

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

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The Committee on Legal Affairs adopted the report by Tiemo WÖLKEN (S&D, DE) 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”).

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Scope

The scope of the proposed Directive should 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 should 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.

Definitions

Members clarified the definition of ‘public participation’ to mean 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 work.

Assistance to natural or legal persons engaging in public participation

Member States should ensure that natural or legal persons engaging in public participation have access, as appropriate, to support measures, in particular the following: (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 (b) legal aid, legal counselling or other legal assistance; (c) financial assistance and support measures, including psychological support, for those targeted by abusive court proceedings against public participation.

Penalties

Member States should ensure that courts or tribunals imposing penalties take due account of: (i) the economic situation of the claimant; (ii) the nature and number of the elements indicating an abuse identified.

Jurisdiction for defamation claims

A new article has been included stating that 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 should be considered to be the sole forum, having due regard to cases where the victims of defamation are natural persons.

One-stop shop

The report included a new article establishing 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.

Training of practitioners

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.

Members proposed that, with due respect for the independence of the legal profession, Member States should 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.

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.

Cooperation and coordination of services

Member States should 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 procedural safeguards provided for in this Directive and under national law. Such cooperation should be aimed at least at: (a) the exchange of current practices; and (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.

Publicly accessible national register

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.