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<https://eur-lex.europa.eu/eli/dir/2024/1069/oj>

Anti-SLAPP Recommendation

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What is a SLAPP?

The term SLAPP is an abbreviation for “Strategic Lawsuit Against Public Participation”. The definition of a SLAPP is simple: it is an abusive lawsuit filed by a party with the purpose of silencing public criticism.

What does the new anti-SLAPP Directive say?

First and foremost, it applies to civil or commercial matters with cross-border implications only, so purely domestic proceedings are not covered by this Directive.

What are the new legal developments in the regulation of SLAPPs in Europe?

Most importantly, in April 2024 the European Union adopted a new directive 2024/1069 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings.

In addition, also in April 2024 the Council of Europe, Committee of Ministers adopted Recommendation CM/Rec(2024)2 on countering the use of strategic lawsuits against public participation .

EU Member States must make sure that where court proceedings are brought against natural or legal persons on account of their engagement in public participation, those persons can apply for

- security,
- early dismissal of manifestly unfounded claims, or
- remedies against abusive court proceedings

EU Member States must transpose this directive into their domestic legal systems until 7 May 2026.

Why are SLAPPs dangerous?

SLAPPs have dire financial and psychological impacts on victims and their family members. But they also allow an affluent minority to hold public dialogue hostage. Thus, SLAPPs have an impact on society and democracy as a whole, in what has been defined as a “modern wave of censorship-by-litigation.”

What does the Council of Europe Recommendation say?

It applies to all SLAPP cases, however, it is non-binding.

It recommends that the legal systems of the CoE member States provide a comprehensive legal framework and a set of structural and procedural safeguards to prevent and minimise the harmful effects of SLAPPs.

In addition, they should organise, provide and ensure rapid access to a range of support and protective measures for targets and victims of SLAPPs.