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“Safeguarding Freedom of Expression and Freedom of the Media in Ukraine – Phase II”
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LEGAL OPINION

On Legislative Changes on the Protection of Public Participation
from manifestly unfolded claims or abuse of judicial proceedings
in Ukraine

Division for Co-operation on Freedom of Expression

The role and responsibility of the Council of Europe in protecting freedom of expression has been underlined in the "Reykjavik Principles for Democracy", the [Reykjavík Declaration – United around our values](#).

Funded within the Council of Europe Action Plan for Ukraine “Resilience, Recovery and Reconstruction” 2023-2026, the Project “[Safeguarding Freedom of Expression and Freedom of Media in Ukraine – Phase II](#)” project aims to address urgent needs of major stakeholders and media players in the country. The Project’s objective is “Enabling a pluralistic media environment in Ukraine through harmonisation of legal and policy frameworks in line with European standards” and it is built around three main components:

- (1) Alignment of Ukraine’s framework on media, freedom of expression and freedom of access to information with the European standards;
- (2) Effective implementation of the legal framework governing the protection of journalists, public broadcasting and regulatory authority in line with European standards;
- (3) Effective and efficient communication strategies governing a balanced media coverage and preventing information disorder.

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I. INTRODUCTION

On 5 April 2024, the Council of Europe adopted Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of Strategic Lawsuits Against Public Participation (SLAPPs).¹ Similarly, the European Union approved the Directive (EU) 2024/1069 of the European Parliament and of the European Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings ('Strategic lawsuits against public participation')² and Recommendation (EU) 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation').³ According to article 22 of the EU Directive 2024/1069 on Transposition, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 7 May 2026.

On 25 June 2025, at the initiative of the Committee on Freedom of Speech of the Parliament of Ukraine, a special Working Group was established to draft legislation with the view of countering Strategic Lawsuits against Public Participation (SLAPPs). The Working Group has prepared legislative changes, namely amendments of the following laws and acts of Ukraine with the purpose of implementing European standards on Strategic Lawsuits Against Public Participation: Law "On Protection of Public Participation From Manifestly Unfounded Claims or Abuse of Judicial Proceedings", Civil Procedure Code, Law "On Free Legal Aid", Law "On Ensuring the Safety of Persons Participating in Criminal Proceedings", Law "On the Ukrainian Parliament Commissioner for Human Rights", Law "On the International Private Law" and Law "On Court Fees".

¹ Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), available here: <https://rm.coe.int/0900001680af2805>, hereinafter referred to as "CoE Recommendation CM/Rec(2024)2"

² DIRECTIVE (EU) 2024/1069 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings ('Strategic lawsuits against public participation'), available here: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401069, hereinafter referred to as "EU Directive 2024/1069".

³ COMMISSION RECOMMENDATION (EU) 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation'), available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022H0758>

This Legal opinion was **requested by the Parliamentary Committee on Freedom of Speech to the Council of Europe in January 2026**. It provides a legal analysis of the proposed legislative changes and amendments on SLAPPs and an assessment of the extent to which they align with Council of Europe Recommendation CM/Rec(2024)2 and EU Directive 2024/1069.

Before this legal opinion was prepared, in September 2024, the Council of Europe organised expert consultations with national stakeholders in Ukraine (representatives of the Ministry of Culture and Strategic Communication, the Supreme Court, and the Parliamentary Committee on Freedom of Expression) to discuss implementation of standards on Strategic Lawsuits Against Public Participation (SLAPPs).

Also, in September 2025, a peer-to-peer exchange in Warsaw, organised by the Council of Europe and hosted by the Ministry of Justice of Poland, brought together stakeholders from Poland, Ukraine, Montenegro and Kosovo^{*4}, to examine European anti-SLAPP standards and their implementation. Judges, lawyers, and officials from ministries of justice and culture discussed the best ways of transposing and implementing European standards on countering SLAPPs.

II. METHODOLOGICAL CONSIDERATIONS

This Legal opinion and recommendations are based on standards derived from two key European instruments addressing SLAPPs: the EU Directive 2024/1069 and the Council of Europe Recommendation CM/Rec(2024)2. Both instruments set out standards for procedural safeguards and remedies that Member States of the European Union and the Council of Europe should use when developing national legislation. The opinion analyses relevant articles of the draft national law of Ukraine in light of the standards established by these European instruments and assesses the extent to which the national provisions align with European benchmarks.

^{*4}All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations' Security Council Resolution 1244 and without prejudice to the status of Kosovo.

The Council of Europe has shared the draft with the Working Group and has given them the possibility to provide input, feedback, and corrections. This was particularly important to understand the rationale behind the formulation of specific articles in the Draft Law. In addition, meetings with representatives of the Working Group of Ukraine were organised to provide detailed clarifications to some of the recommendations which resulted in them being considered and addressed.

III. EXECUTIVE SUMMARY

The draft legal package prepared and introduced by the Working Group under the Committee on Freedom of Speech of the Parliament of Ukraine with a view of transposing and implementing the European standards on the protection of public participation from abusive proceedings, **is in line with European standards on the protection of public participation from SLAPPs.**

The legal package (*lex specialis*) provides a broad notion of the scope of law, as it includes guarantees for the protection of public participation and protection against abuse of judicial proceedings, regardless of the type of judicial process, thus covering all types of SLAPPs. Further, **all the definitions provided (except the definition of public formations) are in line with the Council of Europe Recommendation and the EU Directive.** The definitions of public participation, public participants, and matters of public interest have been defined using a combination of elements from both instruments and are in line with them.

A notable addition is the definition of “close persons,” which includes a list of 40 categories of people who can not only continue proceedings if the public participant dies or loses capacity, but can also benefit from free legal aid as well as can have the status of a victim. However, it is advised to reconsider the definition of “public formations”, particularly as regards whether political parties and permanent arbitration courts should benefit from protection, considering their power and role in the society.

One of the aspects is the role of the Ukrainian Parliament Commissioner for Human Rights (Ombudsperson), which has a protective role as well as the competence to

intervene as a third party. In fact, the draft law enables third-party interventions to be filed not only through the Commissioner but also through various routes, for example by public formations. This approach is in line with Council of Europe and EU standards.

The Council of Europe Recommendation on the acknowledgement of SLAPP victim status and compensation for damages is also implemented by foreseeing a specific article. The draft law states that both the public participant and close persons can benefit from victim status.

An important aspect in the protection of public participants is what happens when a public participant dies or loses legal capacity. In this regard, the draft law empowers the rights of family members and associations to join the case, to benefit from the same remedies and from the same support as SLAPP victims, and to enjoy protection. This is in line with the standards set by the Council of Europe.

Compensation for losses, material damage, and recovery for moral and non-material damage caused by abuse of judicial proceedings against a public participant, as one of the main dissuasive measures to deter SLAPPs foreseen in both the Council of Europe Recommendation and the EU Directive, has also been regulated through Article 10 of the *lex specialis* as well as through other articles.

Transparency on SLAPP cases has been introduced through several articles and provisions and provides a combination of keeping separate statistics on cases that show signs of abuse of judicial proceedings, detailing which information should be registered, and introducing a Unified State Register. The draft law enables the judicial system to be transparent as required by European standards.

Apart from regulating, both material and procedural aspects of SLAPPs through a *lex specialis*, as elaborated above, the Working Group has introduced important amendments to the Civil Procedure Code, including early dismissal, burden of proof, security for costs, and penalties. All these aspects are in line with European instruments. The same applies for other aspects such as the changes introduced regarding legal aid

in Ukraine, which is organised in tiers, primary legal aid accessible to all persons under the jurisdiction of Ukraine and secondary legal aid accessible to specific groups.

The regulation of refusal of recognition and enforcement of third-country judgments has been reinforced through Article 49(4) of the amendments to the Law of Ukraine “On International Private Law”, which gives courts the power to refuse compensation for damages based on such foreign judgments and protects defendants from adverse foreign decisions.

In addition, the draft law proposes two alternative amendments to the Law of Ukraine “On Court Fees” to exempt defendants from the payment of court fees. Both proposals introduced by the Ukrainian legislator are in line with the standards set by the two European instruments.

IV. LEGAL ANALYSIS

A. DRAFT LAW OF UKRAINE “ON THE PROTECTION OF PUBLIC PARTICIPATION FROM MANIFESTLY UNFOUNDED CLAIMS OR ABUSE OF JUDICIAL PROCEEDINGS”

a. Scope of law

The Council of Europe Recommendation CM/Rec(2024)2 covers all types of SLAPPs. According to paragraph I(1) on the scope and definitions, for the purposes of the recommendation, strategic lawsuits against public participation (“SLAPPs”) are understood as legal actions that are threatened, initiated or pursued as a means of harassing or intimidating their target, and which seek to prevent, inhibit, restrict or penalise free expression on matters of public interest and the exercise of rights associated with public participation. This definition covers domestic and all types of SLAPPs. Paragraphs 10, 11, 12, 13 and 14 of the same Recommendation specify types of SLAPPs it covers, namely: cross-border SLAPPs, multiple or co-ordinated SLAPPs and SLAPPs targeting anonymous public participation.

The EU Directive 2024/1069 foresees a limited scope and covers only cross-border SLAPPs of a civil or commercial nature. Article 1 of the Directive on subject matter states that the Directive provides safeguards against manifestly unfounded claims or abusive court proceedings in civil matters with cross-border implications brought against natural and legal persons on account of their engagement in public participation. Further, Article 2 of the Directive on scope specifies that the Directive applies to matters of a civil or commercial nature with cross-border implications brought in civil proceedings, including procedures for interim and precautionary measures and counteractions, whatever the nature of the court or tribunal. It explicitly excludes matters related to revenues, customs, or administrative matters, or the liability of the state for acts and omissions in the exercise of state authority (*acta iure imperii*), as well as criminal matters or arbitration.

Article 1 of the Draft Law of Ukraine “On the Protection of Public Participation from Manifestly Unfounded Claims or Abuse of Judicial Proceedings” covers all types of SLAPPs. It states that this law “defines guarantees for the protection and support of public participation and public participants against abuse of judicial proceedings, regardless of the type of judicial process, as well as against other manifestly unfounded claims aimed at preventing, hindering, restricting or penalising public participation.” It is in line with both the Council of Europe Recommendation CM/Rec(2024)2 and the EU Directive 2024/1069 as it covers abuse of judicial proceedings and manifestly unfounded claims aimed at preventing, hindering, restricting or penalising public participation. The scope includes all types of SLAPPs.

b. Definitions

The structure of this Legal opinion is that the first part of each section provides the standards on each aspect, in this case on definitions, as set out by the Council of Europe Recommendation CM/Rec(2024)2 and EU Directive 2024/1069; then it provides the definition foreseen in the amendments of the Ukrainian draft laws, and the final part provides the legal assessment of whether the definitions are in line with the above-mentioned standards.

However, this section does not follow that structure, as it would be extremely long with descriptive parts. This section only provides the legal analysis of definitions and assesses whether they are in line with European standards, whereas the standards themselves set by the Council of Europe and the EU on definitions, should be read directly in the Recommendation and the EU Directive. Likewise, the definitions provided by the Ukrainian legislator should be read in the draft law. Therefore, the reader should refer to the following definitions: paragraph 4 on key terms of the Council of Europe Recommendation CM/Rec(2024)2, Article 4 on definitions of EU Directive 2024/1069, and Article 2 on definitions of the Draft Law of Ukraine “On the Protection of Public Participation from Manifestly Unfounded Claims or Abuse of Judicial Proceedings.”

Article 1 of the Draft Law provides six definitions: close persons, public participation, public participant, public formations, abuse of judicial proceedings against public participation and matter of public interest.

Close persons

The Draft Law has included a definition of close persons. This definition provides a list of around 40 categories of people who are considered as close persons and who can join SLAPP cases in case of death or loss of legal capacity of the defendant. Among the listed are family members of the public participant, including husband, wife, father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, etc. This definition is important because the law contains specific provisions on the rights of close persons of public participants, including access to free legal aid (see section on death or loss of legal capacity of the defendant).

Public participation

Article 2(2) of the Draft Law has combined elements of both Council of Europe Recommendation CM/Rec(2024)2 and EU Directive 2024/1069 in defining public participation. The article contains all the necessary elements: it covers statements/activities of both natural and legal persons, it expands to formations without legal status (informal formations), mentions public interest matters, connection with

freedom of expression, freedom of arts and sciences, assembly and associations, and it refers to activities related to election rights, including the right to be elected and participate in referenda. The definition of public participation is in line with both the Council of Europe Recommendation and the EU Directive.

Public participant

The Draft Law of Ukraine has defined a public participant, which can be a natural person, legal person, or public formation without the status of a legal entity. The strong aspect of this definition is that it specifies who may be public participants and mentions journalists, publishers, media entities, whistleblowers, researchers, etc. On the one hand, the article specifies in concrete terms who can be considered a public participant, which in practical terms can help especially judges when implementing the law, and on the other hand, it does not limit courts or other respective tribunals in interpreting this definition more broadly. This definition is in line with the Council of Europe Recommendation.

Public formations

The draft law provides a definition of public formation, which should be read in connection with definition of public participation and public participants. The purpose of defining public formations seems to be to provide protection to political parties, structural units of political parties, public associations, local branches of a public association with the status of a legal persons, trade unions and their associations, provided for in the charter, creative unions, local branches of creative unions, permanent arbitration courts, employers' organisations and their associations.

Political parties are powerful entities, usually well funded (in many countries they receive state funding/public money), with a fundamental and central role in public discussion and decision-making. They hold power and, as such, should be subject to in-depth public scrutiny, including criticism and journalistic investigations. Political parties, as legal entities, have other mechanisms, such as defamation laws and other legal tools, to protect their reputation or other interests. The same applies to the permanent arbitration courts, which nevertheless have a public function (although they operate through

commercial chambers) should show high tolerance toward public scrutiny, and if it faces legal actions, it has the resources needed to protect itself. While the rest of the definition does not go counter to European standards, it is recommended to reconsider the idea of including in this Draft Law specifically political parties and permanent arbitration courts due to their power and role in decision-making for citizens.

Abuse of judicial proceedings against public participation

The EU Directive defines “abusive court proceedings against public participation” through three elements: what they are, meaning court proceedings not brought to genuinely assert or exercise a right; the purpose of the court proceedings, which is the prevention, restriction, or penalisation of public participation; how this is achieved, namely, through the exploitation of an imbalance of power between the parties and the nature of the claim, which is unfounded.

Article 5.1 of the Draft Law defines abuse of judicial proceedings against public participation and includes these three elements. The definition contains description of what abusive judicial proceedings are what they are, meaning court proceedings not brought to genuinely assert or exercise a right; the purpose of the court proceedings, which is the prevention, restriction, or penalisation of public participation; how this is achieved, namely listing the indicators that identify abusive proceedings.

Further, the definition contains 11 indicators, which include all the indicators listed in the EU Directive (Article 4.3) and the Council of Europe Recommendation (paragraph 8). In addition, some indicators were added or expanded to reflect the national context (see below three new or expanded indicators). For example, indicator “h” seems to have been added to limit or prevent the abuse of automated distribution of cases between judges, which currently allows claimants in Ukraine to file, withdraw, and refile lawsuits until the case is allocated to a judge the claimant finds more suitable.

b) the filing of the claim is an abuse of civil law or the right to apply to the court for protection;

e) the claimant abuses procedural rights in order to increase the defendant's legal costs and/or the time of the latter's participation in the judicial proceedings, in

particular, by delaying proceedings, unscrupulously choosing jurisdiction of cases through manipulation or abuse, selecting a foreign forum that is unfavourable to public participation or vexatious to the defendant, or is inaccessible and/or dangerous for the defendant, unjustified increase in the claims or change of the subject and/or grounds of the claim, abuse by leaving the claim without consideration and/or refusing the claim after clarifying the circumstances of the case during the consideration of the case on the merits or at the stage of appeal or cassation proceedings, filing unfounded appeal and/or cassation complaints against court decisions, etc.;

h) the claimant uses other methods of abuse of procedural rights, including committing actions aimed at manipulating the system of automated distribution of cases between judges.

The definition of abuse of judicial proceedings against public participation aligns with the elements set out in the EU Directive 2024/1069 and the Council of Europe Recommendation CM/Rec(2024)2. In addition, the list of indicators to identify and recognise abusive proceedings is in line with both instruments.

Matter of public interest

The Draft Law defines matters of public interest in Article 5(6), using wording that is nearly identical to Article 4(2) of EU Directive 2024/1069. The language has been slightly modified to include specific aspects such as “education, religion, culture, history, and scientific discoveries,” as well as “politics, current affairs, social welfare, gender equality, sexual orientation, and gender identity.” In addition, the Draft Law includes activities aimed at fighting disinformation.

It is positive that the definition of matters of public is explained, as well as the fact that a reference is made to fighting disinformation as an activity of public interest, considering that fact-checkers and other contributors countering disinformation are regularly sued with unfounded claims because of their work. The definition of matters of public interest is aligned with EU Directive 2024/1069 and does not contain anything that would contradict the Council of Europe standards.

c. Ukrainian Parliament Commissioner for Human Rights

The Council of Europe and the European Union expect Member States to have focal points to implement specific aspects of the instruments. The Draft Law of Ukraine foresees a specific role/competence for the Ukrainian Parliament Commissioner for Human Rights (Ombudsperson), which to a certain extent can be considered as a designated competence (focal point). According to Article 6 of the Draft Law, the Ukrainian Parliament Commissioner for Human Rights shall personally or through his representative protect public participation in accordance with the procedure established by law. In addition, the Draft Law proposes an amendment to Article 13 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” to include the following:

Article 13. Rights of the Commissioner:

The Commissioner has the right:

10) for the purpose of protecting the human rights and freedoms personally or through his representative in accordance with the procedure established by law:

...

to intervene in cases as a third party who does not introduce independent claims regarding the subject of the dispute, on the side of the defendant in cases that have signs of abuse of judicial proceedings against public participation.

The Ukrainian legislator has proposed to enable, with additional competences, the Ukrainian Parliament Commissioner for Human Rights to protect public participation, primarily by enabling him/her to intervene in SLAPP cases as a third party.⁵ This approach is in line with Article 9 of the Directive. The inclusion and specification of the role of the Commissioner in contributing to the protection of public participants and public participation is in line with both instruments.

⁵ The wording in English in the draft law, “*to intervene in cases as a third party who does not introduce independent claims regarding the subject of the dispute*”, was difficult to understand, and this analysis was based on the presumption that the wording means to act as an independent third party. The Working Group clarified that indeed that is the case. They explained that this legal terminology is used to align the draft law with the peculiar terminology of the procedural codes of Ukraine. In practice, it means that a person joins the court proceedings as an independent third party, who does not act either as a claimant or as a defendant (does not present any kind of legal demand towards any party in the court proceedings).

d. Status of victim of judicial proceedings against public participation

The Council of Europe Recommendation CM/Rec(2024)2 in the paragraph 41 on acknowledgement of SLAPP victim status and compensation for damages states that “Member States should make adequate provision for SLAPP victims to be acknowledged as such and to be fully compensated for damages incurred as a result of the SLAPP, covering both pecuniary and non- pecuniary damages, such as loss of income and emotional distress as well as compensation for costs and expenses, for example to cover legal and administrative costs.” The EU Directive 2024/1069 is silent on an acknowledgement of SLAPP victim status and compensation for damages.

The Draft Law of Ukraine, in its Article 8, foresees that a victim of abuse of judicial proceedings against public participation can be a public participant or close persons of public participants who have suffered material and non-material damage or who have joined the case after the death of such a public participant or his loss of legal capacity as procedural successors or legal representatives.

Article 8 of the Ukrainian Draft Law consist of a direct implementation of paragraph 41 of the Council of Europe Recommendation on the acknowledgement of SLAPP victim status and compensation for damages. However, from the first reading of the amendments it was not clear whether a victim can use this article to formally initiate a procedure to receive a court decision specifying that the defendant was indeed a victim.

The Working Group under the Parliamentary Committee on Freedom of Speech explained that in Ukraine there is no separate set of proceedings to have a status of “victim of SLAPP” recognised in a formal judgement. However, there is a possibility to launch court proceedings claiming compensation for being targeted by SLAPP, which implies, as a part of the court review, that the court recognises a victim status of an individual/closed persons, and based on that, provides for compensation. The recognition of a victim status becomes a part of the final court judgement. This means that Article 8 is aligned with paragraph 41 of the Council of Europe Recommendation.

e. Death or loss of legal capacity of the defendant

The Council of Europe Rec/CM(2024)2 foresees obligations for Member States in case the defendant dies or loses legal capacity. Paragraph 39 of the Recommendation states that “Member States should ensure that where, upon the death or loss of legal capacity of the defendant, in a pending case against public participation, family members and associates of the original defendant who continue the court proceedings have access to the same remedies and support as the original defendant. Member States are encouraged to provide further protection, as necessary, as these new defendants may be less equipped to deal with the original claim.” The EU Directive 2024/1069 is silent on matters concerning death or loss of legal capacity of the defendant.

Article 9 of the Draft Law of Ukraine on rights of close persons of public participant reads as follows:

Article 9. Rights of close persons of public participants

- 1. In the event of the death of a natural person or the termination of a legal entity that carried out public participation, their legal successors, in particular, relatives, have the right to join the case at any stage of the judicial process.*
- 2. In the event of restriction of the civil capacity of a public participant - an individual or recognition of his incompetence, relatives appointed as guardians or trustees in accordance with the procedure established by law, have the right to join the case as his legal representatives.*
- 3. The persons specified in parts one and two of this article have the same rights and guarantees that are provided by law to a public participant, including the right to use all types of legal aid provided for by the Law of Ukraine "On Free Legal Aid" in cases related to abuse of the judicial proceedings against public participation as provided by law.*

Paragraph 39 of the Council of Europe Recommendation contains the following elements: the right of family members and associates to join the case, to benefit from the same remedies, to benefit from the same support as SLAPPs victims, and to enjoy protection. It means that Ukrainian Draft Law directly implements paragraph 39 of the

Council of Europe Recommendation on death or loss of legal capacity of the defendant through Article 9 on rights of close persons of public participation of the draft law.

Article 39 gives the same rights to legal successors in the event of the death of a natural person or the termination of a legal entity that carried out public participation, and to their guardians in the case of restriction or loss of legal capacity of a public participant. In both situations, the Draft Law gives the rights as those given to public participants, including the right to use the same remedies. Further, the Draft Law specifies that they have the right to use all types of legal aid through free legal aid (specified also in the amendments to the Law of Ukraine “On Free Legal Aid”). In terms of protection, they do have the right to apply for victim status (based on Article 8 of the Draft Law, as analysed in the respective section). However, it is recommended, if national legislation permits, to add close relatives in paragraph 2 of Article 2 of the Amendments to the Law of Ukraine “On Ensuring the Safety of Persons Participating in Criminal Proceedings”, so that close relatives have the same access to security assurance as public participants.

Implementation of the standards that allow close relatives to join judicial proceedings at all stages in case of death or loss of legal capacity of public participants is in line with the Council of Europe Recommendation CM/Rec(2024)2.

f. Compensation

The Council of Europe Recommendation CM/Rec(2024)2 (paragraph 44) states that Member States should put in place a system of effective, proportionate and dissuasive penalties to deter SLAPPs, including providing for damages and fines for cases where the claimant has exhibited particularly egregious conduct, and where the time lost by, and psychological harm caused to, the defendant should be compensated.

The EU Directive 2024/1069, in its Article 15 on penalties or other equally effective appropriate measures, states that Member States shall ensure that courts or tribunals seized of abusive court proceedings against public participation may impose effective, proportionate, and dissuasive penalties or other equally effective appropriate measures,

including the payment of compensation for damage or the publication of the court decision, where provided for in national law, on the party who brought those proceedings.

Article 10 of the Draft Law of Ukraine regulates compensation in detail, including compensation for losses, material damage and recovery of compensation for moral (non-material) damage caused by abuse of judicial proceedings against public participation.

Article 10 reads as follow:

- 1. The victim, who has suffered losses and material damage as a result of abuse of judicial proceedings against public participation, has the right to claim compensation for them.*
- 2. The victim, who has suffered moral (non-material) damage as a result of abuse of judicial proceedings against public participation, has the right to recover the corresponding monetary compensation.*
- 3. Losses, material and moral (non-material) damage caused by abuse of judicial proceedings against public participation shall be compensated by the person who caused them.*
- 4. Compensation for losses, material damage, compensation for moral (non-material) damage shall be carried out voluntarily or in accordance with a court decision as provided by the procedure established by the legislation of Ukraine.*

Article 10 of the Draft Law on compensation for losses, material damage, and recovery of compensation for moral (non-material) damage caused by abuse of judicial proceedings against public participation is in line with the Council of Europe Recommendation CM/Rec(2024)2 (paragraph 14) and Article 17 of EU Directive 2024/1069.

g. Support of publication participation (third party interventions)

Third-party interventions allow natural and legal entities that are not parties to a case to have a “say” in judicial proceedings when they have a legitimate interest in the subject matter and, consequently, in the outcome of the judicial proceedings. Third party

intervention are of major importance in providing more effective level of protection to defendants in SLAPP cases. They enable those with legitimate interest to provide specific expertise to proceedings to help the court to determine whether a case is abusive or a claim is manifestly unfounded. This mechanism strengthens access to justice not only for those directly involved in the case but also for a broader range of individuals and legal entities.

Article 9 of EU Directive 2024/1069 on support for the defendant in court proceedings foresees that “Member States shall ensure that a court or tribunal seized of proceedings brought against natural or legal persons due to their engagement in public participation may accept that associations, organisations, trade unions, and other entities, which have, in accordance with national legal criteria, a legitimate interest in safeguarding or promoting the rights of persons engaging in public participation, may support the defendant, with the defendant’s consent, or provide information in those proceedings, in accordance with national law.” This is further explained in Recital 35 of the EU Directive.

The Draft Law of Ukraine proposes enabling third-party intervention through three amendments. The first amendment concerns the competences of the Ukrainian Parliament Commissioner for Human Rights to protect public participation by enabling him or her to intervene in SLAPP cases as a third party (analysed in detail in the section on the Ukrainian Parliament Commissioner for Human Rights). The second amendment is through Article 11 on the support of public participation by public formations in the draft Law of Ukraine “On the Protection of Public Participation from Manifestly Unfounded Claims or Abuse of Judicial Proceedings”. This provision states that public formations “may join court cases related to public participation as third parties who do not introduce independent claims regarding the subject of the dispute, upon the application of a public participant who is a party to the case.” The third is a proposed amendment of Article 53 on the third Parties who do not declare independent claims on the subject of a dispute of the Civil Procedure Code of Ukraine which states “Public formations that carry out activities in the fields of the protection of human rights and fundamental freedoms, journalism, media, environmental protection, education,

science, anti-corruption, etc., may join a case related to public participation as third parties who do not assert independent claims regarding the subject matter of the dispute, on the side of the defendant-public participant, with the defendant's consent." The wording in English in the Draft Law, "to intervene in cases as a third party who does not introduce independent claims regarding the subject of the dispute", was difficult to understand, and this analysis was based on the presumption that the wording means to act as an independent third party. The Working Group clarified that indeed this is the case. They explained that this legal terminology is used to align the Draft Law with the peculiar terminology of the procedural codes of Ukraine. In practice, it means that a person joins the court proceedings as an independent third party, who does not act either as a claimant or as a defendant (does not present any kind of legal demand towards any party in the court proceedings).

All three amendments on support/third party interventions are in line with Article 9 of EU Directive 2024/1069.

h. Judicial statistics and state register of cases

The Council of Europe Recommendation CM/Rec(2024)2, in Section D, foresees several transparency obligations for Member States. Paragraphs 47-49 foresee the publication of courts' findings, enabling the collection of data through a public register, and informing bar associations about the outcome of SLAPP cases.

The EU Directive 2024/1069, in its Article 19(3), obliges Member States to publish final judgments that are considered to be manifestly unfounded or abusive. Article 20 obliges Member States to share data with the European Commission, such as the number of abusive court proceedings against public participation cases initiated in the relevant year; the number of court proceedings, classified by type of defendant and claimant; and the type of claim.

The Draft Law of Ukraine contains two articles on transparency and data collection of SLAPP cases.

According to Article 14, judicial statistics on cases that show signs of abuse of judicial proceedings against public participation are kept separately from other categories of cases. The article contains detailed obligations regarding the types of statistics to be collected, including the total number of judicial proceedings in which claims have been filed that show signs of abuse of judicial proceedings against public participation.

Article 15 foresees the creation of a publicly accessible database, the Unified State Register of Cases of Abuse of Judicial Proceedings against Public Participation (Register). The Register shall be maintained by the Ukrainian Parliament Commissioner for Human Rights, and the Draft Law specifies in detail how the information should be registered and appear in the Register. It further specifies that the information should be entered into the Register within three working days from the date of receipt of an electronic copy of the court decision from the State Judicial Administration of Ukraine, and that such information shall not be classified as confidential personal information and shall not be subject to access restrictions. Procedural safeguards in cases where the court decision is annulled or changed have also been proposed to ensure that such information is amended or removed from the Register.

Article 14 addresses judicial statistics on cases of abuse of judicial proceedings against public participation, and Article 15 regulates the state register of such cases. Both articles, read in conjunction, implement Section D of the Council of Europe Recommendation CM/Rec(2024)2 and Article 19(3) of the EU Directive 2024/1069.

B. PROPOSED AMENDMENTS TO THE CIVIL PROCEDURE CODE OF UKRAINE

a. Early dismissal

One of the key procedural safeguards in the EU Directive 2024/1069 and Council of Europe Recommendation CM/Rec(2024)2 is early dismissal, a mechanism intended to enable judges to dismiss cases at the earliest possible stage if they are considered to be SLAPPs, based on specific indicators. Article 11 of the EU Directive 2024/1069 stipulates that Member States must ensure that courts and tribunals may, after appropriate

examination, dismiss claims against public participation as manifestly unfounded at the earliest possible stage of the proceedings, in accordance with national law. According to the Article 6 of the EU Directive 2024/1060, Member States may provide that measures on procedural safeguards as provided for in Chapters III and IV (early dismissal is under chapter III) can be taken *ex officio* by the court or tribunal seized of the matter. This means that allowing early dismissal *ex officio* is not mandatory but optional, and the decision is left to the discretion of the Member States.

Council of Europe Recommendation CM/Rec(2024)2 provides a more comprehensive and detailed section on early dismissal in paragraphs 25-34. It requires Member States to enact legislation that would enable courts, on their own initiative, to dismiss a claim as a SLAPP early in the proceedings and defendants to file applications for early dismissal of claims against public participation, in order to counter the harmful effects of SLAPPs on debate of public interest matters. The Recommendation further outlines the conditions that must be met for early dismissal to apply, and offers guidance on key elements of the procedure, such as the right to be heard, the burden of proof, the right to appeal a dismissal decision, and the treatment of the dismissal in an accelerated procedure.

Ukrainian Draft Law proposes to implement the early dismissal mechanism for manifestly unfounded claims through amendments to the Civil Procedure Code of Ukraine, by introducing a separate chapter and several amendments to existing articles of the Civil Procedure Code. Early dismissal is addressed through Articles 292-1, 292-2, 292-3, and 292-4.

Article 292-1(1), on the consequences of abuse of judicial proceedings against public participation, enables the court, on its own initiative or upon a motion of the defendant (public participant), to refuse to open proceedings or to close the proceedings in the case.

According to Article 292-1(2), the court shall refuse to open proceedings in a case on the grounds provided for in paragraph 1.7 of Article 186. Article 186 regulates refusal to open

proceedings and foresees that a judge shall refuse to open proceedings if the statement of claim bears signs of an abuse of judicial proceedings against public participation.

According to Article 292-1(3), the court shall close the proceedings in a case on the grounds provided for in paragraph 1.9 of Article 255 of this Code. Article 255 regulates the grounds for closing case proceedings and foresees that the court shall close the case proceedings if the claimant abuses judicial proceedings against public participation.

Res judicata

In addition to the procedure of closing proceedings as abusive, the Ukrainian legislator has introduced an additional procedural safeguard to counter SLAPPs: the refusal to open proceedings in cases where the statement of claim bears signs of an abuse of judicial proceedings against public participation.

The main question in applying the refusal to open proceedings is whether such a decision can be considered *res iudicata*, whether the court will clearly indicate that the claim was rejected due to an abuse of procedural rights, and whether there is a risk that the same claim could be filed again before the court.

A decision to refuse to open proceedings based on procedural grounds rather than on the merits does not constitute *res iudicata*. This means that the same claim could, in principle, be filed repeatedly before the court. Resolving SLAPP cases through decisions on the merits is therefore crucial, as it ensures finality, protects defendants from repeated harassment, and contributes to judicial efficiency by preventing duplicative litigation. This approach is clarified and reinforced in paragraph 37 of the recitals of EU Directive 2024/1069, which states: “The decision that grants early dismissal should be a decision on the merits, after appropriate examination.”

The Ukrainian Working Group has clarified that closing of proceedings having the signs of SLAPP is done in the form of a final court judgement and prevents a claimant from submitting another claim on the same merits against the same person, thus having *a res*

judicata character. The decision to close proceedings would clearly indicate the grounds - abuse of legal proceedings against public participation as provided in Article 255.

The refusal to open proceedings (under Article 186) will be a procedural decision and serves as an additional mechanism for the court to filter clearly abusive claims at the earliest stages without engaging the public participant. This decision does not prevent repetitive submission. Decisions on refusal to open proceedings, as well as decisions on closing proceedings will be made public.

The regulation of early dismissal through the procedure to close the proceedings under Article 292-1(3), and the procedure for refusal to open proceedings as an additional safeguard under Article 292-1(1), is in line with the Council of Europe Recommendation and the EU Directive.

Other aspects related to early dismissal

Article 292-3 includes, in the procedure for closing proceedings, the right to be heard, as foreseen in paragraph 28 of the Council of Europe Recommendation. Furthermore, the Draft Law of Ukraine proposes a deadline of 60 days to hear the case from the moment the court establishes circumstances indicating that the claimant has abused judicial proceedings. The deadline addresses the requirement of the Recommendation (paragraph 34) that Member States should ensure that the procedure is treated in accelerated manner. Further, the claimant will have 15 days to respond to the court regarding the motion alleging that the claim is abusive. This is in line with paragraph 31 of the Council of Europe Recommendation, which foresees that the claimant should be given the same opportunity to demonstrate that the legal action is likely to succeed. In case the claimant does not respond, the court will decide on the basis of the available materials. Finally, the amendment to Article 274 on Cases Considered in Simplified Action Proceedings (Civil Procedure Code of Ukraine), which ensures that the simplified procedure does not apply to public participation cases, is welcomed, as in this way it enables courts to use procedural safeguards as provided by both instruments.

b. Burden of proof

The EU Directive 2024/1069 and Council of Europe Recommendation CM/Rec(2024)2 foresee the reversal of the burden of proof as a key procedural safeguard. Paragraph 31 of the Council of Europe Recommendation CM/Rec(2024)2 states that when the defendant files an application for dismissal of claims against public participation - providing evidence that the claim arises from participation in a matter of public interest and that several SLAPP indicators are present - and when the judicial or other competent authorities accept the application, it should then be for the claimant to provide evidence against the dismissal. This does not prevent Member States from introducing evidentiary rules that are even more favourable to defendants.

Similarly, Article 12 of the EU Directive 2024/1069 provides that the burden of proving that the claim is well founded rests on the claimant who brings the action. It further requires Member States to ensure that, where a defendant has applied for early dismissal, the claimant must substantiate the claim to enable the court to assess whether it is not manifestly unfounded.

The reversal of the burden of proof is one of the significant mechanisms to counter the use of SLAPPs. SLAPPs are fundamentally about power imbalance, where claimants, often in positions of greater financial or institutional power, use legal action to silence, intimidate, or exhaust less powerful defendants. Reversing the burden of proof helps address this imbalance by requiring the claimant to demonstrate that the lawsuit is legitimate, well-founded, and not aimed at restricting, penalising, or obstructing freedom of expression.

Article 292-3 (1) on Procedure and Time limits for Considering the Issue of Closing Proceedings in case in Connection with Abuse of the judicial Proceedings Against Public Participation states that burden of proving that the statement of claim does not constitute an abuse of judicial proceedings against public participation shall rest with the claimant. Further, the amendments to Article 81 (paragraph 3-1) foresees that “In cases involving claims brought against public participants in connection with their public participation, the burden of proving the absence of an abuse of judicial proceedings

against public participation shall rest with the claimant.” Both articles/options formulated clearly and are fully in line with both the EU Directive 2024/1069 and Council of Europe Recommendation CM/Rec(2024)2.

c. Security for costs

Council of Europe Recommendation CM/Rec/(2024)/2 in paragraph 37 on Security for procedural costs and damages states that Member States should introduce rules, in line with national law and practice, to ensure that in court proceedings against public participation, judicial and other competent authorities have the power to require the claimant to provide security for procedural costs, or for procedural costs and damages, if it considers such security appropriate in view of the presence of SLAPP indicators, as set out in paragraph 8 (above).

The EU directive 2024/1069 foresees with Article 10 on Security that 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 tribunal seized may require, without prejudice to the right of access to justice, that the claimant provide security for the estimated costs of the proceedings, which may include the costs of legal representation incurred by the defendant, and, if provided for in national law, damages.

Security of costs is regulated with amendments to Articles 135 and 141 of the Civil Procedure Code of Ukraine. Amendments to Article 135 (para 4.3) ensure the right of the defendant to request that the claimant provide a security for the possible reimbursement of future defendants' costs for professional legal aid and other costs to be incurred by the defendant due to the case consideration (security for costs of professional legal aid). Amendments to Article 141 (para 3.3. and para 9) provide the obligation of the claimant to cover the costs of proceedings, regardless of the outcome of the case, if the claimant abuses the judicial proceedings against public participation.

Amendments to Articles 135 and 141 of the Civil Procedure Code regulate security of procedural costs in line with the standards set by EU Directive 2024/1060 and Council of Europe Recommendation CM/Rec(2024)2 by enabling courts, at the request of the defendant, to grant security for costs. The draft Act, however, does not regulate, in Article 135, the security of costs for damages. The Working Group has clarified that procedural costs cover costs for the court fee, legal aid, however not the security for damages. While the review of the issue concerning the SLAPP nature of the claim takes place, there is no possibility to ensure the security for damages since it will require a counterclaim on behalf of the defendant. Such a counterclaim, however, will technically be reviewed only after the end of the examination of whether the case constitutes a SLAPP. In practice, if a case is recognised as a SLAPP, it is closed, whereas if not - there is no ground to claim the security for damages. Thus, practically it is not feasible to provide for the possibility to present such a counterclaim. At the same time, the damages can be claimed via instituting the separate set of proceedings on compensation for being a victim of SLAPP.

d. Penalties

Paragraphs 44 of Council of Europe Recommendation CM/Rec(2024) provides for aggravated penalties for claimants who recurrently file SLAPPs as it foresees that Member States should consider providing for damages and fines for cases where the claimant has exhibited particularly egregious conduct, and where the time lost by, and psychological harm caused to, the defendant should be compensated. Member States should also consider, as further deterrence, the possibility of imposing aggravated penalties for claimants who recurrently file SLAPPs. Paragraphs 45 of the same Recommendation states that Member States should make appropriate legislative provisions to ensure that, in case of legal action deemed to be a SLAPP, judicial or other authorities may order, at the request of the defendant and at the expense of the claimant, appropriate measures for the dissemination of the information concerning the decision, including publishing it in full or in part and the names of the legal or natural persons who filed the SLAPP, in compliance with relevant European human rights and data-protection standards. Similarly, Article 15 of EU Directive 2024/1069 provides for the payment of

compensation for damages and the publication of court decisions as forms of penalties or dissuasive measures to counter SLAPPs.

Article 292-4(3) of the proposed amendments to the Civil Procedure Code of Ukraine foresees that if the court establishes that the claimant abuses judicial proceedings against public participation, it shall impose on the claimant the obligation to publish the text of the relevant court decision in full or its introductory and operative parts. Paragraph 4 of the same article states that if the court establishes that the claimant abuses judicial proceedings against public participation, it may issue a ruling imposing a fine payable to the state budget.

Fines are specified through amendments to Article 148 to the Civil Procedure Code of Ukraine, which state that the court may issue a ruling imposing a fine on the claimant, payable to the state budget, in an amount ranging from ten to fifteen subsistence minimums for able-bodied persons, if it is established that the claim bears signs of an abuse of judicial proceedings against public participation. Amendments to Article 148 introduce penalties for the claimant if it is established that the claim bears signs of an abuse of judicial proceedings against public participation. The proposed amount of the fine constitutes approximately 33,000 to 50,000 Ukrainian Hryvnas (approx. EUR 680–1,020 with a current exchange rate).

The main minimum requirements on dissuasive measures to deter SLAPP claimants, deriving from paragraphs 44 and 45 of the Council of Europe Recommendation and Article 15 of the EU Directive, are fines, compensation of damages, and publication of court rulings. The Ukrainian Draft Law introduces amendments that enable courts to oblige claimants to pay up to EUR 1,020 for filing claims that constitute an abuse of judicial proceedings and to impose on claimants the obligation to publish the text of the relevant court decision in full or its introductory and operative parts. Dissuasive measures regulated through proposed Articles 292-4(3) and 148 are in line with both the Council of Europe Recommendation and the EU Directive.

- e. Refusal of enforcement of the foreign court judgement

See analysis on Section E on Proposed Amendments to the International Private Law.

C. PROPOSED AMENDMENTS TO THE LAW ON FREE LEGAL AID

- a. On the right to free secondary legal aid

Paragraph 51 of the Council of Europe Recommendation CM/Rec(2024)2 on legal support states that where necessary and according to national legislation, Member States should consider providing adequate access to free legal assistance, including in the light of the indicators in paragraph 8 (above). Existing national mechanisms and instruments organising and providing legal support should also be made available. Member States should encourage and empower independent organisations specialising in legal support, associations of legal professionals, media and press councils, human rights defenders' organisations, journalists' unions and associations, academic institutions providing legal services and other non-governmental organisations to provide SLAPP targets with legal services. Member States should, in co-operation with relevant stakeholders, strive to ensure that natural and legal persons who are targets of SLAPPs are able to obtain access to insurance for legal support under fair conditions.

Article 19 of the EU Directive 2024/1069 on information and transparency foresees on paragraph 1 that Member States shall ensure that natural or legal persons engaging in public participation referred to in Article 6 have access, as appropriate, to information on available procedural safeguards while paragraph 2 states that Member States shall ensure that legal aid in cross-border civil proceedings is provided in accordance with Council Directive 2003/8/EC (7).

The Draft Law proposes to amend article 14 of Law of Ukraine "On Free Legal Aid" by adding paragraph 30 as follows:

Article 14. Subjects of the right to free secondary legal aid

1. The following categories of individuals have the right to free secondary legal aid in accordance with this Law and other laws:

...

30) public participants in connection with their public participation, and in cases specified by law - their close persons - for all types of legal services provided for in part two of Article 13 of this Law, on issues related to the protection of their rights in connection with public participation.

Legal aid in Ukraine is organised in tiers: primary legal aid, accessible to all persons under the jurisdiction of Ukraine, and secondary legal aid, accessible to specific groups of persons under the jurisdiction of Ukraine. The main difference between the two types is that primary legal aid provides general legal advice and information, including guidance on how to access secondary legal aid. Secondary legal aid includes the right to be represented in court.

Article 14.1(30) of the Law of Ukraine “On Free Legal Aid”, as proposed, enables all public participants to benefit from secondary free legal aid in matters connected to their public participation. According to the amendment, they will benefit from the legal services listed in Article 13 of the current Law “On Free Legal Aid”: protection; representation of the interests of persons entitled to free secondary legal aid in courts, other state bodies, local self-government bodies, and before other persons; and the preparation of procedural documents. In addition, the amendment specifies that close relatives, in cases specified by law, will also benefit.

The proposed amendments are in line with the requirements of the EU Directive and the Council of Europe Recommendation.

D. PROPOSED AMENDMENTS TO THE LAW OF UKRAINE ON ENSURING THE SAFETY OF PERSONS PARTICIPATING IN CRIMINAL PROCEEDINGS

a. The right to security assurance

One of the strongest amendments in terms of providing security assurances to public participants and close relatives is the one introduced through Article 1, amending the Law of Ukraine “On Ensuring the Safety of Persons Participating in Criminal Proceedings”.

The law specifies (through a comment) what these measures are: personal protection; protection of housing and property; issuance of special personal protective equipment and notification of danger; use of technical means of control and listening to telephone and other conversations; visual surveillance; replacement of documents and change of appearance; change of place of work or study; relocation to another place of residence; placement in a preschool educational institution or an institution of social protection bodies; ensuring confidentiality of information about the person; and closed trials.

This amendment implements paragraph 54 on practical support of the Council of Europe Recommendation CM/Rec(2024)2.

E. PROPOSED AMENDMENTS TO THE LAW OF UKRAINE ON THE UKRAINIAN PARLIAMENT COMMISSIONER FOR HUMAN RIGHTS

a. Rights of the Commissioner

See Section A (3) on Draft Law of Ukraine “On The Protection of Public Participation from Manifestly Unfounded Claims or Abuse of Judicial Proceedings”.

F. PROPOSED AMENDMENTS TO THE INTERNATIONAL PRIVATE LAW

a. Compensation of damage

Article 49 (4) of the amendments to the Law of Ukraine “On the International Private Law” foresees an additional safeguards from third country judgements states that “The law of a foreign state shall not be applied in Ukraine to obligations arising from damage caused by a person’s public participation if it contains a lower level of guarantees of freedom of

expression, participation in public debate or protection against abuse of judicial proceedings against public participation than the laws of Ukraine.

This article is an additional safeguard against foreign judgments coming from judicial systems that have lower guarantees of freedom of expression. It gives the court the power not to allow compensation for damages based on such foreign judgments and protects defendants from such foreign decisions.

b. Recognition of enforcement of foreign court decisions

The EU Directive 2024/1069 in its Article 16 foresees that Member States shall ensure that the recognition and enforcement of a third-country judgment in court proceedings against public participation by a natural or legal person domiciled in a Member State is refused if those proceedings are considered manifestly unfounded or abusive under the law of the Member State in which such recognition or enforcement is sought.

Article 16 of the Directive is transposed through two articles. Article 81 (3) on the Amendments to the Law of Ukraine “On the International Private Law”, which foresees that “decisions of foreign courts that concern the public participation of a person may not be recognized and enforced in Ukraine if the court establishes that there has been an abuse of judicial proceedings against public participation within the meaning of the Law of Ukraine ‘On the Protection of Public Participation from Manifestly Unfounded Claims or Abuse of Judicial Proceedings’”. Amendment to Article 468 (8-1) of the Civil Procedure Code states “if the court establishes that the claimant in a case in which a decision of a foreign court was rendered abused the judicial proceedings against public participation”. Regulation of refusal of recognition and enforcement of third-country judgment in the context of SLAPPs in Ukraine is in line with the EU Directive.

G. PROPOSED AMENDMENTS TO THE LAW OF UKRAINE ON THE COURT FEES

The Draft Law of Ukraine proposes to amend the Law of Ukraine “On Court Fees” through two alternative options to exempt the defendant from court fee payment.

The first option includes an amendment to Article 5 on Benefits regarding the payment of court fees of the Law of Ukraine “On Court Fees”, which foresees that exemption from paying court fees during the consideration of a case in all court instances is applicable to defendants in cases in accordance with the Law of Ukraine “On the Protection of Public Participation from Manifestly Unfounded Claims or Abuse of Judicial Proceedings.”

The second option is an amendment to Article 8 on Postponement and deferral of payment of court fees, reduction of its amount, or exemption from its payment of the same law, which enables courts to postpone or defer payment of the court fee for a certain period of time if the defendant is a public participant in cases related to their public participation. In addition, the same amendment proposes the possibility to reduce the amount of the court fee if this is necessary to ensure the public participant’s access to the court in cases related to their public participation and to prevent abuse of judicial proceedings against public participation. The first option to exempt the defendant entirely from payment of court fees is a strong procedural safeguard; however, the second alternative contributes directly to strengthening the position of the defendant in court. Both proposals introduced by the Draft Law of Ukraine are in line with the standards set by the two European instruments.

V. RECOMMENDATIONS

The draft legal package of Ukraine **is in line with the Council of Europe and European Union standards on the protection of public participation from SLAPPs**. Majority of comments were addressed by the Working Group during the discussions in preparation of this opinion, and only minor aspects are recommended to be revised.

Reference to the Council of Europe Recommendation CM/Rec(2024)2

It is recommended to add a reference to the Council of Europe Recommendation CM/Rec(2024)2 in the same article where EU Directive 2024/1069 is mentioned, since the Recommendation has been implemented along the Directive.

Definition of public formations

It is recommended that the Working Group discusses and reconsiders whether political parties and permanent arbitration courts should benefit from the protection afforded by the legislation, considering that they have power resources and decision-making roles.