

COUNTERING THE USE OF SLAPPS – MODULE 9

MODULE 9

Support measures for SLAPP targets and victims and victims

(Training material to be shared with trainers only)

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PRESENTATION OUTLINE

Reminder: the two main international instruments

Support for SLAPP targets and victims under the CoE Recommendation and the EU Directive:

- ▶ Legal support
- ▶ Financial support
- ▶ Psychological support
- ▶ Practical support
- ▶ Private sector support
- ▶ Informational support

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REMINDER: THE TWO MAIN INTERNATIONAL INSTRUMENTS

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MAIN INTERNATIONAL LEGAL INSTRUMENTS

As discussed in Module 4:

- ▶ Council of Europe Recommendation
CM/Rec(2024)2 – applies to administrative,
civil and criminal matters
- ▶ European Union Directive 2024/1069
– applies only to civil matters with cross-border
implications

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SUPPORT FOR SLAPP TARGETS AND VICTIMS UNDER THE EU

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EU DIRECTIVE 2024/1069

“It is typical in SLAPPs that those targeted suffer severe financial repercussions and psychological and reputational harm.

Causing such harm is one of the aims of SLAPP claimants when they initiate abusive court proceedings against public participation.” – preamble, paragraph 46

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EU DIRECTIVE 2024/1069: ARTICLE 9

Member States shall ensure that a court or tribunal seized of court proceedings brought against natural or legal persons on account of their engagement in public participation may accept that associations, organisations, trade unions and other entities which have, in accordance with the criteria laid down by their national law, a legitimate interest in safeguarding or promoting the rights of persons engaging in public participation, may support the defendant, where the defendant so approves, or provide information in those proceedings in accordance with national law.

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EU DIRECTIVE 2024/1069: SUPPORT INCLUDING INTERVENTIONS

Associations, organisations, trade unions and other entities which have a legitimate interest in safeguarding or promoting the rights of persons engaging in public participation, should be able to support the defendant in court.

That support should ensure that the specific expertise of such entities can be brought to bear in such proceedings, thereby contributing to the assessment by the court of whether a case is abusive or a claim is manifestly unfounded. Such support could, for example, take the form of providing information relevant to the case, intervening in favour of the defendant in court proceedings, or be in any other form as provided for in national law.

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EU DIRECTIVE 2024/1069: ARTICLE 19

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 and remedies and existing support measures such as legal aid and financial and psychological support, where available.

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EU COMMISSION RECOMMENDATION (EU) 2022/758

- ▶ Establish a focal point that gathers and shares information on support to SLAPP targets and victims
- ▶ Provide financial support towards organisations that provide guidance and support for SLAPP targets and victims, in particular to make sure that they have sufficient resources to react quickly against such proceedings.
- ▶ Ensure that legal assistance is available to SLAPP defendants in an affordable and easily accessible manner.

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SUPPORT FOR SLAPP TARGETS AND VICTIMS UNDER THE COE

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COUNCIL OF EUROPE RECOMMENDATION: GENERAL STATEMENT

- ▶ Rapid access to a range of support and protective measures for targets and victims and targets and victims of SLAPPS.
- ▶ Procedures to ensure their physical protection from any potential harm should also be put in place.
- ▶ Facilitate the provision of support by relevant actors to targets and victims and targets and victims of SLAPPS, such as those allocating adequate resources to provide such support.
- ▶ Organise support in consultation with targets and victims, adapt the support to their specific needs and situations, and take fully into consideration their personal characteristics or status.
- ▶ Secondary or indirect targets and victims of SLAPPS

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COUNCIL OF EUROPE RECOMMENDATION: LEGAL SUPPORT

- ▶ Free legal assistance
- ▶ 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 and victims with legal services
- ▶ ensure that natural and legal persons who are targets and victims of SLAPPS are able to obtain access to insurance for legal support under fair conditions

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COUNCIL OF EUROPE RECOMMENDATION: FINANCIAL SUPPORT

- ▶ Financial support to SLAPP targets and victims, in collaboration with national associations of journalists, trade unions and relevant civil society organisations, including by establishing national funds, grants and/or other targeted assistance, or supporting existing funds or projects aimed at financially assisting targets and victims of SLAPPS

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COUNCIL OF EUROPE RECOMMENDATION: PSYCHOLOGICAL SUPPORT

- ▶ Access to various types of confidential and professional psychological support such as direct advice, referral to relevant health authorities or financial help to independently and directly secure support.
- ▶ Member States should encourage public health authorities to give due consideration to, and dedicate resources for services to, SLAPP targets and victims and targets and victims.

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COUNCIL OF EUROPE RECOMMENDATION: PRACTICAL SUPPORT

- ▶ Where their physical safety is threatened, SLAPP targets and victims should have access to early warning mechanisms such as hotlines operated by civil society organisations or independent State agencies.
- ▶ In exceptional situations, member States should have in place effective and gender-specific mechanisms for voluntary evacuation to a safe place and police protection.
- ▶ Where feasible, existing national mechanisms and instruments that are available for other types of targets and victims should be made accessible to SLAPP targets and victims as well.

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COUNCIL OF EUROPE RECOMMENDATION: PRIVATE SECTOR SUPPORT

- ▶ Member States should ensure that relevant private-sector actors comply with all applicable laws aimed at the protection of SLAPP targets and victims, and provide support as necessary.
- ▶ Employers should provide support where their employees are victims or targets or SLAPPs in their regular course of employment, through special leave, paid time off, additional insurance or financial assistance.
- ▶ The term “employer” should be interpreted in an extensive manner, so as to include also, for example, media that commission freelancers or human rights organizations that volunteers co-operate with, but that are not sensu stricto employers.

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COUNCIL OF EUROPE RECOMMENDATION: INFORMATIONAL SUPPORT

- ▶ Collect actively and on an ongoing basis and disseminate free and easily accessible information about local and international organisations that provide various types of support to SLAPP targets and victims.

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