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Subject:	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") – four-column table

Delegations will find in the Annex the four-column table concerning the above legislative proposal which contains:

- the Commission proposal adopted on 27 April 2022,
- the report of the European Parliament from 11 July 2023, and
- the general approach approved by the Council on 9 June 2023.

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”)

2022/0117(COD)

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Formula				
1	2022/0117 (COD)	2022/0117 (COD)	2022/0117 (COD)	
Proposal Title				
2	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”)	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”)	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings ("Strategic lawsuits against public participation")	
Formula				
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	

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Citation 1				
4	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(2)(f) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(2)(f) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(2)(f) thereof,	
Citation 2				
5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	
5a		<u>Having regard to the opinion of the European Economic and Social Committee,</u>		
Citation 3				
6	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	
Citation 4				
7	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	

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Formula				
8	Whereas:	Whereas:	Whereas:	
8a			<p>(-1) The Union has set itself the objective of maintaining and developing the Union as an area of freedom, security and justice in which the free movement of persons is ensured. To establish such an area, the Union is to adopt, among others, measures relating to judicial cooperation in civil matters having cross-border implications needed for the elimination of obstacles to the proper functioning of civil proceedings. That purpose should be pursued if necessary by promoting the compatibility of the rules on civil procedure that are applicable in the Member States.</p>	
Recital 1				
9	(1) Article 2 of the Treaty on European Union states that the	(1) Article 2 of the Treaty on European Union states that the	(1) Article 2 of the Treaty on European Union states that the	

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	Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.	Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.	Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.	
Recital 2				
10	(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), <u>freedom of assembly and of association (Article 12)</u> 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 ^{inter alia} , for the rights to respect for private and family life (Article 7), the protection of personal data (Article 8), the 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).	
Recital 3				
11	(3) The right to freedom of	(3) The right to freedom of	(3) The right to freedom of	

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	expression and information as set forth in Article 11 of the Charter includes the right to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. Article 11 of the Charter should be given the meaning and scope of the correspondent Article 10 of the European Convention on Human Rights ("ECHR") on the right to freedom of expression as interpreted by the European Court of Human Rights ("ECtHR").	expression and information as set forth in Article 11 of the Charter includes the right to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. Article 11 of the Charter should be given the meaning and scope of the correspondent Article 10 of the European Convention on Human Rights ("ECHR") on the right to freedom of expression as interpreted by the European Court of Human Rights ("ECtHR").	expression and information as set forth established in Article 11 of the Charter includes the right to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. Article 11 of the Charter should be given the meaning and scope of the correspondent the corresponding Article 10 of the European Convention on Human Rights ("ECHR") on the right to freedom of expression as interpreted by the European Court of Human Rights ("ECtHR").	
11a		<u>(3a) 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</u>		

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		<u>due respect to the fair trial principle.</u>		
11b		<u>(3b) 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</u>		

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		<p><u>decisions on SLAPP cases. In addition, Parliament called for the revision of Regulation (EU) 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'.</u></p> <p><u>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).</u></p> <p><u>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).</u></p>		
Recital 4				
12	(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	<p>(4) The purpose of this Directive is to provide <u>for minimum rules at Union level in order to ensure the</u> protection to of natural and legal persons who engage in public participation on matters of public interest, in particular <u>journalists including journalists,</u></p>	(4) The purpose of this Directive is to provide protection to eliminate obstacles with regard to the proper functioning of civil proceedings, while providing protection for natural and legal persons who engage in public participation on matters of public	

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	against them to deter them from public participation (commonly referred to as strategic lawsuits against public participation or ‘SLAPPs’).	<u><i>publishers, media organisations, whistleblowers</i></u> and human rights defenders, against court proceedings, which are <u><i>as well as civil society organisations, NGOs, trade unions, artists, researchers and academics, against court proceedings</i></u> initiated against them, <u><i>as well as the threats thereof</i></u> , to deter them from public participation (commonly referred to as strategic lawsuits against public participation or ‘SLAPPs’).	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 " <i>strategic lawsuits against public participation</i> " or strategic lawsuits against public participation or ‘SLAPPs’).	
12a			(4a) It is necessary to bear in mind that public participation is not always conducted in good faith. The dissemination of disinformation should not be protected by this Directive. To this end, the rules in this Directive should leave the court or tribunal seised with the matter the discretion in order to consider whether the application of the relevant safeguards is appropriate in a particular case. For example, if allegations made by the defendant are fabricated and their purpose is to damage the claimant’s reputation, the	

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			defendant should not be granted protection as provided for in Chapters II, III and IV of this Directive.	
Recital 5				
13	(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. <u>Independent, professional and responsible journalism, as well as access to pluralistic information, are key pillars of democracy.</u> It is essential that they <u>journalists</u> 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 <u>and without fear</u> 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. They should be able to conduct their activities effectively in order to ensure that citizens have access to a plurality of views in European democracies. It is essential that they <u>journalists</u> are afforded the necessary space to contribute to an open, free and fair debate and to counter disinformation, information manipulation and interference. The protection afforded to journalists should be able to conduct under the right to freedom of expression, in recognition of their activities effectively to ensure that citizens have access to a plurality of views in European democracies important role, is subject to the proviso that they should act in good faith, in order	

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			to provide accurate and reliable information, in accordance with the ethics of journalism.	
13a			(5a) This Directive does not provide a definition of a journalist, since the aim is to protect any natural and legal person on account of their engagement in public participation. However, it should be underlined that journalism is a function shared by a wide range of actors, including reporters, analysts, columnists and bloggers, as well as others who engage in forms of self-publication in print, on the internet or elsewhere.	
Recital 6				
14	(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	(6) Investigative journalists <u>and media organisations</u> in particular play a key role in <u>uncovering and</u> combating organised crime, <u>abuse of power</u> , corruption, <u>fundamental rights violations</u> and extremism. Their work carries particularly high risks and they are experiencing a	(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	

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	safeguards is needed to enable them to fulfil their crucial role as watchdogs on matters of legitimate public interest.	growing number of attacks, <u>killings, threats, intimidation</u> and harassment. A robust system of safeguards <u>and protection, including protection of their physical safety</u> , is needed to enable them <u>investigative journalists</u> to fulfil their crucial role as watchdogs on matters of legitimate public interest, <u>without fear of punishment for searching for the truth and informing the public</u> .	safeguards is needed required to enable them to fulfil their crucial role as watchdogs on matters of legitimate public interest.	
Recital 7				
15	(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	(7) Human rights defenders also play an important role in European democracies, especially in upholding fundamental rights, democratic values, social inclusion, environmental protection, <u>gender equality</u> and the rule of law. They <u>Considering the Union's environmental and climate policies, attention should also be given to the protection of environmental rights defenders.</u> <u>Human rights defenders</u> should be able to participate actively in public life, <u>promote accountability</u> and make their voice heard on policy matters and in decision-making processes without fear of	(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. are individuals, groups and organisations in civil society that promote and protect universally recognised human rights and fundamental freedoms. As such, human rights defenders refer to individuals or	

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	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.	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.	organisations engaged in defending fundamental rights and a variety of other rights, such as environmental and climate rights, women's rights, LGBTIQ rights, the are committed to promoting and safeguarding civil, political, economic, social, cultural and environmental 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 and to fighting against direct or indirect discrimination as set out in Article 21 of the Charter.	
15a			(7a) Other important participants in public debate, such as academics and researchers, also deserve effective protection, since they may also be targeted by SLAPPs. In a democratic society, members of the academic community should be able to engage in research, teaching, learning and communication in society without fear of reprisal.	

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15b		<p><u>(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.</u></p>		
Recital 8				
16	<p>(8) A healthy and thriving democracy requires that people are able to participate actively in public debate without undue interference by public authority or other powerful actors, be they domestic or foreign. In order to secure meaningful participation, people should be able to access</p>	<p>(8) A healthy and thriving democracy requires that people are able to participate actively in public debate without undue interference by public authority or other powerful actors, be they domestic or foreign. In order to secure meaningful participation, people should be able to access</p>	<p>(8) A healthy and thriving democracy requires that people are able to participate actively in public debate without undue interference by public authority or other powerful actors, be they domestic or foreign. In order to secure meaningful participation, people should be able to access</p>	

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	reliable information, which enables them to form their own opinions and exercise their own judgement in a public space in which different views can be expressed freely.	reliable information, which enables them to form their own opinions and exercise their own judgement in a public space in which different views can be expressed freely.	reliable information, which enables them to form their own opinions and exercise their own judgement in a public space in which different views can be expressed freely.	
Recital 9				
17	(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 journalists and human rights defenders <u>natural and legal persons</u> from court proceedings against public participation. Such court proceedings are not initiated for the purpose of access to justice, but to silence public debate <u>and prevent investigation of and reporting on breaches of Union and national law, including corruption or other abusive practices</u> typically using harassment and intimidation.	(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.	
Recital 10				
18	(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	(10) SLAPPs are typically initiated by powerful entities, for example individuals, lobby groups, corporations, <u>public officials, publicly controlled entities, politicians, judicial authorities</u> and state organs <u>in an attempt to</u>	(10) SLAPPs are typically initiated by powerful entities, for example <u>such as</u> individuals, lobby groups, corporations and state organs. They often involve an imbalance of power between the parties, with the claimant having a	

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	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.	<u><i>silence public debate</i></u> . 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.	more powerful financial or political position than the defendant. Although not being an imbalance of power is not an indispensable component of such cases, where present, an imbalance of power it significantly increases the harmful effects as well as the chilling effects of court proceedings against public participation.	
Recital 11				
19	(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	(11) Court proceedings against public participation may have an adverse impact on the credibility and reputation of journalists and human rights defenders <u><i>natural and legal persons that engage in public participation</i></u> 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 <u><i>natural and legal persons that engage in</i></u>	(11) Court proceedings against public participation may have an adverse impact on the credibility and reputation of journalists and human rights defenders and may 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 avoided altogether . 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	

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	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.	<u>public participation</u> . 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.	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.	
Recital 12				
20	(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	(12) Those targeted by court proceedings against public participation may face multiple cases simultaneously, <u>which can be civil, administrative or criminal or a combination of those</u> , 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 <u>(forum shopping)</u> , rather than to the court best placed to hear	(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 domiciled 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 increase the length and cost of the litigation, and bring cases and to initiate proceedings in a jurisdiction that they perceive to be favourable for to their case, rather than to the court best placed to in the jurisdiction best placed to	

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	court systems.	the claim. <u>The length and variety of procedures, the financial pressure and the threat of penalties, constitute powerful tools to intimidate and silence critical voices.</u> Such practices also place unnecessary and harmful burdens on national court <u>systems and lead to misuse of their resources, thus constituting an abuse of judicial</u> systems.	hear the claim. Such practices also place unnecessary and harmful burdens on national court systems.	
Recital 13				
21	(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 <u>direct or indirect</u> 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 <u>lawyers, family members,</u> internet providers, publishing houses or print shops, which face or are threatened with court proceedings for <u>assisting,</u> providing <u>support or</u> services to the person targeted with	(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, such as internet providers, publishing houses or print shops, which face or are threatened with court proceedings for providing services to the person persons targeted with by court proceedings.	

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		court proceedings.		
21a			(13a) A manifestly unfounded claim may be understood as being a claim which is so obviously unfounded that there is no scope for any reasonable doubt. This needs to be assessed on a case-by-case basis in relation to each specific claim.	
Recital 14				
22	(14) This Directive should apply to any type of legal claim or action of a civil or commercial nature with cross-border implications whatever the nature of the court or tribunal. This includes civil claims brought in criminal proceedings. It also includes interim and precautionary measures, counteractions or other particular type of remedies available under other instruments.	(14) This Directive should apply to any type of legal claim or action of a civil or commercial nature with cross-border implications whatever the nature of the court or tribunal. This includes civil claims brought in criminal proceedings. It also includes interim and precautionary measures, counteractions or other particular type of remedies available under other instruments.	(14) This Directive should apply to any type of legal claim or action of a civil or commercial nature with cross-border implications entertained in civil proceedings whatever the nature of the court or tribunal. This includes civil claims brought in criminal proceedings. It also includes procedures for interim and precautionary measures, counteractions or other particular types types of remedies available under other instruments. However, it should not apply to civil claims brought in criminal proceedings and governed fully or partially by criminal	

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			procedural law.	
Recital 15				
23	(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 (<i>acta iure imperii</i>) 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 (<i>acta iure imperii</i>) 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, <u>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.</u>	(15) The Directive does should not apply to claims arising out of liability of the State for actions or omissions in the exercise of state authority (<i>acta iure imperii</i>) 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. This Directive should not apply to criminal matters or arbitration and should be without prejudice to criminal procedural law.	
23a		<u>(15a) This Directive lays down minimum rules, thus enabling the Member States to adopt or maintain provisions that are more favourable to persons engaging in</u>		

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		<i>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>		
Recital 16				
24	(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	(16) Public participation should mean any statement, <u>activity or preparatory, supporting or assisting action directly linked thereto</u> , or activity by a natural or legal person expressed or carried out in <u>the</u> exercise of the <u>fundamental and human rights and freedoms such as</u> right to freedom of expression and information on a matter of public interest, such as the creation,	(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 current or future public interest, such as the creation, exhibition, advertisement, marketing activities or other promotion of journalistic, political, scientific, academic, artistic, commentary or	

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	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 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.	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 <u>academic and artistic freedom</u> , 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 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	satirical communications, publications or works, and any preparatory activities directly linked thereto. Future public interest refers to the fact that a matter might not yet be of public interest, but could become so, once the public becomes aware of it, for example by means of a publication. Public participation 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 in 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 before courts or administrative bodies and participation. In addition, it can cover other activities meant to	

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		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.	inform or influence in 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 actionshearings.	
24a			(16a) Public participation should also include preparatory, supporting or assisting activities that have a direct and inherent link to the statement or activity in question. Such activities should directly concern a specific act of public participation or be based on a contractual link between the actual target of SLAPP and the person providing the preparatory, supporting or assisting activity. Bringing claims not against a journalist or a human rights defender but against the internet platform on which they publish their work or against the company that prints a text or a shop that sells the text can be an effective way of silencing public participation, as	

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			without such services opinions cannot be published and thus cannot influence public debate.	
24b			(16b) In addition, public participation can cover other activities meant to inform or influence public opinion or to encourage 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.	
Recital 17				
25	(17) Public participation should not normally cover commercial advertisement and marketing activity, which are typically not made in the exercise of freedom of expression and information.	(17) Public participation should not normally cover commercial advertisement and marketing activity, which are typically not made in the exercise of freedom of expression and information.	<i>deleted</i>	
Recital 18				
26	(18) The notion of a matter of	(18) The notion of a matter of	(18) The notion of a matter of	

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	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.	public interest should include <u>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. It should include</u> also quality, safety or other relevant aspects of goods, products or services where such matters are relevant to public health, safety, the environment, climate, <u>consumer and labour</u> 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.	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 where the matter contains an element of public interest, for instance concerning where it concerns a product or service which fails to comply with environmental or safety standards.	
Recital 19				
27	(19) Activities of a person or entity in the public eye or of public interest are also matters of public interest to which the public may	(19) Activities of a person or entity in the public eye or of public interest are also matters of public interest to which the public may	(19) Activities of a person or entity in the public eye or of public interest are also figure should also be considered as matters of public	

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	legitimately take an interest in. However, there is no legitimate interest involved where the sole purpose of a statement or activity concerning such a person or entity is to satisfy the curiosity of a particular audience regarding the details of a person's private life.	legitimately take an interest in. However, there is no legitimate interest involved where the sole purpose of a statement or activity concerning such a person or entity is to satisfy the curiosity of a particular audience regarding the details of a person's private life.	interest, since to which the public may legitimately take an interest in them . However, there is no legitimate interest involved where the sole purpose of a statement or activity concerning such a person or entity is to satisfy the curiosity of a particular audience regarding the details of a person's private life.	
27a			(19a) Matters under consideration by a legislative, executive or judicial body or any other official proceedings can be examples of matters of public interest. Concrete examples of such matters could be legislation concerning environmental standards or product safety, an environmental license for a polluting factory or mine or court proceedings with legal significance beyond the individual case, for instance a case about equality, discrimination in the workplace, environmental crime or money laundering.	

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27b		<p><u>(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.</u></p>		
27c			<p>(19b) Matters of public interest may also relate to alleged criminal offences, such as corruption, fraud, tax evasion or sexual harassment.</p>	

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Recital 20				
28	<p>(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.</p>	<p>(20) <u>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</u> abusive court proceedings typically involve litigation tactics used in bad faith such as <u>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</u>, causing disproportionate costs to the defendant in the proceedings or forum shopping. <u>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.</u> These tactics are used by the claimant for other purposes than gaining access to justice <u>or genuinely exercising a right</u>. Such tactics are often,</p>	<p>(20) Abusive court proceedings typically involve litigation tactics deployed by the claimant and used in bad faith such as delaying proceedings, causing including but not limited to the choice of jurisdiction, the use of delaying strategies and incurring disproportionate costs to for the defendant in the proceedings. Those litigation tactics, which are often combined with various forms of intimidation, harassment or threats before or during the proceedings, or forum shopping. These tactics are used by the claimant for other purposes other than gaining access to justice. Such tactics are often, although not always, combined with various forms of intimidation, harassment or threats and aim to achieve a chilling effect on public participation in the matter at stake..</p>	

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		although not always, combined with various forms of intimidation, harassment or threats.		
28a			(20a) Claims made in abusive court proceedings can be either fully or partially unfounded. This means that a claim does not necessarily have to be completely unfounded for the proceedings to be considered abusive. For example, even a minor violation of personality rights that could give rise to a modest claim for compensation under the applicable law can still be abusive, if a manifestly excessive amount or remedy is claimed. On the other hand, if the claimant in court proceedings pursues claims that are founded, such proceedings should not be regarded as abusive for the purposes of this Directive.	
28b		<u>(20a) Manifestly unfounded or abusive court proceedings against public participation are becoming</u>		

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		<i><u>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.</u></i>		
28c		<i><u>(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.</u></i>		
28d		<i><u>(20c) Abusive court proceedings against public participation often</u></i>		

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		<u><i>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.</i></u>		
Recital 21				
29	(21) A cross-border dimension of SLAPPs adds to the complexity and challenges faced by defendants, as they need to deal with proceedings in other jurisdictions, sometimes in multiple jurisdictions at the same time. This, in turn, results in additional costs and burdens with even more adverse consequences.	(21) A cross-border dimension of SLAPPs adds to the complexity and challenges faced by defendants, as they need to deal with proceedings in other jurisdictions, sometimes in multiple jurisdictions at the same time. This, in turn, results in additional costs and burdens with even more adverse consequences.	<i>deleted</i>	
Recital 22				
30	(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	(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	<i>deleted</i>	

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	<p>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>where the specific act of public participation concerning a matter of public <u>is relevant to, more than one Member State due to the cross-border dimension of the act itself or due to a legitimate</u> interest at stake is relevant to more than one Member State. That includes <u>which the public may take in the matter concerned by the act, including if the act is accessible via electronic means. Such situations include</u> for instance public participation in <u>acts, such as</u> events organised by Union institutions, such as appearances in public hearings, or <u>widely disseminated publications. They could include as well</u> statements or activities on matters, <u>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</u> that are of specific relevance to more than one Member State, such as cross-border pollution or allegations of money laundering with potential <u>in particular, if it is carried out on the internet, for example in the case of social media campaigns or</u></p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>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 involvement elements has already been recognised in the case law of the Court of Justice of the European Union.</u> 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>		
30a		<p><u>(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</u></p>		

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		<p><u>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.</u></p>		
30b		<p><u>(22b) Participation in proceedings against public participation exposes those targeted to particular psychological stress. The</u></p>		

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		<p><u>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 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.</u></p>		

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	Recital 23			
31	<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. <u>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.</u></p>	<p>(23) Defendants should be able to apply for the following procedural safeguards: a request for a security to cover procedural costs of the proceedings, or the, or procedural costs and damages, a request for an of the proceedings and, where applicable, damages, early dismissal of manifestly unfounded court proceedings, a request for claims, remedies against abusive court proceedings (award of costs, compensation of damages and penalties and penalties or other appropriate measures), or some or all of them. Such procedural safeguards should be carefully applied in line with the right to an effective remedy and to a fair trial, as set out in Article 47 of the Charter, leaving the court discretion in individual cases to appropriately examine the matter at hand and thereby allowing speedy dismissal of manifestly unfounded claims without restricting the effective access to justice at the same time.</p>	

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31a			(23a) Member States should lay down or maintain the rules on how the court or tribunal seised on the matter should deal with applications for procedural safeguards. For instance, Member States could apply existing civil procedural rules on the handling of evidence to assess whether the conditions for the application of the procedural safeguards are met or could establish specific rules for this purpose. Such national rules should not make the exercise of these procedural safeguards unduly arduous.	
Recital 24				
32	(24) In some abusive court proceedings against public participation, claimants deliberately withdraw or amend claims or pleadings to avoid awarding costs to the successful party. This legal strategy may deprive the court or tribunal of the power to acknowledge the abusiveness of the court	(24) In some abusive court proceedings against public participation, claimants deliberately withdraw or amend claims or pleadings to avoid awarding costs to the successful party. This legal strategy may deprive the court or tribunal of the power to acknowledge the abusiveness of the court	(24) In some abusive court proceedings against public participation, claimants deliberately withdraw or amend claims or pleadings in order to avoid awarding costs to the successful party. This legal strategy may deprive the court or tribunal of the power to acknowledge the	

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	proceeding, leaving the defendant with no chance to be reimbursed of procedural costs. Such withdrawals or amendments should therefore not affect the possibility for the courts seised to impose remedies against abusive court proceedings.	proceeding, leaving the defendant with no chance to be reimbursed of procedural costs. Such withdrawals or amendments should therefore not affect the possibility for the courts seised to impose remedies against abusive court proceedings.	abusiveness could, in some Member States, leave the defendant with no chance to be reimbursed of the costs of the court proceeding, leaving the defendant with no chance to be reimbursed of procedural costs. Such withdrawals or amendments should therefore not affect the possibility for the courts seised to impose remedies against abusive court proceedings, in accordance with national law. This is without prejudice to the possibility for Member States to provide that procedural safeguards can be taken <i>ex officio</i>. Member States, leave the defendant with no chance to be reimbursed of the costs of the court proceeding, leaving the defendant with no chance to be reimbursed of procedural costs. Such withdrawals or amendments, if provided for by national law, and with respect for the parties' power to dispose over the proceedings, should therefore not affect the possibility for the courts seised to impose remedies against abusive court proceedings, in accordance with national law. This is without prejudice to the possibility for Member States to provide that procedural safeguards can be taken <i>ex officio</i>.	
Recital 25				
33	(25) If the main claim is dismissed later on in the ordinary proceedings, the defendant may still benefit of other remedies against abusive court proceedings such as award of costs and compensation of damages.	(25) If the main claim is dismissed later on in the ordinary proceedings, the defendant may still benefit of other remedies against abusive court proceedings such as award of costs and compensation of damages.	<i>deleted</i>	

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33a			(25a) To provide a more effective level of protection, non-governmental organisations should be able to support the defendant in court proceedings brought in relation to public participation. This support could, for example, take the form of providing information relevant to the case, intervening in favour of the defendant in the court proceedings or any other form as provided for in national law. The conditions under which non-governmental organisations could support the defendant and the procedural requirements for such support, such as time limits where appropriate, should be governed by national law.	
Recital 26				
34	(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	(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	(26) To provide the defendant with an additional safeguard, there should be at the possibility to grant him or her a security to cover procedural the estimated costs of the proceedings or, where	

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	<p>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>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. <u>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.</u> 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 <u>and covering the costs and damage caused to the defendant.</u> 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>applicable, the estimated costs and/or of the proceedings and damages. However, it is necessary to strike a balance between that measure and the claimant's right of access to justice.—when The court considers that even if the claim is not manifestly unfounded, or tribunal seised may consider it appropriate for the claimant to provide a security if there are elements indicating an abuse of procedure and the prospects for success in the main proceedings are low that indicate that the proceedings are abusive or if there is the risk of the defendant not being reimbursed or with regard to the economic situation of the parties or other such criteria laid down in national law. A security does not entail a judgement on the merits but serves as a precautionary measure ensuring to ensure the effects of a final decision finding an abuse of procedure and which covers the costs or, if provided for in national law, the costs and potential damage caused to the defendant, particularly where there is a risk of irreparable harm. It should be for Member</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			States to decide whether a security should be ordered by the court on its own motion or upon request by the defendant.	
34a			<p>(26a) The decision that grants early dismissal should be a decision on the merits, after appropriate examination. Member States should adopt new rules or apply existing rules under national law so that the court or tribunal can decide to dismiss manifestly unfounded cases as soon as it has received the necessary information in order to substantiate the decision. Such a dismissal should take place at the earliest possible stage in the proceedings but that moment could occur at any time during the proceedings depending on when the court has received such information, in accordance with national law. Where the defendant has applied for the dismissal of the claim as manifestly unfounded, the court or tribunal should deal with that application in an accelerated manner in accordance with</p>	

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			national law in order to expedite the assessment of whether the claim is manifestly unfounded, taking into account the circumstances of the case, the right to an effective remedy and the right to a fair trial. The possibility to grant an early dismissal does not preclude the application of national rules which enable national courts or tribunals to assess admissibility of an action even before the proceedings are initiated.	
Recital 27				
35	(27) A stay of the proceedings, when an application for early dismissal has been filed, ensures that procedural activity is suspended, hence reducing the procedural costs of the defendant.	(27) A stay of the proceedings, when an application for early dismissal has been filed, ensures that procedural activity is suspended, hence reducing the procedural costs of the defendant.	<i>deleted</i>	
Recital 28				
36	(28) To avoid any impact on the access to an effective remedy, the stay should be temporary and kept until a final decision on the application is taken. A final decision means a decision that is	(28) To avoid any impact on the access to an effective remedy, the stay should be temporary and kept until a final decision on the application is taken. A final decision means a decision that is	<i>deleted</i>	

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	no longer subject to judicial review.	no longer subject to judicial review.		
<i>Recital 29</i>				
37	<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 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.</p>	<p>(29) <u>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.</u> 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 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.</p>	<p>(29) To ensure high expediency in the accelerated procedure on an application for early dismissal that an application for early dismissal is treated in an accelerated manner, 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 endeavour to ensure that when where the defendant has applied applies for other procedural safeguards, the decision is also taken in an expeditious accelerated 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.</p>	

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Recital 30				
38	(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. <u>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.</u>	<i>deleted</i>	
38a			(30a) A decision granting early dismissal should be subject to appeal. A decision refusing early dismissal could also be subject to	

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			appeal in accordance with national law.	
Recital 31				
39	(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, <u>including pre-trial costs</u> 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, <u>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. Full compensation of damages should include both material and immaterial damages, such as physical and psychological harm</u> <u>be able to award the full costs by whatever other means are available, in accordance with national law, including through the compensation of damages.</u>	(31) Where the court has found the proceedings to be abusive, costs should include all types of 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. The court should render the decisions on costs in accordance with national law.	
39a		<u>(31a) Full compensation for</u>		

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		<p><u>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 counterclaim. 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, 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</u></p>		

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		<u>of intangible damage.</u>		
Recital 32				
40	(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 <u>determined on a case by case basis and should be</u> 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 or other appropriate measures is to deter potential claimants from initiating abusive court proceedings against public participation. Other appropriate measures could, for example, if provided for in national law, be damages or the publication of the court decision. Where the court has found the proceedings to be abusive, such penalties or measures should be proportionate to the elements of abuse identified. When establishing amounts for penalties, courts and 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. It would be for the Member States to decide how any monetary amounts	

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			should be paid.	
40a		<u>(32a) 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.</u>		
Recital 33				
41	(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	(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	(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	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>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.</p>	<p>the European Union. They may involve excessive damages awarded against EU journalists, human rights defenders and others <u>persons engaging in public participation</u>. 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.</p>	<p>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 the right to 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. Member States may choose whether to refuse the recognition and enforcement of a third-country judgment as manifestly contrary to public policy (ordre public) or on the basis of a separate refusal ground.</p>	
41a		<p><u>(33a) As regards jurisdiction for defamation claims or other claims based on civil or commercial law which could constitute abusive court proceedings against public</u></p>		

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		<p><u>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.</u></p>		
41b		<p><u>(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</u></p>		

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		<u>of Rome II Regulation.</u>		
Recital 34				
42	<p>(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.</p>	<p>(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 <u>or reasonably expected to be incurred</u> 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.</p>	<p>(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 by a claimant domiciled outside the Union. It applies irrespective of a decision being rendered or being final, as targets of SLAPPs can suffer damages and incur costs since the start of the court proceedings and possibly without any decision being rendered, such as in the case of a withdrawal. However, Member States may decide to limit the exercise of the jurisdiction while proceedings are still pending in the third country, in accordance with national law, for example by providing for a stay of the proceedings in the Member State. This special ground of jurisdiction allows the targets domiciled in the European Union</p>	

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			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 It is aimed to act as a deterrent against abusive court proceedings brought in third countries against persons domiciled in the European Union and can be enforced, for example, where a claimant in the proceedings domiciled outside the Union has assets in the third countryEuropean Union. This provision does not deal with applicable law nor with substantive law on damages as such.	
42a		<u>(34a) 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</u>		

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		<u>initiatives, information and awareness-raising campaigns, research and education programmes, and training, as well as monitoring and evaluation of the impact of such measures.</u>		
42b		<u>(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.</u>		
42c		<u>(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</u>		

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		<u>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.</u>		
42d		<u>(34d) 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.</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
42e		<p><u>(34e) 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.</u></p>		
Recital 35				
43	(35) This Directive should be without prejudice to the protection	(35) This Directive should be without prejudice to the protection	(35) This Directive should be without prejudice to the protection	

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	<p>that other instruments of Union law or national law provide to natural and legal persons that engage in public participation. In particular, it does not detract in any way from the protection offered by Directive 2019/1937 on the protection of persons who report breaches of Union law¹, as implemented in national law. As regards situations falling within the scope of this Directive and of Directive 2019/1937, the protection offered by both acts should therefore apply.</p> <p>¹. OJ L 305, 26.11.2019, p. 17-56.</p>	<p>that other instruments of Union law or national law provide to natural and legal persons that engage in public participation. In particular, it does not detract in any way from the protection offered by Directive 2019/1937 on the protection of persons who report breaches of Union law¹, as implemented in national law. As regards situations falling within the scope of this Directive and of Directive 2019/1937, the protection offered by both acts should therefore apply.</p> <p>¹. OJ L 305, 26.11.2019, p. 17-56.</p>	<p>that other instruments of Union law or provisions of national law that establish more favourable rules provide to natural and legal persons that engage in public participation. In particular, itthis Directive does not intend to reduce or restrict rights such as the right to freedom of expression and information, nor does it intend to detract in any way from the protection offered by Directive 2019/1937 on the protection of persons who report breaches of Union law¹, as implemented in national law. As regards situations falling that fall within the scope of this Directive and of Directive 2019/1937, the protection offered by both acts should therefore apply. More favourable provisions may include national provisions that establish more effective procedural safeguards, such as a liability regime relating to the right to freedom of expression and information.</p> <p>¹. [1] OJ L 305, 26.11.2019, p. 17-56.</p>	
Recital 36				

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44	<p>(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.</p>	<p>(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. <u>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</u></p>	<p>(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 for targets of abusive court proceedings and data collection, and the reporting and monitoring of court proceedings against public participation.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u><i>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.</i></u>		
44a			(36a) This Directive complies with the protection of the fundamental rights and observes the principles recognised by the Charter and the fundamental rights constituting general principles of Union law. Accordingly, this Directive should be interpreted and implemented in accordance with those fundamental rights, including the right to freedom of expression and of information, as well as the rights to an effective remedy, to a fair trial and to access to justice. When implementing this Directive, all public authorities involved should achieve, in situations where the relevant fundamental	

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			rights conflict, a fair balance between the rights concerned, in accordance with the principle of proportionality.	
44b		<p><u>(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, 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</u></p>		

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		<u>participation pro bono, legal clinics of universities and other non-governmental organisations.</u>		
44c		<u>(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.</u>		
44d		<u>(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</u>		

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		<u><i>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.</i></u>		
Recital 37				
45	(37) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.	(37) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.	(37) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.	
Recital 38				
46	(38) [In accordance with Articles 1, 2 and 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and is not bound by	(38) [In accordance with Articles 1, 2 and 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and is not bound by	<i>deleted</i>	

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	it or subject to its application] OR	it or subject to its application] OR		
<i>Recital 39</i>				
47	(39) [In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland has notified [, by letter of ...,] its wish to take part in the adoption and application of this Directive.]	(39) [In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland has notified [, by letter of ...,] its wish to take part in the adoption and application of this Directive.]	(39) ¶ In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland has notified ¶ , by letter of --- 6 July 2022, ¶ its wish to take part in the adoption and application of this Directive. ¶	
Formula				
48	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	
CHAPTER I				
49	CHAPTER I General provisions	CHAPTER I General provisions	CHAPTER I General provisions	
Article 1				
50	Article 1	Article 1	Article 1	

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	Subject matter	Subject matter	Subject matter	
Article 1, first paragraph				
51	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 <u>a set of minimum standards of protection and</u> safeguards against manifestly unfounded or abusive court proceedings in civil matters, <u>as well as the threats thereof</u> , with cross-border implications brought against natural and legal persons; in particular journalists and human rights defenders, on account of their engagement <u>engaging</u> in public participation.	This Directive provides safeguards against manifestly unfounded claims 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.	
Article 2				
52	Article 2 Scope	Article 2 Scope	Article 2 Scope	
Article 2, first paragraph				
53	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	This Directive shall apply to matters of a civil or commercial nature with <u>having</u> cross-border implications, <u>including interim and precautionary measures, counteractions or other particular types of remedies available under</u>	1. This Directive shall apply to matters of a civil or commercial nature with cross-border implications entertained in civil proceedings , whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue,	

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	or the liability of the State for acts and omissions in the exercise of State authority (<i>acta iure imperii</i>).	<u>other instruments</u> , 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 (<i>acta iure imperii</i>).	customs or administrative matters or the liability of the state for acts and omissions in the exercise of state authority (<i>acta iure imperii</i> <i>acta iure imperii</i>). This Directive shall not apply to criminal matters or arbitration and shall be without prejudice to criminal procedural law.	
53a			1a. This Directive lays down minimum rules, thus enabling the Member States to adopt or maintain provisions more favourable to persons engaged in public participation, including national provisions establishing more effective procedural safeguards relating to the right to freedom of expression and information.	
53b		<u>Article 2a</u> <u>Minimum requirements</u>		
Article 2a				
53c				

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		<u>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.</u>		
53d		<u>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.</u>		
Article 3				
54	Article 3 Definitions	Article 3 Definitions	Article 3 Definitions	
Article 3, first paragraph				
55	For the purposes of this Directive, the following definitions shall apply:	For the purposes of this Directive, the following definitions shall apply:	For the purposes of this Directive, the following definitions shall apply:	
Article 3, first paragraph, point (1)				

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56	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, <u>academic freedom, or freedom of assembly and association</u> on a matter of public interest , and preparatory, supporting or assisting action directly linked thereto, <u>on a matter of public interest</u> . This includes complaints, petitions, administrative or judicial claims, the and participation in public hearings, <u>the creation, exhibition, advertisement or other promotion of journalistic, political, scientific, academic, artistic, satirical communications, publications or works</u> ;	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;	
Article 3, first paragraph, point (2)				
57	2. ‘matter of public interest’ means any matter which affects the public to such an extent that the public may legitimately take an interest in it, in areas such as:	2. ‘matter of public interest’ means any matter which affects the public to such an extent that the public may legitimately take an interest in it, in areas such as:	2. ‘matter of public interest’ means any matter which affects the public to such an extent that the public may legitimately take an interest in it, in areas such as:	
Article 3, first paragraph, point (2)(a)				

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58	(a) public health, safety, the environment, climate or enjoyment of fundamental rights;	(a) <u>fundamental rights, including gender equality, media freedom and consumer and labour rights, as well as</u> public health, safety, the environment, climate or enjoyment of fundamental rights <u>or the climate</u> ;	(a) fundamental rights , public health, safety, the environment, climate or enjoyment of fundamental rights or climate ;	
Article 3, first paragraph, point (2)(b)				
59	(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, <u>including governmental officials and private entities</u> ;	(b) activities of a person or entity in the public eye or of public interest figure ;	
Article 3, first paragraph, point (2)(c)				
60	(c) matters under public consideration or review by a legislative, executive, or judicial body, or any other public official proceedings;	(c) matters under public consideration or review by a legislative, executive, or judicial body, or any other public official proceedings;	(c) matters under public consideration or review by a legislative, executive, or judicial body, or any other public official proceedings;	
Article 3, first paragraph, point (2)(d)				
61	(d) allegations of corruption, fraud or criminality;	(d) allegations of corruption, fraud, <u>embezzlement, money laundering, extortion, coercion, sexual harassment and gender-based violence, or other forms of</u>	(d) allegations of corruption, fraud or criminality other criminal offences ;	

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		<u>intimidation, or any other criminal or administrative offence, including environmental crime or criminality</u> ;		
Article 3, first paragraph, point (2)(e)				
62	(e) activities aimed to fight disinformation;	(e) activities aimed to fight <u>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</u> disinformation;	(e) activities aimed to fight <u>at fighting</u> disinformation;	
62a		<u>(ea) academic, scientific, research and artistic activities.</u>		
Article 3, first paragraph, point (3)				
63	3. ‘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	3. ‘abusive court proceedings against public participation’ mean court proceedings brought in relation to public participation that are fully or partially unfounded, <u>characterised by elements indicative of a misuse of the judicial process for purposes other</u>	3. ‘abusive court proceedings against public participation’ mean court proceedings brought in relation to public participation that are fully or partially unfounded and that have as their main purpose to prevent, restrict or penalize the prevention, restriction or	

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	purpose can be:	<i>than genuinely asserting, vindicating or exercising a right</i> and have as their main purpose to <i>abusively</i> prevent, restrict or penalize public participation. Indications of such a purpose can be:	penalisation of public participation and which pursue unfounded claims . Indications of such a purpose can be:	
Article 3, first paragraph, point (3)(-a)				
63a		<i>(-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;</i>		
Article 3, first paragraph, point (3)(a)				
64	(a) the disproportionate, excessive or unreasonable nature of the claim or part thereof;	(a) the disproportionate, excessive or unreasonable nature of the claim or part thereof;	(a) the disproportionate, excessive or unreasonable nature of the claim or part thereof, including the excessive dispute value;	
Article 3, first paragraph, point (3)(b)				
65	(b) the existence of multiple proceedings initiated by the claimant or associated parties in relation to similar matters;	(b) the existence of multiple proceedings initiated by the claimant or associated parties in relation to similar matters;	(b) the existence of multiple proceedings initiated by the claimant or associated parties in relation to similar matters;	

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Article 3, first paragraph, point (3)(c)				
66	(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; <u>before or during the proceedings, as well as any previous history of legal intimidation by the claimant;</u>	(c) intimidation, harassment or threats on the part of the claimant or his or her representatives.	
66a		<u>(ca) 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.</u>		
Article 4				
67	Article 4 Matters with cross-border implications	Article 4 Matters with cross-border implications	<i>deleted</i>	
Article 4(1)				
68	1. For the purposes of this Directive, a matter is considered to	1. For the purposes of this Directive, a matter is considered to	<i>deleted</i>	

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	have cross-border implications unless both parties are domiciled in the same Member State as the court seised.	have cross-border implications unless both parties are domiciled in the same Member State as the court seised.		
<i>Article 4(2)</i>				
69	2. Where both parties to the proceedings are domiciled in the same Member State as the court seised, the matter shall also be considered to have cross-border implications if:	2. Where both parties to the proceedings are domiciled in the same Member State as the court seised, the matter shall also be considered to have cross-border implications if:	<i>deleted</i>	
<i>Article 4(2), point (a)</i>				
70	(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 concerning a matter of public interest against <u>is relevant to more than one Member State, either due to the cross-border dimension of the act itself or due to the legitimate interest</u> which court proceedings are initiated is relevant to more than one Member State <u>the public may take in the matter concerned by the act, including if the act is accessible via electronic means</u> , or	<i>deleted</i>	
<i>Article 4(2), point (b)</i>				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
71	(b) the claimant or associated entities have initiated concurrent or previous court proceedings against the same or associated defendants in another Member State.	(b) the claimant or associated entities have initiated concurrent or previous court proceedings against the same or associated defendants in another Member State.	<i>deleted</i>	
CHAPTER II				
72	CHAPTER II Common rules on procedural safeguards	CHAPTER II Common rules on procedural safeguards	CHAPTER II Common rules on procedural safeguards	
Article 5				
73	Article 5 Applications for procedural safeguards	Article 5 Applications for procedural safeguards	Article 5 Applications for procedural safeguards	
Article 5(1)				
74	1. Member States shall ensure that when court proceedings are brought against natural or legal persons on account of their engagement in public participation, those persons can apply for:	1. Member States shall ensure that when court proceedings are brought against natural or legal persons on account of their engagement in public participation, those persons can apply for:	1. Member States shall ensure that when where court proceedings are brought against natural or legal persons on account of their engagement in public participation, those persons can apply, in accordance with national law , for:	
Article 5(1), point (a)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
75	(a) security in accordance with Article 8;	(a) security in accordance with Article 8;	(a) security in accordance with provided for in Article 8;	
Article 5(1), point (b)				
76	(b) early dismissal of manifestly unfounded court proceedings in accordance with Chapter III;	(b) early dismissal of manifestly unfounded court proceedings in accordance with Chapter III;	(b) early dismissal of manifestly unfounded court proceedings in accordance with claims as provided for in Chapter III;	
Article 5(1), point (c)				
77	(c) remedies against abusive court proceedings in accordance with Chapter IV.	(c) remedies against abusive court proceedings in accordance with Chapter IV.	(c) remedies against abusive court proceedings in accordance with provided for in Chapter IV.	
Article 5(2)				
78	2. Such applications shall include:	2. Such applications shall include:	<i>deleted</i>	
Article 5(2), point (a)				
79	(a) a description of the elements on which they are based;	(a) a description of the elements on which they are based;	<i>deleted</i>	
Article 5(2), point (b)				
80				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(b) a description of the supporting evidence.	(b) a description of the supporting evidence.	<i>deleted</i>	
<i>Article 5(3)</i>				
81	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 may 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.	3. Member States may provide that measures on procedural safeguards in accordance with provided for in Chapters III and IV can be taken by the court or tribunal seised of the matter ex officio ex officio .	
<i>Article 5a</i>				
81a		<u><i>Article 5a</i></u> <u><i>Expeditious court proceedings</i></u>		
81b		<u><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></u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 5b				
81c		<u>Article 5b</u> <u>Assistance to natural or legal persons engaging in public participation</u>		
81d		<u>Member States shall ensure that natural or legal persons engaging in public participation have access, as appropriate, to support measures, in particular the following:</u>		
81e		<u>(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</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
81f		<u>(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;</u>		
81g		<u>(c) financial assistance and support measures, including psychological support, for those targeted by abusive court proceedings against public participation.</u>		
Article 6				
82	Article 6 Subsequent amendment to claim or pleadings	Article 6 Subsequent amendment to claim or pleadings	Article 6 Subsequent amendment to claim or pleadings	
Article 6, first paragraph				
83	Member States shall ensure that any subsequent amendments to the claims or the pleadings made by the claimant in the main proceedings, including the discontinuation of proceedings, do	Member States shall ensure that any subsequent amendments to the claims or the pleadings made by the claimant in the main proceedings, including the discontinuation of proceedings, do	Member States shall ensure that in court proceedings brought against natural or legal persons on account of their engagement in public participation any subsequent amendments to the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	not affect the possibility for the court or tribunal seised of the matter to consider the court proceedings abusive and to impose remedies in accordance with Chapter IV.	not affect the possibility for the court or tribunal seised of the matter to consider the court proceedings abusive and to impose remedies in accordance with Chapter IV.	claims or the pleadings made by the claimant in the main proceedings , including the discontinuation of proceedings withdrawal of claims , do not affect the possibility- for the court or tribunal seised of the matter to consider the court proceedings abusive and to impose remedies in accordance with Chapter IV defendant to apply for remedies as provided for in Chapter IV, in accordance with national law. This is without prejudice to Article 5(3).	
Article 7				
84	Article 7 Third party intervention	Article 7 Third party intervention	Article 7 Third party intervention Support for the defendant in court proceedings	
Article 7, first paragraph				
85	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	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 <u>associations, and other collective</u> organisations	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	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	rights of persons engaging in public participation may take part in those proceedings, either in support of the defendant or to provide information.	<u>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</u> safeguarding or promoting the rights of persons engaging in public participation may take part in those proceedings, either <u>on behalf or</u> in support of the defendant, <u>with his or her approval</u> or to provide information, <u>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.</u>	rights of persons engaging brought against natural or legal persons on account of their engagement in public participation may take part in those proceedings, either in support of the defendant or to provide information accept that non-governmental organisations support the defendant in those proceedings in accordance with national law.	
Article 8				
86	Article 8 Security	Article 8 Security	Article 8 Security	
Article 8, first paragraph				
87	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	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	Member States shall ensure that in court proceedings brought against natural or legal persons on account of their engagement in public participation, the court or	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	procedural costs, or for procedural costs and damages, if it considers such security appropriate in view of presence of elements indicating abusive court proceedings.	procedural costs, or for procedural <u>costs of the proceedings, including the full costs of legal representation incurred by the defendant</u> and damages, if it considers such security appropriate in view of presence of elements indicating abusive court proceedings. <u>Where national law provides for such possibility, security may be granted to the defendant at any stage of the court proceedings.</u>	tribunal seised has the power to require may require, without prejudice to the right of access to justice, that the claimant to provide provides security for procedural the costs of the proceedings, or, if provided for in national law, for the, or for procedural costs of the proceedings and damages, if it considers such security appropriate in view of presence of elements indicating abusive court proceedings.	
CHAPTER III				
88	CHAPTER III Early dismissal of manifestly unfounded court proceedings	CHAPTER III Early dismissal of manifestly unfounded court proceedings	CHAPTER III Early dismissal of manifestly unfounded court proceedings claims	
Article 9				
89	Article 9 Early dismissal	Article 9 Early dismissal	Article 9 Early dismissal	
Article 9(1)				
90	1. Member States shall empower courts and tribunals to adopt an	1. Member States shall empower courts and tribunals to adopt an	1. Member States shall empower ensure that courts and	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	early decision to dismiss, in full or in part, court proceedings against public participation as manifestly unfounded.	early decision to dismiss, in full or in part, court proceedings against public participation as manifestly unfounded.	tribunals to adopt an early decision to may dismiss, in full or in part, court proceedings after appropriate examination, claims against public participation as manifestly unfounded at the earliest possible stage, in accordance with national law.	
Article 9(2)				
91	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 may 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.	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 shall ensure that an application for early dismissal is treated in an accelerated manner in accordance with national law, taking into account the circumstances of the case and the right to an effective remedy and the right to a fair trial.	
Article 10				
92	Article 10 Stay of the main proceedings	Article 10 Stay of the main proceedings	<i>deleted</i>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
<i>Article 10, first paragraph</i>				
93	Member States shall ensure that if the defendant applies for early dismissal, the main proceedings are stayed until a final decision on that application is taken.	Member States shall ensure that if the defendant applies for early dismissal, the main proceedings are stayed until a final decision on that application is taken.	<i>deleted</i>	
<i>Article 11</i>				
94	Article 11 Accelerated procedure	Article 11 Accelerated procedure	<i>deleted</i>	
<i>Article 11, first paragraph</i>				
95	Member States shall ensure that an application for early dismissal is treated in an accelerated procedure, taking into account the circumstances of the case and the right to an effective remedy and the right to a fair trial.	Member States shall ensure that an application for early dismissal is treated in an accelerated procedure, taking into account the circumstances of the case and the right to an effective remedy and the right to a fair trial.	<i>deleted</i>	
<i>Article 12</i>				
96	Article 12 Burden of proof	Article 12 Burden of proof	Article 12 Burden of proof Substantiation of claims	
<i>Article 12, first paragraph</i>				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
97	Member States shall ensure that where a defendant has applied for early dismissal, it shall be for the claimant to prove that the claim is not manifestly unfounded.	Member States shall ensure that where a defendant has applied for early dismissal, it shall be for the claimant to prove that the claim is not manifestly unfounded.	Member States shall ensure that where a defendant has applied for early dismissal, it shall be for the claimant to prove that substantiate the claim in order to enable the court to assess whether it is not manifestly unfounded.	
Article 13				
98	Article 13 Appeal	Article 13 Appeal	Article 13 Appeal	
Article 13, first paragraph				
99	Member States shall ensure that a decision refusing or granting early dismissal pursuant to Article 9 is subject to an appeal.	Member States shall ensure that a decision refusing or granting early dismissal pursuant to Article 9 is subject to an appeal.	Member States shall ensure that a decision refusing or granting early dismissal pursuant to Article 9 is subject to an appeal.	
CHAPTER IV				
100	CHAPTER IV Remedies against abusive court proceedings	CHAPTER IV Remedies against abusive court proceedings	CHAPTER IV Remedies against abusive court proceedings	
Article 14				
101	Article 14	Article 14	Article 14	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Award of costs	Award of costs	Award of costs	
Article 14, first paragraph				
102	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 can be ^{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. <u>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.</u>	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 ^{types of} costs of the proceedings; available under national law including the full costs of legal representation, incurred by the defendant, unless such costs are excessive.	
Article 15				
103	Article 15 Compensation of damages	Article 15 Compensation of damages	<i>deleted</i>	
Article 15, first paragraph				

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104	Member States shall take the necessary measures to ensure that a natural or legal person who has suffered harm as a result of an abusive court proceedings against public participation is able to claim and to obtain full compensation for that harm.	Member States shall take the necessary measures to ensure that a natural or legal person who has suffered harm as a result of an abusive court proceedings against public participation is able to claim and to obtain full compensation for that harm, <u>covering material or non-material harm, including reputational harm, without the need to initiate separate court proceedings to that end.</u>	<i>deleted</i>	
Article 16				
105	Article 16 Penalties	Article 16 Penalties	Article 16 Penalties or other appropriate measures	
Article 16, first paragraph				
106	Member States shall provide that courts or tribunals seised of abusive court proceedings against public participation have the possibility to impose effective, proportionate and dissuasive penalties on the party who brought those proceedings.	Member States shall provide that courts or tribunals seised of abusive court proceedings against public participation have the possibility to impose effective, proportionate and dissuasive penalties on the party who brought those proceedings.	Member States shall provide ensure that courts or tribunals seised of abusive court proceedings against public participation have the possibility to may impose effective, proportionate and dissuasive penalties or other appropriate measures on the party who brought those proceedings.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
106a		<u>1a. Member States shall ensure that courts or tribunals imposing penalties take due account of:</u>		
106b		<u>(i) the economic situation of the claimant;</u>		
106c		<u>(ii) the economic situation of the claimant;</u>		
106d		<u>Article 16a</u> <u>National registers</u>		
106e		<u>Member states shall take appropriate measures to establish a publicly accessible register of relevant court decisions falling within the scope of this Directive,</u>		

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		<u>in accordance with Union and national rules on the protection of personal data.</u>		
CHAPTER V				
107	CHAPTER V Protection against third-country judgments	CHAPTER V Protection against third-country judgments	CHAPTER V Protection against third-country judgments	
Article 17				
108	Article 17 Grounds for refusal of recognition and enforcement of a third-country judgment	Article 17 Grounds for refusal of recognition and enforcement of a third-country judgment	Article 17 Grounds for refusal of recognition and enforcement of a third-country judgment	
Article 17, first paragraph				
109	Member States shall ensure that the recognition and enforcement of a third-country judgment in court proceedings on account of public participation by natural or legal person domiciled in a Member State is refused as manifestly contrary to public policy (ordre public) if those proceedings would have been considered manifestly unfounded or abusive if they had been brought before the courts or	Member States shall ensure that the recognition and enforcement of a third-country judgment in court proceedings on account of public participation by natural or legal person domiciled in a Member State is refused as manifestly contrary to public policy (ordre public) if those proceedings would have been considered manifestly unfounded or abusive if they had been brought before the courts or	Member States shall ensure that the recognition and enforcement of a third-country judgment in court proceedings on account of against public participation by a natural or legal person domiciled in a Member State is refused as manifestly contrary to public policy (ordre public) manifestly contrary to public policy (ordre public) if those proceedings would have been are considered manifestly unfounded or abusive if they had been brought	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	tribunals of the Member State where recognition or enforcement is sought and those courts or tribunals would have applied their own law.	tribunals of the Member State where recognition or enforcement is sought and those courts or tribunals would have applied their own law.	before the courts or tribunals according to the law of the Member State wherein which recognition or enforcement is sought and those courts or tribunals would have applied their own law.	
Article 18				
110	Article 18 Jurisdiction for actions against third-country judgments	Article 18 Jurisdiction for actions against third-country judgments	Article 18 Jurisdiction for actions against related to third-country judgments proceedings	
Article 18, first paragraph				
111	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	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 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	1. Member States shall ensure that, where abusive court proceedings on account of engagement in against public participation have been brought by a claimant domiciled outside the Union 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 for the damages and the costs incurred in connection with the proceedings before the court or tribunal of the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	proceedings in the third country.	domicile of the claimant in the proceedings in the third country.	third country, irrespective of the domicile of the claimant in the proceedings in the third country.	
111a			2. Member States may limit the exercise of the jurisdiction while proceedings are still pending in the third country.	
Chapter V(a)				
111b		<u>Chapter V(a)</u> <u>Jurisdiction, applicable law and relations with Union private international law instruments</u>		
111c		<u>Article 18a</u> <u>Jurisdiction for defamation claims</u>		
111d		<u>In defamation claims or other claims based on civil or commercial law which may constitute a claim under this Directive, the domicile of the</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>defendant shall be considered to be the sole forum, having due regard to cases where the victims of defamation are natural persons.</u>		
Article 18b				
111e		<u>Article 18b</u> <u>Relations with the Brussels I Regulation</u>		
111f		<u>With the exception of Article 18a of this Directive, this Directive shall not affect the application of the Brussels I Regulation.</u>		
111g		<u>Article 18c</u> <u>Applicable law for publications as an act of public participation</u>		
111h		<u>In claims regarding a publication as an act of public participation, the applicable law</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>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.</i>		
111i		<i>Article 18d Relations with the Rome II Regulation</i>		
111j		<i>With the exception of Article 18c of this Directive, this Directive shall not affect the application of the Rome II Regulation.</i>		
Chapter V(b)				
111k		<i>Chapter Vb Other provisions</i>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
111l		<u>Article 18e</u> <u>Union register</u>		
111m		<u>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.</u>		
111n		<u>Article 18f</u> <u>Awareness-raising</u>		
111o		<u>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.</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>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.</u>		
111p		<u>Article 18g</u> <u>One-stop shop</u>		
111q		<u>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.</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
111r		<u>Article 18h</u> <u>Training of practitioners</u>		
111s		<u>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.</u>		
111t		<u>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</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>of the needs of natural or legal persons engaging in public participation.</u>		
111u		<u>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.</u>		
111v		<u>Article 18i</u> <u>Cooperation and coordination of services</u>		
Article 18a(1)				
111w		<u>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</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>proceedings against public participation to information on procedural safeguards provided for in this Directive and under national law. Such cooperation shall be aimed at least at:</u>		
111x		<u>(a) the exchange of current practices; and</u>		
111y		<u>(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.</u>		
111z		<u>Article 18j</u> <u>Deontological rules for legal professionals</u>		
111aa		<u>Member States shall, with due</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>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.</u>		
111ab		<u>Article 18k</u> <u>Data collection</u>		
111ac		<u>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.</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 18k(2)				
111ad		<u>2. Data referred to in paragraph 1 shall include, in particular, the following criteria:</u>		
Article 18k(2), second subparagraph, point (a)				
111ae		<u>(a) the number of abusive court proceedings against public participation cases, initiated in the relevant year;</u>		
Article 18k(2), second subparagraph, point (b)				
111af		<u>(b) the number of abusive court proceedings against public participation cases dismissed early on account of relying on fully or partially unfounded claims;</u>		
Article 18k(2), second subparagraph, point (c)				
111ag		<u>(c) the number of court proceedings, classified by type of defendant (e.g. journalist, human rights defender, media organisation);</u>		
Article 18k(2), second subparagraph, point (d)				

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111ah		<u>(d) the number of court proceedings, classified by type of plaintiff (e.g. politician, private person, company, whether the plaintiff is a foreign entity);</u>		
Article 18k(2), second subparagraph, point (e)				
111ai		<u>(e) figures about acts of public participation on account of which court proceedings were launched;</u>		
Article 18k(2), second subparagraph, point (f)				
111aj		<u>(f) figures on the estimated amount of initial damages requested by plaintiffs;</u>		
Article 18k(2), second subparagraph, point (g)				
111ak		<u>(g) description of the different legal bases relied on by plaintiffs and related figures;</u>		
Article 18k(2), second subparagraph, point (h)				
111al		<u>(h) figures on the length of the proceedings, including all instances;</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 18k(2), second subparagraph, point (i)			
111am		<u>(i) figures on cross-border elements;</u>		
	Article 18k(2), second subparagraph, point (j)			
111an		<u>(j) as available, other data including on judicial costs of proceedings and, as relevant and appropriate, relevant figures on the historical backgrounds of cases;</u>		
	Article 18k(2), second subparagraph, point (k)			
111ao		<u>(k) the type of claim issued on the basis of this Directive and, where appropriate, the Commission Recommendation that complements it.</u>		
	CHAPTER VI			
112	CHAPTER VI Final provisions	CHAPTER VI Final provisions	CHAPTER VI Final provisions	
	Article 19			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
113	Article 19 Relations with the 2007 Lugano Convention	Article 19 Relations with the 2007 Lugano Convention	Article 19 Relations with the 2007 Lugano Convention and bilateral and multilateral conventions and agreements	
Article 19, first paragraph				
114	This Directive shall not affect the application of the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, signed in Lugano on 30 October 2007.	This Directive shall not affect the application of the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, signed in Lugano on 30 October 2007.	This Directive shall not affect the application of the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, signed in Lugano on 30 October 2007 and bilateral and multilateral conventions and agreements between a third State and the Union or a Member State concluded before the date of entry into force of this Directive.	
Article 20				
115	Article 20 Review	Article 20 Review	Article 20 Review	
Article 20, first paragraph				
116	Member States shall provide the Commission with all relevant	Member States shall provide the Commission with all relevant	Member States shall provide the Commission with all relevant	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>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>information regarding the application of this Directive, <u>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 by 5 years from the date of transposition]</u>. On the basis of the information provided, the Commission shall by [6 4 years from the date of transposition] <u>and every five years thereafter</u> 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 <u>while taking account of the national context in each Member State, including the implementation of the Commission Recommendation</u>. If necessary, the report shall be accompanied by proposals to amend this Directive. <u>Those reports shall be made public.</u></p>	<p>information the available data regarding the application of this Directive by ... [5 five years from the date of transposition years from the date of transposition]. On the basis of the information provided, the Commission shall by ... [6 six years from the date of transposition 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>	
Article 21				
117				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 21 Transposition into national law	Article 21 Transposition into national law	Article 21 Transposition into national law	
Article 21(1), first subparagraph				
118	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 <u>[2] years from the date of entry into force of this Directive</u> at the latest. They shall forthwith communicate to the Commission the text of those provisions. <u>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.</u>	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ... [2-three years from the date of entry into force of this Directive] 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.	
Article 21(1), second subparagraph				
119	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	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	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	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	be made.	be made.	be made.	
119a		<u><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.</i></u>		
Article 21(2)				
120	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	
Article 22				
121	Article 22 Entry into force	Article 22 Entry into force	Article 22 Entry into force	
Article 22, first paragraph				
122	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union Official Journal of the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			European Union.	
Article 23				
123	Article 23 Addressees	Article 23 Addressees	Article 23 Addressees	
Article 23, first paragraph				
124	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	
Formula				
125	Done at Brussels,	Done at Brussels,	Done at Brussels,	
Formula				
126	For the European Parliament	For the European Parliament	For the European Parliament	
Formula				
127	The President	The President	The President	
Formula				
128	For the Council	For the Council	For the Council	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Formula				
129	The President	The President	The President	