Strengthening Democracy and Media Freedom and Pluralism in the EU: the undue use of actions under civil and criminal law to silence journalists, NGOs and civil society

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The European Parliament adopted by 444 votes to 48, with 75 abstentions, a resolution on strengthening democracy and media freedom and pluralism in the EU: the undue use of actions under civil and criminal law to silence journalists, NGOs and civil society.

Violations of fundamental rights

In recent years, journalists and media actors in Europe and abroad are increasingly being threatened, physically attacked and assassinated because of their work, particularly when it focuses on the misuse of power, corruption, fundamental rights violations and criminal activities.

Recalling that **independent impartial, professional and responsible journalism** as well as access to pluralistic information are key pillars of democracy, Members highlighted that SLAPPs are **vexatious, a direct attack on the exercise of fundamental rights** and freedoms and aim to silence the diversity of critical public thought and opinion, including through journalistic self-censorship. They consider that SLAPPs are particularly worrying if they are funded directly or indirectly from state budgets and are combined with other indirect and direct state measures against independent media outlets, independent journalism and civil society.

Effects on justice systems

The resolution stressed that safeguards against SLAPP lawsuits are essential to counter the threat that this abusive practice poses to the implementation of EU law and policies. SLAPPs not only severely undermine the right of effective access to justice of SLAPP victims, and thereby the rule of law, but also constitute a misuse of Member States' justice systems and legal frameworks.

Members also stressed the importance of adopting common European standards and a coordinated approach to dealing with **hate speech**, especially in the online environment, as women journalists are more often victims of sexual violence and harassment.

Current situation in the EU

Litigants that resort to SLAPPs mostly use and abuse criminal defamation laws, civil lawsuits for libel, protection of one's reputation or intellectual property rights such as copyright. An imbalance of power between the claimant and the defendant, particularly in terms of financial resources, and unpredictably large damages award claims in matters such as libel are common features of SLAPPs.

Members pointed out that all Member States lack legislation on minimum safeguards which protect people from becoming SLAPP targets and ensure that their fundamental rights are upheld in all Member State jurisdictions. The Commission and the Member States are invited to ensure transparency of media ownership and to develop an ambitious, robust and complete legal framework in its future 'Media Freedom Act'.

The Commission is invited to analyse anti-SLAPP best practices which currently exist in some US states, Canada and Australia, which could be a source of inspiration for EU-wide measures.

Need for legislative action

Members agreed with numerous civil society organisations academics, legal practitioners and victims who point to the need for legislative action against the growing problem of SLAPPs.

The Commission is called on to present proposals for:

- binding Union legislation on common and effective safeguards for victims of SLAPPs across the Union, including through a directive establishing minimum standards for protection against SLAPPs respecting rights and principles enshrined in the Charter;

- legislative measures to protect public participation, to ensure the proper functioning of the internal market by allowing corruption and other abusive practices to be exposed;

- 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, consideration of abusive motives even if the lawsuit or action is not dismissed, costs and damages suffered by the victim (economic, reputational, psychological or otherwise).

The Commission is also called on to raise awareness among judges and prosecutors across the EU about SLAPPs.

Possible soft law measures

Members underlined the urgent need for a robust fund for supporting victims of SLAPPs and organisations supporting them provided the funds are directly used for legal fees or the provision of legal aid and psychological support.

Complementarity with other instruments and policies

Parliament considered that the new anti-SLAPP legislative and non-legislative measures should complement other EU instruments and policies. Union level measures to combat SLAPPs should be complementary and consistent with other available tools, such as the mechanism for the protection of democracy, the rule of law and fundamental rights, policies on combating corruption, and current financial programmes to support civil society and justice systems