage. The ubiquitous nature of the internet warrants considering acts of public participation that are accessible in more than one Member State to be matters with cross-border implications. The effect of digital means of communication on the notion of cross-border elements has already been recognised in the case law of the Court of Justice of the European Union. The second situation where a matter should be considered to have cross-border implications is when the claimant or associated entities have initiated concurrent or previous court proceedings against the same or associated defendants in another Member State. These two types of situations take into consideration the specific context of SLAPPs.</p>

Amendment 25

Proposal for a directive

Recital 22 a (new)

Text proposed by the Commission	Amendment
	<p>(22a) Support should be available to persons targeted by court proceedings against public participation from the moment competent authorities become aware of such persons and throughout the proceedings, in accordance with the rights set out in this Directive. Support should be made available by a variety of means, including by providing comprehensive and independent information and advice, in a manner that is easily accessible to the public and free of charge, on procedures and remedies available, on protection against intimidation, harassment or threats of legal action, and on the rights of the person concerned, and by providing legal aid in cross-border civil proceedings, legal aid in further proceedings and legal counselling or other legal assistance which is deemed appropriate. Member States should provide for financial assistance and support measures, including psychological support, for those targeted by court proceedings against public participation.</p>

Amendment 26

Proposal for a directive

Recital 22 b (new)

Text proposed by the Commission	Amendment
	<p>(22b) Participation in proceedings against public participation exposes those targeted to particular psychological stress. The preparation for such proceedings and participation therein additionally ties up valuable resources of the defendants that they often do not have or that otherwise would have been invested in engaging in public participation. Associations, organisations and other collective bodies, such as</p>

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	trade unions, and any other legal entities which have, in accordance with the criteria laid down by their national law, a legitimate interest in safeguarding the rights of the defendant should therefore have the possibility of participating in the proceedings, either on behalf or in support of the defendant, with his or her approval, or of providing information in the judicial procedures provided for the enforcement of obligations under this Directive. Such possibility of legal representation should be without prejudice to the rights and competences of trade unions and worker's representatives to engage on behalf of or in support of workers in judicial proceedings, in accordance with other Union and national rules.

Amendment 27

Proposal for a directive

Recital 23

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(23) Defendants should be able to apply for the following procedural safeguards: a request for a security to cover procedural costs, or procedural costs and damages, a request for an early dismissal of manifestly unfounded court proceedings, a request for remedies against abusive court proceedings (award of costs, compensation of damages and penalties), or all of them at the same time.</p>	<p>(23) Defendants should be able to apply for the following procedural safeguards: a request for a security to cover procedural costs, or procedural costs and damages, a request for an early dismissal of manifestly unfounded court proceedings, a request for remedies against abusive court proceedings (award of costs, compensation of damages and penalties), or all of them at the same time. Court proceedings brought against natural or legal persons on account of their engagement in public participation should be dealt with in a swift and effective manner, taking into account the circumstances of the case, the right to an effective remedy and the right to a fair trial.</p>

Amendment 28

Proposal for a directive

Recital 26

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(26) To provide the defendant with an additional safeguard, there should be a possibility to grant him or her a security to cover procedural costs and/or damages, when the court considers that even if the claim is not manifestly unfounded, there are elements indicating an abuse of procedure and the prospects for success in the main proceedings are low. A security does not entail a judgement on the merits but serves as a precautionary measure ensuring the effects of a final decision finding an abuse of procedure. It should be for Member States to decide whether a security should be ordered by the court on its own motion or upon request by the defendant.</p>	<p>(26) To provide the defendant with an additional safeguard, there should be a possibility to grant him or her a security to cover procedural costs and/or damages, when the court considers that even if the claim is not manifestly unfounded, there are elements indicating an abuse of procedure and the prospects for success in the main proceedings are low. Where national law so provides, it should be possible to grant security to the defendant at any stage of the court proceedings and the judge should be able to order that a provision for court fees be allocated to the defendant and be borne by the claimant considering, where appropriate, the financial situation of the parties and the predictable costs of the proceedings. A security does not entail a judgement on the merits but serves as a precautionary measure ensuring the effects of a final decision finding an abuse of procedure and covering the costs and damage caused to the defendant. It should be for Member States to decide whether a security should be ordered by the court on its own motion or upon request by the defendant.</p>

Amendment 29

Proposal for a directive

Recital 29

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(29) To ensure high expediency in the accelerated procedure on an application for early dismissal, Member States may set time limits for the holding of hearings or for the court to take a decision. They may as well</p>	<p>(29) Courts or tribunals seised with an application for procedural safeguards, should act expeditiously in relation to that application, using the most efficient procedures available under national law. To ensure</p>

<i>Text proposed by the Commission</i>	<i>Amendment</i>
adopt schemes akin to procedures in relation to provisional measures. Member States should make efforts to ensure that when the defendant has applied for other procedural safeguards, the decision is also taken in an expeditious manner. For expeditious treatment, Member States could take into account, amongst others, whether the claimant has initiated multiple or concerted proceedings in similar matters and the existence of attempts to intimidate, harass or threat the defendant.	high expediency in the accelerated procedure on an application for early dismissal, Member States may set time limits for the holding of hearings or for the court to take a decision. They may as well adopt schemes akin to procedures in relation to provisional measures. Member States should make efforts to ensure that when the defendant has applied for other procedural safeguards, the decision is also taken in an expeditious manner. For expeditious treatment, Member States could take into account, amongst others, whether the claimant has initiated multiple or concerted proceedings in similar matters and the existence of attempts to intimidate, harass or threat the defendant.

Amendment 30

Proposal for a directive

Recital 30

<i>Text proposed by the Commission</i>	<i>Amendment</i>
(30) If a defendant has applied for early dismissal, it should be for the claimant in the main proceedings to prove in the accelerated procedure that the claim is not manifestly unfounded. This does not represent a limitation of access to justice, taking into account that the claimant carries the burden of proof in relation to that claim in the main proceedings and only needs to meet the much lower threshold of showing that the claim is not manifestly unfounded in order to avoid an early dismissal.	(30) If a defendant has applied for early dismissal, it should be for the claimant in the main proceedings to prove in the accelerated procedure that the claim is not manifestly unfounded This does not represent a limitation of access to justice, taking into account that the claimant carries the burden of proof in relation to that claim in the main proceedings and only needs to meet the much lower threshold of showing that the claim is not manifestly unfounded in order to avoid an early dismissal. <i>In addition, decisions of early dismissal should always be made by a judge, on a case-by-case basis, and the claimants should always be entitled to lodge an appeal against the early decision to dismiss.</i>

Amendment 31

Proposal for a directive

Recital 31

Text proposed by the Commission	Amendment
(31) Costs should include all costs of the proceedings, including the full costs of legal representation incurred by the defendant unless such costs are excessive. Costs of legal representation exceeding amounts laid down in statutory fee tables should not be considered as excessive per se. Full compensation of damages should include both material and immaterial damages, such as physical and psychological harm.	(31) Costs should include all costs of the proceedings, including the full costs of legal representation, including pre-trial costs incurred by the defendant unless such costs are excessive. Costs of legal representation exceeding amounts laid down in statutory fee tables should not be considered as excessive per se, but allow costs to be awarded in full. Where national law does not provide for the full award of costs beyond statutory fees, the court should be able to award the full costs by whatever other means are available, in accordance with national law, including through the compensation of damages.

Amendment 32

Proposal for a directive

Recital 31 a (new)

Text proposed by the Commission	Amendment
	(31a) Full compensation for damage should include both material and non-material damage, such as physical, reputational and psychological harm. In order for the defendant to be able to claim damages easily and in a timely manner, it should be possible to seek damages in the same proceedings as those brought against the defendant, where appropriate through a counter-claim. Material damage should include in particular lawyer fees, when they are not reimbursable as costs, travel expenses and medical costs, in particular for psychological care. Material damage should include pre-trial costs, if they are not included in costs under national law or this directive. Pre-trial costs should also include necessary expenses incurred in respect of defending the person’s rights against abusive claims,

Text proposed by the Commission	Amendment
	including lawyer fees. Non-material damage should include in particular different forms of physical and/or psychological harm, pain and suffering or emotional distress related to the court proceedings, reputational damage and in general, any types of intangible damage.

Amendment 33

Proposal for a directive

Recital 32

Text proposed by the Commission	Amendment
(32) The main objective of giving courts or tribunals the possibility to impose penalties is to deter potential claimants from initiating abusive court proceedings against public participation. Such penalties should be proportionate to the elements of abuse identified. When establishing amounts for penalties, courts should take into account the potential for a harmful or chilling effect of the proceedings on public participation, including as related to the nature of the claim, whether the claimant has initiated multiple or concerted proceedings in similar matters and the existence of attempts to intimidate, harass or threat the defendant.	(32) The main objective of giving courts or tribunals the possibility to impose penalties is to deter potential claimants from initiating abusive court proceedings against public participation. Such penalties should be determined on a case by case basis and should be proportionate to the elements of abuse identified. When establishing amounts for penalties, courts should take into account the potential for a harmful or chilling effect of the proceedings on public participation, including as related to the nature of the claim, whether the claimant has initiated multiple or concerted proceedings in similar matters and the existence of attempts to intimidate, harass or threat the defendant.

Amendment 34

Proposal for a directive

Recital 32 a (new)

Text proposed by the Commission	Amendment
	(32a) <i>To ensure that the public can become aware of court decisions, Member States should establish a publicly accessible national register of relevant court decisions falling within the scope of this directive, in accordance with Union and national rules on the protection of personal data. The Commission should establish a publicly accessible Union register on the basis of the information from the registers of the Member States concerning relevant court decisions falling within the scope of this Directive, in accordance with Union rules on the protection of personal data.</i>

Amendment 35

Proposal for a directive

Recital 33

Text proposed by the Commission	Amendment
(33) In the cross-border context, it is also important to recognize the threat of SLAPPs from third countries targeting journalists, human rights defenders and other persons engaged in public participation who are domiciled in the European Union. They may involve excessive damages awarded against EU journalists, human rights defenders and others . Court proceedings in third-countries are more complex and costly for the targets. To protect democracy and freedom of expression and information in the European Union and to avoid that the safeguards provided by this Directive are undermined by recourse to court proceedings in other jurisdictions, it is important to provide protection also against manifestly unfounded and abusive court proceedings in third countries.	(33) In the cross-border context, it is also important to recognize the threat of SLAPPs from third countries targeting journalists, human rights defenders and other persons engaged in public participation who are domiciled in the European Union. They may involve excessive damages awarded against persons engaging in public participation . Court proceedings in third-countries are more complex and costly for the targets. To protect democracy and freedom of expression and information in the European Union and to avoid that the safeguards provided by this Directive are undermined by recourse to court proceedings in other jurisdictions, it is important to provide protection also against manifestly unfounded and abusive court proceedings in third countries.

Amendment 36

Proposal for a directive

Recital 33 a (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	(33a) As regards jurisdiction for defamation claims or other claims based on civil or commercial law which could constitute abusive court proceedings against public participation, the Member State of domicile of the defendant should be considered as the sole forum, having due regard to cases where the defendants in cases of defamation are natural persons. With the exception of that rule concerning cases falling within the scope of this Directive, this Directive should not affect the application of the Brussels I Regulation.

Amendment 37

Proposal for a directive

Recital 33 b (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	(33b) This Directive establishes a special ground for the applicable law for publications as an act of public participation. In claims regarding a publication as an act of public participation, the applicable law should be considered to be the law of the place to which that publication is directed. Should it not be possible to identify that place, the applicable law should be the law of the place of editorial control or of the relevant activity with regard to the act of public participation. In cases other than those covered by that exception, this Directive should not affect the application of Rome II Regulation.

Amendment 38

Proposal for a directive

Recital 34

<i>Text proposed by the Commission</i>	<i>Amendment</i>
(34) This Directive creates a new special ground of jurisdiction in order to ensure that targets of SLAPPs domiciled in the European Union have an efficient remedy available in the Union against abusive court proceedings brought in a court or tribunal of a third country. This special ground of jurisdiction allows the targets domiciled in the European Union to seek, in the courts or tribunals of their domicile, for compensation of damages and costs incurred in connection with the proceedings before the court or tribunal of the third country. This right applies irrespective of the domicile of the claimant in the proceedings in the third country.	(34) This Directive creates a new special ground of jurisdiction in order to ensure that targets of SLAPPs domiciled in the European Union have an efficient remedy available in the Union against abusive court proceedings brought in a court or tribunal of a third country. This special ground of jurisdiction allows the targets domiciled in the European Union to seek, in the courts or tribunals of their domicile, for compensation of damages and costs incurred or reasonably expected to be incurred in connection with the proceedings before the court or tribunal of the third country. This right applies irrespective of the domicile of the claimant in the proceedings in the third country.

Amendment 39

Proposal for a directive

Recital 34 a (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	(34a) <i>Member States should encourage and work closely with civil society organisations, including recognised and active non-governmental organisations working with persons targeted by court proceedings against public participation, in particular with regard to policy-making initiatives, information and awareness-raising campaigns, research and education programmes, and training, as well as monitoring and evaluation of the impact of such measures.</i>

Amendment 40

Proposal for a directive

Recital 34 b (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	(34b) The provisions and safeguards of this Directive should apply to all pending abusive court proceeding against public participation before a national court at the time of entry into force of the national rules transposing this Directive and thereafter.

Amendment 41

Proposal for a directive

Recital 34 c (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	(34c) Member States should be encouraged to take appropriate action to facilitate their cooperation to improve the access of those targeted by court proceedings against public participation to information on the procedural safeguards set out in this Directive and under national law. Such cooperation should cover the exchange of information on current practices within the Member States in cross-border cases and the provision of assistance, where appropriate, to European networks and bodies such as the Fundamental Rights Agency, working on matters directly relevant to those targeted by court proceedings against public participation.

Amendment 42

Proposal for a directive

Recital 34 d (new)

Text proposed by the Commission	Amendment
	<p>(34d) <i>With due respect for the independence of the legal profession, Member States should encourage the adoption by professional associations of deontological rules that guide the conduct of legal professionals to discourage the taking of abusive lawsuits against public participation, including, where appropriate, disciplinary sanctions for the violation of those rules. Such measures should be developed in close cooperation with relevant stakeholders including professional associations, social partners and civil society organisations.</i></p>

Amendment 43

Proposal for a directive

Recital 34 e (new)

Text proposed by the Commission	Amendment
	<p>(34e) <i>The collection of data is paramount to document cases of abusive court proceedings and to provide solutions in order to prevent them. This Directive should establish common criteria to standardise the data collection procedures in Member States and ensure that comparable data is collected. Member States should, on a regular basis, provide to the Commission available data showing how those targeted by court proceedings against public participation have accessed the safeguards set out in this Directive. Based on the data provided by the Member States, the Commission should submit a report every five years on the evaluation and review of this Directive to the European Parliament and to the Council. Those reports should be made public.</i></p>

Amendment 44

Proposal for a directive

Recital 36

Text proposed by the Commission	Amendment
(36) This Directive is complementary to the Commission recommendation on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings (“Strategic lawsuits against public participation”). This recommendation is addressed to Member States and it provides a comprehensive toolbox of measures including training, awareness-raising, support to targets of abusive court proceedings and data collection, reporting and monitoring of court proceedings against public participation.	(36) This Directive is complementary to the Commission recommendation on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings (“Strategic lawsuits against public participation”). This recommendation is addressed to Member States and it provides a comprehensive toolbox of measures including training, awareness-raising, support to targets of abusive court proceedings and data collection, reporting and monitoring of court proceedings against public participation. When transposing this Directive, Member States should pay particular attention to the implementation of the Commission’s Recommendation as regards, in particular, the inclusion of safeguards, similar to those provided for by this Directive, in relation to domestic cases not covered by this Directive’s scope, and the provision of legal assistance to defendants in an affordable and easily accessible manner, and consider the inclusion in their national transposition laws of targeted provisions to that effect. Member States should also be encouraged to consider establishing a fund to support victims of SLAPPs, which should be directly used for legal fees or the provision of legal aid and psychological support.

Amendment 45

Proposal for a directive

Recital 36 a (new)

Text proposed by the Commission	Amendment
	(36a) This Directive lays down rules on comprehensive support and preventive measures, non-financial support mechanisms such as the provision of legal aid and psychological support, as well as training,

Text proposed by the Commission	Amendment
	<i>awareness-raising and data collection measures. It also seeks to ensure that data are collected by establishing common criteria at Union level. A national focal point should be established to gather and share information on all organisations that provide guidance and support for targets of abusive court proceedings against public participation. Such organisations could include associations of legal professionals, media and press councils, umbrella associations for human rights defenders, associations at Union and national level, law firms defending targets of manifestly unfounded or abusive court proceedings against public participation pro bono, legal clinics of universities and other non-governmental organisations.</i>

Amendment 46

Proposal for a directive

Recital 36 b (new)

Text proposed by the Commission	Amendment
	<i>(36b) To foster prevention of the initiation of SLAPPs and protection of targeted natural or legal persons, it is crucial to promote relevant information, awareness-raising, campaigns, education and training, including on their rights and protection mechanisms.</i>

Amendment 47

Proposal for a directive

Recital 36 c (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	(36c) Training for journalists, other media professionals and human rights defenders should strengthen their capacity to deal with abusive court proceedings against public participation. It should focus on recognising such court proceedings, how to manage being targeted by them and inform them of their rights and obligations in order for them to be able to take the necessary steps to protect themselves against such proceedings. Training should also be provided to legal professionals in order to increase awareness of abusive court proceedings and be able to detect them at a very early stage.

Amendment 48

Proposal for a directive

Article 1 – paragraph 1

<i>Text proposed by the Commission</i>	<i>Amendment</i>
This Directive provides safeguards against manifestly unfounded or abusive court proceedings in civil matters with cross-border implications brought against natural and legal persons, in particular journalists and human rights defenders, on account of their engagement in public participation.	This Directive provides a set of minimum standards of protection and safeguards against manifestly unfounded or abusive court proceedings in civil matters, as well as the threats thereof , with cross-border implications brought against natural and legal persons engaging in public participation.

Amendment 49

Proposal for a directive

Article 2 – paragraph 1

<i>Text proposed by the Commission</i>	<i>Amendment</i>
This Directive shall apply to matters of a civil or commercial nature with cross-border implications, whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters or the liability of the State for acts and omissions in the exercise of State authority (acta iure imperii).	This Directive shall apply to matters of a civil or commercial nature having cross-border implications, including interim and precautionary measures, counteractions or other particular types of remedies available under other instruments , whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters or the liability of the State for acts and omissions in the exercise of State authority (acta iure imperii).

Amendment 50

Proposal for a directive

Article 2 a (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>Article 2a</p> <p>Minimum requirements</p> <p>1. Member States may introduce or maintain more favourable provisions than the safeguards provided for in this Directive against manifestly unfounded and abusive court proceedings in civil matters.</p> <p>2. The implementation of this Directive shall in no circumstances constitute grounds for a reduction in the level of safeguards already afforded by Member States in the matters covered by this Directive.</p>

Amendment 51

Proposal for a directive

Article 3 – paragraph 1 – point 1

Text proposed by the Commission	Amendment
1. ‘public participation’ means 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 on a matter of public interest , and preparatory, supporting or assisting action directly linked thereto. This includes complaints, petitions, administrative or judicial claims and participation in public hearings;	1. ‘public participation’ means 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 , and preparatory, supporting or assisting action directly linked thereto, on a matter of public interest . This includes complaints, petitions, administrative or judicial claims, the participation in public hearings, the creation, exhibition, advertisement or other promotion of journalistic, political, scientific, academic, artistic, satirical communications, publications or works ;

Amendment 52

Proposal for a directive

Article 3 – paragraph 1 – point 2 – point a

Text proposed by the Commission	Amendment
(a) public health, safety, the environment, climate or enjoyment of fundamental rights ;	(a) fundamental rights, including gender equality, media freedom and consumer and labour rights, as well as public health, safety, the environment or the climate;

Amendment 53

Proposal for a directive

Article 3 – paragraph 1 – point 2 – point b

Text proposed by the Commission	Amendment
(b) activities of a person or entity in the public eye or of public interest;	(b) activities of a person or entity in the public eye or of public interest, including governmental officials and private entities ;

Amendment 54

Proposal for a directive

Article 3 – paragraph 1 – point 2 – point d

<i>Text proposed by the Commission</i>	<i>Amendment</i>
(d) allegations of corruption, fraud or criminality ;	(d) allegations of corruption, fraud, embezzlement, money laundering, extortion, coercion, sexual harassment and gender-based violence, or other forms of intimidation, or any other criminal or administrative offence, including environmental crime ;

Amendment 55

Proposal for a directive

Article 3 – paragraph 1 – point 2 – point e

<i>Text proposed by the Commission</i>	<i>Amendment</i>
(e) activities aimed to fight disinformation;	(e) activities aimed to protect the values enshrined in Article 2 TEU, the principle of non-interference in democratic processes, and to provide or facilitate public access to information with a view to fighting disinformation;

Amendment 56

Proposal for a directive

Article 3 – paragraph 1 – point 2 – point e a (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	(ea) academic, scientific, research and artistic activities.

Amendment 57

Proposal for a directive

Article 3 – paragraph 1 – point 3 – introductory part

Text proposed by the Commission	Amendment
'abusive court proceedings against public participation' mean court proceedings brought in relation to public participation that are fully or partially unfounded and have as their main purpose to prevent, restrict or penalize public participation. Indications of such a purpose can be:	'abusive court proceedings against public participation' mean court proceedings brought in relation to public participation that are fully or partially unfounded, characterised by elements indicative of a misuse of the judicial process for purposes other than genuinely asserting, vindicating or exercising a right and have as their main purpose to abusively prevent, restrict or penalize public participation. Indications of such a purpose can be:

Amendment 58

Proposal for a directive

Article 3 – paragraph 1 – point 3 – point -a (new)

Text proposed by the Commission	Amendment
	(-a) the misuse of economic advantage or political influence by the claimant against the defendant, leading to an imbalance of power between the two parties;

Amendment 59

Proposal for a directive

Article 3 – paragraph 1 – point 3 – point c

Text proposed by the Commission	Amendment
(c) intimidation, harassment or threats on the part of the claimant or his or her representatives.	(c) intimidation, harassment or threats on the part of the claimant or his or her representatives, before or during the proceedings, as well as any previous history of legal intimidation by the claimant;

Amendment 60

Proposal for a directive

Article 3 – paragraph 1 – point 3 – point c a (new)

Text proposed by the Commission	Amendment
	(ca) <i>the use in bad faith of procedural tactics, such as delaying proceedings, and choosing to pursue a claim that is subject to the jurisdiction of the court that will treat the claim most favourably, or the discontinuation of the cases at a later stage of the proceedings.</i>

Amendment 61

Proposal for a directive

Article 4 – paragraph 2 – point a

Text proposed by the Commission	Amendment
(a) the act of public participation concerning a matter of public interest against which court proceedings are initiated is relevant to more than one Member State, or	(a) the act of public participation is relevant to more than one Member State, <i>either due to the cross-border dimension of the act itself or due to the legitimate interest which the public may take in the matter concerned by the act, including if the act is accessible via electronic means,</i> or

Amendment 62

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission	Amendment
3. Member States may provide that measures on procedural safeguards in accordance with Chapters III and IV can be taken by the court or tribunal seised of the matter ex officio.	3. Member States shall provide that measures on procedural safeguards in accordance with Chapters III and IV can be taken by the court or tribunal seised of the matter ex officio.

Amendment 63

Proposal for a directive

Article 5 a (new)

Text proposed by the Commission	Amendment
	<p>Article 5a</p> <p>Expeditious court proceedings</p> <p><i>Member States shall ensure that courts or tribunals seised with an application referred to in Article 5 act in the proceedings in relation to which the application has been sought using the most expeditious procedures available under national law, taking into account the circumstances of the case, the right to an effective remedy and the right to a fair trial.</i></p>

Amendment 64

Proposal for a directive

Article 5 b (new)

Text proposed by the Commission	Amendment
	<p>Article 5b</p> <p>Assistance to natural or legal persons engaging in public participation</p> <p><i>Member States shall ensure that natural or legal persons engaging in public participation have access, as appropriate, to support measures, in particular the following:</i></p> <ul style="list-style-type: none"><i>(a) comprehensive and independent information and advice which is easily accessible to the public and free of charge on procedures and remedies available, on protection against intimidation, harassment or threats of legal action, and on their rights; and</i><i>(b) legal aid in accordance with Directive 2003/8/EC of the Council, and, in accordance with national law, legal aid in further proceedings, and legal counselling or other legal assistance;</i><i>(c) financial assistance and support measures, including psychological support, for those targeted by abusive court proceedings against public participation.</i>

Amendment 65

Proposal for a directive

Article 7 – paragraph 1

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that a court or tribunal seised of court proceedings against public participation may accept that non-governmental organisations safeguarding or promoting the rights of persons engaging in public participation may take part in those proceedings, either in support of the defendant or to provide information.	Member States shall take the necessary measures to ensure that a court or tribunal seised of court proceedings against public participation may accept that associations , organisations and other collective bodies, such as trade unions, and any other legal entities which have, in accordance with the criteria laid down by their national law, a legitimate interest in safeguarding or promoting the rights of persons engaging in public participation may take part in those proceedings, either on behalf of in support of the defendant, with his or her approval or to provide information, in any judicial procedure provided for the enforcement of obligations under this Directive. This provision is without prejudice to existing rights of representation and intervention as guaranteed by other Union or national rules.

Amendment 66

Proposal for a directive

Article 8 – paragraph 1

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Member states shall ensure that in court proceedings against public participation, the court or tribunal seised has the power to require the claimant to provide security for procedural costs, or for procedural costs and damages, if it considers such security appropriate in view of presence of elements indicating abusive court proceedings.	Member states shall ensure that in court proceedings against public participation, the court or tribunal seised has the power to require the claimant to provide security for costs of the proceedings, including the full costs of legal representation incurred by the defendant and damages, if it considers such security appropriate in view of presence of elements indicating abusive court proceedings. Where national law provides for such possibility, security may be granted to the defendant at any stage of the court proceedings.

Amendment 67

Proposal for a directive

Article 9 – paragraph 2

<i>Text proposed by the Commission</i>	<i>Amendment</i>
2. Member States may establish time limits for the exercise of the right to file an application for early dismissal. The time limits shall be proportionate and not render such exercise impossible or excessively difficult.	2. Member States shall establish time limits for the exercise of the right to file an application for early dismissal. The time limits shall be proportionate, reasonable and not render such exercise impossible or excessively difficult.

Amendment 68

Proposal for a directive

Article 14 – paragraph 1

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure 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.	Member States shall take the necessary measures to ensure that a claimant who has brought abusive court proceedings against public participation is 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. Where national law does not guarantee the award in full of the costs of legal representation beyond statutory fee tables, Member States shall ensure that such costs are fully covered by other means available under national law, and, where appropriate, through compensation of damages in accordance with Article 15.

Amendment 69

Proposal for a directive

Article 15 – paragraph 1

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Member States shall take the necessary measures to ensure that a natural or legal person who has suffered harm as a	Member States shall take the necessary measures to ensure that a natural or legal person who has suffered harm as a

<i>Text proposed by the Commission</i>	<i>Amendment</i>
result of an abusive court proceedings against public participation is able to claim and to obtain full compensation for that harm.	result of an abusive court proceedings against public participation is able to claim and to obtain full compensation for that harm, covering material or non-material harm, including reputational harm, without the need to initiate separate court proceedings to that end.

Amendment 70

Proposal for a directive

Article 16 – paragraph 1 a (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>1a. Member States shall ensure that courts or tribunals imposing penalties take due account of:</p> <p>(i) the economic situation of the claimant;</p> <p>(ii) the nature and number of the elements indicating an abuse identified.</p>

Amendment 71

Proposal for a directive

Article 16 a (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>Article 16a</p> <p>National registers</p> <p>Member states shall take appropriate measures to establish a publicly accessible register of relevant court decisions falling within the scope of this Directive, in accordance with Union and national rules on the protection of personal data.</p>

Amendment 72

Proposal for a directive

Article 18 – paragraph 1

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Member States shall ensure that, where abusive court proceedings on account of engagement in public participation have been brought in a court or tribunal of a third country against a natural or legal person domiciled in a Member State, that person may seek, in the courts or tribunals of the place where he is domiciled, compensation of the damages and the costs incurred in connection with the proceedings before the court or tribunal of the third country, irrespective of the domicile of the claimant in the proceedings in the third country.	Member States shall ensure that, where abusive court proceedings on account of engagement in public participation have been brought in a court or tribunal of a third country against a natural or legal person domiciled in a Member State, that person shall have the right to seek, in the courts or tribunals of the place where he is domiciled, compensation of the damages and the costs incurred in connection with the proceedings before the court or tribunal of the third country, irrespective of the domicile of the claimant in the proceedings in the third country.

Amendment 73

Proposal for a directive

Chapter V a (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	Chapter Va <i>Jurisdiction, applicable law and relations with Union private international law instruments</i>

Amendment 74

Proposal for a directive

Article 18 a (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>Article 18a</p> <p><i>Jurisdiction for defamation claims</i></p> <p><i>In defamation claims or other claims based on civil or commercial law which may constitute a claim under this Directive, the domicile of the defendant shall be considered to be the sole forum, having due regard to cases where the victims of defamation are natural persons.</i></p>

Amendment 75

Proposal for a directive

Article 18 b (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>Article 18b</p> <p><i>Relations with the Brussels I Regulation</i></p> <p><i>With the exception of Article 18a of this Directive, this Directive shall not affect the application of the Brussels I Regulation.</i></p>

Amendment 76

Proposal for a directive

Article 18 c (new)

Text proposed by the Commission	Amendment
	<p>Article 18c</p> <p>Applicable law for publications as an act of public participation</p> <p>In claims regarding a publication as an act of public participation, the applicable law shall be the law of the place to which that publication is directed to. In the event of it not being possible to identify the place to which the publication is directed, the applicable law shall be the law of the place of editorial control or of the relevant editorial activity with regard to the act of public participation.</p>

Amendment 77

Proposal for a directive

Article 18 d (new)

Text proposed by the Commission	Amendment
	<p>Article 18d</p> <p>Relations with the Rome II Regulation</p> <p>With the exception of Article 18c of this Directive, this Directive shall not affect the application of the Rome II Regulation.</p>

Amendment 78

Proposal for a directive

Chapter V b (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	Chapter Vb
	Other provisions

Amendment 79

Proposal for a directive

Article 18 e (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	Article 18e
	Union register
	<i>The Commission shall take appropriate measures to establish a publicly accessible Union register, on the basis of the information provided in accordance with Article 16a, of relevant court decisions falling within the scope of this Directive, in accordance with Union rules on the protection of personal data.</i>

Amendment 80

Proposal for a directive

Article 18 f (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>Article 18f</p> <p>Awareness-raising</p> <p><i>Member States shall take appropriate action, including via electronic means, aimed at raising awareness about strategic lawsuits against public participation and the procedural safeguards set out in this Directive against them. Such action may include information and awareness-raising campaigns and research and education programmes, where appropriate in cooperation with relevant civil society organisations and other stakeholders.</i></p>

Amendment 81

Proposal for a directive

Article 18 g (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>Article 18g</p> <p>One-stop shop</p> <p><i>Member States shall, with the support of the Commission, take appropriate measures to establish a ‘one-stop shop’ comprising dedicated national networks of specialised lawyers, legal practitioners and psychologists, which targets of SLAPPs can contact, and through which they can receive guidance and easy access to information on, and protection against SLAPPs, including regarding legal aid, financial and psychological support.</i></p>

Amendment 82

Proposal for a directive

Article 18 h (new)

Text proposed by the Commission	Amendment
	<p>Article 18h</p> <p>Training of practitioners</p> <p>1. With due respect for the independence of the legal profession, Member States shall recommend that those responsible for the training of lawyers make available both general and specialist training to increase the awareness of strategic lawsuits against public participation and the procedural safeguards against them provided for in this Directive.</p> <p>2. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request that those responsible for the training of judges make available both general and specialist training to increase the awareness of judges of the needs of natural or legal persons engaging in public participation.</p> <p>3. Through their public services or by funding SLAPP support organisations, Member States shall encourage initiatives enabling those providing support to those targeted by manifestly unfounded or abusive court proceedings against public participation to receive adequate training.</p>

Amendment 83

Proposal for a directive

Article 18 i (new)

Text proposed by the Commission	Amendment
	<p>Article 18i</p> <p>Cooperation and coordination of services</p> <p>Member States shall take appropriate action to facilitate cooperation between Member States to improve the access of those targeted by manifestly unfounded or abusive court proceedings against public participation to information on</p>

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>procedural safeguards provided for in this Directive and under national law. Such cooperation shall be aimed at least at:</i></p> <p><i>(a) the exchange of current practices; and</i></p> <p><i>(b) the provision of assistance to European networks working on matters directly relevant to those targeted by manifestly unfounded or abusive court proceedings against public participation.</i></p>

Amendment 84

Proposal for a directive

Article 18 j (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>Article 18j</p> <p>Deontological rules for legal professionals</p> <p><i>Member States shall, with due respect for the independence of the legal profession, encourage the adoption by professional associations of deontological rules that guide the conduct of legal professionals to discourage the taking of abusive lawsuits against public participation, and where appropriate, considering measures to address any violation of those rules.</i></p>

Amendment 85

Proposal for a directive

Article 18 k (new)

Text proposed by the Commission	Amendment
	<p>Article 18k</p> <p>Data collection</p> <p>1. Member States shall, taking into account their institutional arrangements on judicial statistics, entrust one or more authorities to be responsible to collect and aggregate, in full respect of data protection requirements, data on abusive court proceedings against public participation initiated in their jurisdiction.</p> <p>2. Data referred to in paragraph 1 shall include, in particular, the following criteria:</p> <p>(a) the number of abusive court proceedings against public participation cases, initiated in the relevant year;</p> <p>(b) the number of abusive court proceedings against public participation cases dismissed early on account of relying on fully or partially unfounded claims;</p> <p>(c) the number of court proceedings, classified by type of defendant (e.g. journalist, human rights defender, media organisation);</p> <p>(d) the number of court proceedings, classified by type of plaintiff (e.g. politician, private person, company, whether the plaintiff is a foreign entity);</p> <p>(e) figures about acts of public participation on account of which court proceedings were launched;</p> <p>(f) figures on the estimated amount of initial damages requested by plaintiffs;</p> <p>(g) description of the different legal bases relied on by plaintiffs and related figures;</p> <p>(h) figures on the length of the proceedings, including all instances;</p> <p>(i) figures on cross-border elements;</p>

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>(j) <i>as available, other data including on judicial costs of proceedings and, as relevant and appropriate, relevant figures on the historical backgrounds of cases;</i></p> <p>(k) <i>the type of claim issued on the basis of this Directive and, where appropriate, the Commission Recommendation that complements it.</i></p>

Amendment 86

Proposal for a directive

Article 20 – paragraph 1

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>Member States shall provide the Commission with all relevant information regarding the application of this Directive by [5 years from the date of transposition]. On the basis of the information provided, the Commission shall by [6 years from the date of transposition] at the latest, submit to the European Parliament and the Council a report on the application of this Directive. The report shall provide an assessment of the evolution of abusive court proceedings against public participation and the impact of this Directive in the Member States. If necessary, the report shall be accompanied by proposals to amend this Directive.</p>	<p>Member States shall provide the Commission with all relevant information regarding the application of this Directive, in particular available data showing how those targeted by court proceedings against public participation have used the safeguards provided for in this Directive, by [3 years from the date of transposition]. On the basis of the information provided, the Commission shall by [4 years from the date of transposition] and every five years thereafter at the latest, submit to the European Parliament and the Council a report on the application of this Directive. The report shall provide an assessment of the evolution of abusive court proceedings against public participation and the impact of this Directive in the Member States while taking account of the national context in each Member State, including the implementation of the Commission Recommendation. If necessary, the report shall be accompanied by proposals to amend this Directive. Those reports shall be made public.</p>

Amendment 87

Proposal for a directive

Article 21 – paragraph 1 – subparagraph 1

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [2 years from the date of entry into force of this Directive] at the latest. They shall forthwith communicate to the Commission the text of those provisions.	Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [1 years from the date of entry into force of this Directive] at the latest. They shall forthwith communicate to the Commission the text of those provisions. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Amendment 88

Proposal for a directive

Article 21 – paragraph 1 a (new)

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	1a. Member States shall apply this directive also to cases pending before a national court at the time of entry into force of the national rules transposing this Directive.