



Protecting Freedom of Expression and of the Media in the Western Balkans (PRO-FREX)

DC-FoE_2024_20
December 2024

Regional Baseline Assessment of Legislative and Policy Needs for Implementing Council of Europe and European Union Standards on Countering the Use of SLAPPs

Albania, Bosnia and Herzegovina, Kosovo*,
Montenegro, North Macedonia and Serbia

Council of Europe Division for Cooperation on Freedom of Expression

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ opinion on the Kosovo Declaration of Independence

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](#).

The assessment was prepared within the action ‘Protecting Freedom of Expression and of the media in the Western Balkans’ (PRO-FREX) that enables the beneficiary institutions and civil society organisations to progress towards meeting their reform agendas in the field of freedom of expression and freedom of media, in line with the European standards.

The action is implemented within the joint programme of the European Union and Council of Europe Horizontal Facility for the Western Balkans and Türkiye running from 2023 to 2026 and aims to contribute to an improved environment for the exercise, by all stakeholders, in particular by journalists and media actors, of their rights of freedom of expression, in a more pluralistic and safer media environment, in line with the standards as set by in accordance with Article 10 of the European Convention of Human Rights (ECHR).

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This publication was produced with the financial support of the European Union and the Council of Europe. Its contents are the sole responsibility of the author(s). Views expressed herein can in no way be taken to reflect the official opinion of the European Union or the Council of Europe.

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TABLE OF CONTENTS

Executive summary.....	3
1. Introduction	6
2. Methodological considerations	7
3. General recommendations.....	9
4. Jurisdiction-specific recommendations.....	10
5. Early dismissal of lawsuits and other claims against public participation.....	15
6. Burden of proof.....	18
7. Security for procedural costs.....	21
8. Compensatory damages	23
9. Restitution of legal costs	27
10. Acknowledgement of SLAPP victim status and compensation for damages	30
11. Capping of costs and damages for the claimant.....	32
12. Use of non-judicial remedies in SLAPP cases.....	34
13. Cross border SLAPPs	37
14. Conclusions.....	41

Executive summary

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). Similarly, the European Union 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') 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').

This present document provides a regional baseline assessment of legislative and policy needs for implementing Council of Europe and European Union standards on countering the use of SLAPPs in Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia. The baseline assessment provides information and analysis of legislative provisions, policies, and regulations currently in place relevant to SLAPPs, as well as the necessary legislative, policy, and regulatory changes for successful implementation and transposition of the European Anti-SLAPP standards.

Initially, the analysis highlights domestic law provisions regulating the dismissal and rejection of claims in relation to SLAPP cases as one of the key procedural safeguards for SLAPP victims. Domestic law in these countries distinguishes between these two actions: dismissing a claim typically addresses procedural grounds without considering the merits of the case, while rejecting a claim involves a substantive judgement on its merits. To effectively implement the early dismissal procedural safeguard foreseen by European Anti-SLAPP standards, rejection should be used. Rejection on the merits allows courts to evaluate and determine whether a case qualifies as a SLAPP. In contrast, when a claim is dismissed, the court does not assess its content, making it impossible to identify and classify it as a SLAPP. Consequently, victims are unable to benefit from procedural safeguards and remedies.

Overall, all domestic laws across the Beneficiaries allow for both dismissal on procedural grounds and rejection based on the merits, which can facilitate compliance with European Anti-SLAPP standards. Most domestic laws include provisions to prohibit the abuse of court procedures. Countries like Albania, Bosnia and Herzegovina, and Montenegro have established general or specific measures against such abuses that can be used as grounds for dismissal or rejection. In Kosovo, while early dismissal for abusive claims is not allowed,

courts can reject claims that conflict with legal standards. North Macedonia lacks explicit abuse clauses but allows courts to penalise the abuse of procedural rights, while Serbia emphasizes the responsible use of legal rights.

In general, the burden of proof rests with the claimant across Beneficiaries. In Albania, it lies with the claimant in civil cases but shifts in discrimination cases. Bosnia and Herzegovina requires the claimant to prove their case, however, in defamation and discrimination cases, the burden of proof is shared. Kosovo has varying laws depending on the case type, with specific provisions for discrimination and whistleblowing shifting the burden to the claimant. In Montenegro, the claimant also bears the burden of proof. North Macedonia generally requires the defendant to prove the truth in defamation cases, although circumstances may allow for a shift in the burden of proof. Serbia mandates that the claimant prove their case while the defendant supports their defence with evidence. While many Beneficiaries require shared evidence responsibility, most have specific areas where the burden fully shifts to the claimant, establishing a strong foundation for implementing European Anti-SLAPP standards aimed at shifting the burden of proof in SLAPP cases.

None of the Beneficiaries explicitly regulate the requirement for security for costs in domestic cases, although some allow exceptions for foreign nationals or stateless individuals. Generally, civil procedures in most Beneficiaries permit courts to secure costs related to evidence presentation. To align with European Anti-SLAPP standards, all Beneficiaries will need to develop new provisions for security for costs in domestic cases. Implementing such changes in civil law is complex, as it requires legislative adjustments while ensuring that other rights, such as access to justice, are maintained and that the new laws do not conflict with existing ones. The current procedural cost requirements for foreign nationals could serve as a model for establishing similar requirements for domestic SLAPP cases.

All Beneficiaries provide detailed provisions on compensation, emphasizing that those who culpably cause harm to others are generally liable unless they prove lack of fault. Compensation is available for both material and non-material damages, with specific provisions for non-pecuniary harm such as emotional distress, reputational harm, and violations of personal rights. Additionally, it is important to understand that in the majority of Beneficiaries, damages can often be claimed in the same proceedings, though the specifics may vary by Beneficiary, particularly regarding abusive lawsuits and shared liability. Overall, the main finding is the consistent principle of liability tied to fault and the comprehensive nature of compensatory damages available for various forms of harm. Current legislation in the Beneficiaries do not allow for compensation for SLAPP victims; however, the existing provisions form a solid basis for transposing and implementing standards on compensatory damages for SLAPP victims.

The domestic laws across Beneficiaries establish different frameworks for managing litigation costs. Generally, courts have the discretion to determine necessary expenses and assign responsibility for them, usually requiring the losing party to compensate the winning party for legal fees and other costs. Special provisions address abusive lawsuits and costs linked to unauthorised claims or unreasonable delays. In Albania, courts have the discretion to allocate litigation costs on one or both parties; however, it can *ex officio* impose an additional court fee if the litigant or its representative, without reasonable cause, delays in the adjudication of the case. In Bosnia and Herzegovina, during the proceedings, each party bears their own costs, but in the end the court determines which costs were necessary and obliges the losing party to reimburse them. Kosovo requires each litigant to cover their own legal costs, but the losing party must fully or partially compensate the winning party, including legal fees. In Montenegro, the losing party covers all costs of the opposing party and their interveners. North Macedonia holds the losing party responsible for all litigation expenses, while Serbian courts assess necessary expenses for reimbursement, leading to potential shared costs in cases of partial success.

None of the Beneficiaries have provisions or laws recognizing the status of victims, particularly in relation to abusive claims. However, the majority have legislation—mainly concerning the protection of whistleblowers — that provides judicial protection, although they do not extend victim status or automatic rights to compensation for damages. Exceptions exist in Kosovo, where certain groups can apply for and receive victim status. Overall, there is a significant gap in legislation addressing victim recognition across the regions.

In North Macedonia, the Law on Civil Liability for Insult and Defamation uniquely imposes caps on the damages claimants can recover for non-material damages in cases of insult or defamation. Specifically, journalists are limited to non-material damages of 400 euros, editors to 2,000 euros, and legal entities to 5,000 euros. This approach contrasts sharply with the lack of such limitations in Albania, Bosnia and Herzegovina, Kosovo, Montenegro, and Serbia, where domestic laws do not impose caps on costs or damages. The example of North Macedonia is highly relevant and could serve as a model for other Beneficiaries during the transposition and implementation phase of European standards on Anti-SLAPPs.

Media self-regulatory bodies exist throughout the region and serve as important non-judicial mechanisms for citizens to address complaints and ethical violations against the media. While their decisions are not mandatory for the courts, some judges in Beneficiaries do reference these decisions, and they can be used to support claims for damages. The utilisation of these mechanisms varies; in some Beneficiaries, are used less frequently by both citizens and the courts. Current laws acknowledge the presence of self-regulatory mechanisms but do not formally recognize their authority in judicial proceedings related to defamation and insult.

In the Beneficiaries, the recognition and enforcement of foreign court decisions are regulated by each country's civil procedure laws and international private law provisions. These countries generally require that the foreign court has jurisdiction, proper procedural conduct, and no conflict with local public order or previous domestic rulings. Grounds for refusing recognition include lack of jurisdiction, improper notification of parties, existing domestic rulings on the same matter, and conflicts with fundamental principles of the domestic law. Additionally, procedural irregularities, such as failure to properly notify defendants, can lead to refusal of enforcement.

1. Introduction

Following the assassination of the Maltese investigative journalist Daphne Caruana Galizia in 2017, a European civil society Anti-SLAPP movement emerged to encourage European institutions to react to Strategic Lawsuits Against Public Participation (SLAPPs). 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.²

Caruana Galizia faced almost 50 active defamation lawsuits at the time of her brutal assassination in 2017. Since then, the civil society Coalition Against SLAPPs in Europe (CASE), a network of hundreds of activists, journalists, lawyers, and other members, has come together to document SLAPPs, to help victims and targets of abusive claims and to seek action from responsible institutions. The European Union, the European Parliament, and the Council of Europe have responded to the need to counter use of SLAPPs by putting in place laws and recommendations to counter the use of SLAPPs.

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). Similarly, the European Union 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') was adopted. 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') was adopted in 2022.

² Definition provided by the Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of Strategic Lawsuits Against Public Participation (SLAPPs)

Both the Recommendations and the Directive have entered into force, and it is expected that Council of Europe and EU Member States will already begin implementing them, while EU Member States are expected to bring into force the laws, regulations, and administrative provisions necessary to comply with the Directive by 7 May 2026.

The purpose of the regional baseline assessment is to analyse the domestic legislation, policies, and regulatory changes required to implement the European Anti-SLAPP instruments in Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia. The assessment provides information on the current legislative provisions, policies, and regulations/rules relevant to countering SLAPPs at the domestic level, as well as the legislative, policy, and regulatory changes needed for the successful implementation and transposition of European Anti-SLAPP standards. It further offers general and specific recommendations on the necessary changes for the successful transposition and implementation of European Anti-SLAPP standards.

In terms of structure, the regional baseline assessment begins with an executive summary that provides an overview of the key findings, followed by an introduction outlining the background, purpose, and scope of the assessment. The next sections provide conclusions and jurisdiction-specific recommendations. The following section presents methodological considerations, explaining the research process. The assessment then discusses the early dismissal of lawsuits and other claims related to public participation, followed by a section on security for procedural costs. It explores available legal provisions related to compensatory damages and the possibility of regulating the acknowledgment of SLAPP victim status. The assessment continues with an analysis of the capping of costs and damages for claimants and discusses the use of non-judicial remedies in SLAPP cases. It also examines standards for cross-border SLAPPs.

2. Methodological considerations

This overview is based on the collection of information from the six Beneficiaries—Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia—guided by two formulated legal questions to provide evidence-based findings: a) what legislative provisions (articles), policies, and regulations or rules are currently in place that could be used to implement and transpose European Anti-SLAPP standards, and b) what legislative, policy, and regulatory changes are needed for the successful implementation and transposition of European Anti-SLAPP standards.

Initially, the international consultant from the Council of Europe (the author of this overview) developed guidelines for the domestic consultants engaged by the Council of Europe Beneficiaries' actions. The guidelines consisted of questions based on proposed procedural safeguards and remedies extracted from Council of Europe and EU instruments on anti-SLAPP measures, such as early dismissal of lawsuits and other claims against public participation, security for procedural costs, compensatory damages, acknowledgment of SLAPP victim status and compensation for damages, capping of costs and damages for the claimants, and the use of non-judicial remedies in SLAPP cases and cross-border SLAPPs.

The domestic consultants were required to collect fact-based information and identify existing relevant laws, policies, and regulations pertaining to the implementation and transposition of European Anti-SLAPP standards. They were also tasked with providing specific recommendations to help and support domestic authorities during the implementation and transposition of EU and Council of Europe instruments on Anti-SLAPP.

The domestic consultants collected information through desk research, reviewed primary and secondary legislation, and examined the duties of regulatory and other competent bodies. Some domestic consultants informally discussed both research questions with judges, lawyers, and civil servants to better understand the complexities surrounding the implementation and transposition of European Anti-SLAPP standards. These informal discussions proved particularly valuable in formulating recommendations.

The analysed legal framework in the Beneficiaries includes the civil codes, the civil procedural codes, as well as laws on defamation, data protection, contested procedures, legislation regulating procedures involving foreign citizens, laws on international private law, laws on the recognition of foreign judgments, and laws on execution. In some domestic analyses, the criminal law framework was also examined. However, most of the analysis from the Beneficiaries focuses on civil law matters; thus, the regional overview centres entirely on civil matters. This decision was influenced by the fact that defamation, as one of the primary laws used to target public watchdogs, is decriminalized in several of the Beneficiaries, and cases that could be considered SLAPPs in the Beneficiaries are usually based on civil laws rather than criminal ones. The domestic assessments, which will be shared with the respective Beneficiaries, contain information on criminal and administrative aspects. Therefore, the regional overview should be used by Beneficiaries in conjunction with the domestic baseline assessments during the transposition and implementation of European Anti-SLAPP standards.

The jurisdiction-specific recommendations of the regional baseline assessment are based heavily on the input from domestic consultants, who possess a deeper understanding of the national legal framework and context, as well as what is feasible to achieve. Finally, it is important to clarify two key terms used throughout the regional baseline overview: *European*

Anti-SLAPP standards and Beneficiaries. For ease of reading, this report refers to the standards established by the Recommendation CM/Rec(2024)2 and Directive (EU) 2024/1069 as European Anti-SLAPP standards. Additionally, whenever making a reference to Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia, these countries are referred to collectively as the Beneficiaries.

3. General recommendations

The research shows that Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia have, at the domestic level, procedural safeguards and remedies that are already applicable in civil matters, forming a solid basis for the implementation and transposition of European standards on Anti-SLAPP.

Domestic authorities aiming to implement and transpose Council of Europe Recommendation CM/Rec(2024)2 on countering the use of SLAPPs and the EU Directive (EU) 2024/1069 on protecting persons who engage in public participation from manifestly unfounded claims or SLAPPs should consider the standards established by these instruments as minimum requirements and strive for the highest and strongest protection of public participation.

The domestic authorities should work on implementing and transposing both European instruments simultaneously to ensure protection not only against cross-border SLAPPs covered by the EU Directive (EU) 2024/1069 but also against domestic and other types of SLAPPs covered by Council of Europe Recommendation CM/Rec(2024)2. Implementing only the Directive would result in victims facing domestic SLAPPs continuing to be unprotected and not benefiting from the new European standards.

Implementation and transposition of European Anti-SLAPP standards can be achieved by introducing stand-alone Anti-SLAPP laws as *lex specialis*, amending civil procedure codes to enable courts to use early dismissal in SLAPP cases, and/or amending various existing laws to ensure that the procedural safeguards and remedies foreseen in the Council of Europe and EU Anti-SLAPP instruments are introduced at the domestic level. Based on research in respective jurisdictions, the most feasible approach that would provide robust protection from SLAPPs **is the introduction of stand-alone Anti-SLAPP laws**. The main argument is that amending complex laws, such as civil procedure codes and international private law, takes a long time (amendments to civil codes have sometimes taken decades due to parliamentary majority requirements). To be effective, the Anti-SLAPP law should meet several key criteria based on the Council of Europe's recommendations (CM/Rec(2024)2). These criteria include comprehensive coverage, SLAPP indicators, early

dismissal, security for costs, restitution of legal costs, compensation for damages, caps on damages and costs, protection against cross-border SLAPPs, support for victims and targets of SLAPPs, and transparency regarding SLAPP rulings.

In all the countries included in the regional analysis, domestic law provides for both the dismissal and rejection of claims. Domestic law in these countries distinguishes between these two actions: dismissing a claim typically addresses procedural grounds without considering the merits of the case, while rejecting a claim involves a substantive judgment on its merits. To effectively implement the early dismissal procedural safeguard foreseen by European Anti-SLAPP standards, rejection should be used. Rejection on the merits allows courts to evaluate and determine whether a case qualifies as a SLAPP. In contrast, when a claim is dismissed, the court does not assess its content, making it impossible to identify and classify it as a SLAPP. Consequently, victims are unable to benefit from procedural safeguards and remedies.

It is recommended that domestic authorities translate and promote the Council of Europe recommendation, as well as ensure that legal professionals - judges, prosecutors, lawyers, and police officers - have access to capacity-building sessions, which are tailor-made training. The PRO-FREX regional project, *Protecting Freedom of Expression and of the Media in the Western Balkans (PRO-FREX)*, and the other PRO-FREX actions in each Beneficiary, have been implemented within the joint program of the European Union and the Council of Europe Horizontal Facility for the Western Balkans and Türkiye (previously JUFREX) and have trained hundreds of legal professionals in Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia. This is a model action that should be replicated across Europe. Finally, domestic authorities should regularly develop and facilitate awareness raising initiatives and other awareness-raising measures targeting the general public.

4. Jurisdiction-specific recommendations

Albania - It is recommended that the Albanian authorities adopt a comprehensive approach by a) amending both the Civil Procedure Code and the Criminal Code as core legislation and b) adopting a stand-alone Anti-SLAPP law. This combination is important due to the prevalence of civil procedural code rules. By amending these two pieces of legislation, key anti-SLAPP procedural safeguards, such as indicators to identify SLAPPS, early dismissal including timelines burden of proof, security of procedural costs, restitution of legal costs, and stay of proceedings, would be established under Domestic law in line with European Anti-SLAPP standards. The stand-alone Anti-SLAPP law, on the other hand, would include all other aspects, such as the acknowledgment of SLAPP victim status, and compensation

for damages or capping of damages for the claimant. In addition, it is recommended to decriminalise defamation, which remains a criminal offense under the Criminal Code but does not carry a prison sentence. Following the revision and harmonisation process, tailored training and awareness-raising initiatives need to be undertaken regarding SLAPP issues and challenges. The level of awareness among the judiciary on SLAPP standards and recommendations is relatively low.

Bosnia and Herzegovina - It is recommended to put in place a stand-alone Anti-SLAPP law to address both substantive and procedural aspects. This law would ensure the universal application of European Anti-SLAPP standards across Bosnia and Herzegovina and would provide the comprehensive legal framework needed to ensure that individuals can freely express their opinions and engage in public discourse without fear of retribution through legal means. The new law should encompass at least the following key topics: definitions of SLAPPs, public participation, public interest, SLAPP indicators, mechanisms for early dismissal, security for procedural costs, the possibility of publishing decisions that classify lawsuits as SLAPPs, accelerated procedure, procedural safeguards related to administrative, misdemeanour, and criminal proceedings, protection against cross-border SLAPPs, and the right to compensation for damages. In addition to the new legislation, amendments to the Civil Procedure Laws would be required to establish a general framework for the early dismissal mechanism, while defamation laws should be revised to include a cap on damages for plaintiffs.

Kosovo - The implementation and transposition of European standards on SLAPPs into Kosovo's legal framework can be achieved through several approaches, namely: adopting a stand-alone domestic law against SLAPPs, amending the Code of Civil Procedure, which is currently being drafted, or amending various existing domestic laws to ensure that courts and other authorities are equipped with the necessary powers to effectively counter SLAPPs. Basic justifications for each approach are provided below; however, a more extensive analysis should follow if such research is to be used by the domestic authorities to inform legislative and non-legislative changes.

Adopt a dedicated domestic law on SLAPPs - It is recommended that domestic authorities in Kosovo introduce a stand-alone domestic law on SLAPPs that would include robust safeguards and remedies specifically designed to counter use of SLAPPs in civil, criminal and administrative matters. To be effective, the Anti-SLAPP law should meet several key criteria based on the Council of Europe's recommendations (CM/Rec(2024)2). These criteria include: comprehensive coverage, slap indicators, early dismissal, security for costs, restitution of legal costs, compensation for damages, caps on damages and costs, protection against cross-border SLAPPs, support for victims and targets of SLAPPs, and transparency around SLAPP rulings.

Include a section on SLAPPs in the Civil Procedure Code - The Ministry of Justice in Kosovo has established a working group comprised of government, judicial, and other representatives to draft the Civil Procedural Code of Kosovo.³ This procedural code—being the first of its kind in Kosovo—aims to regulate judicial procedures derived from civil law, ensuring they are effective, fair, and impartial. Considering that the working group is still drafting the code, this provides a valuable opportunity to include a section on Anti-SLAPP, incorporating some of the key features outlined above. Practically, such an approach would be achievable and realistic since it builds on precedents established by the existing Law on Contested Procedure, which includes dedicated sections for special contested procedures such as work-related matters, small value contests, and procedures for payment orders. However, a limitation of this approach is that it would cover only civil offenses, addressing only SLAPPs arising from civil procedures.

Amend various legislation to equip domestic authorities to counter SLAPPs - The implementation and transposition of European standards on SLAPPs could also be achieved by amending various existing legislation, including but not limited to the Law on Contested Procedure, the Code of Criminal Procedure, the Civil Law on Defamation and Insult, and Private International Law. Specific provisions would need to be updated to enable courts and domestic authorities to use SLAPP indicators, facilitate the early dismissal of claims, provide security for procedural costs, offer compensatory damages, and recognise SLAPP victim status, among other measures. However, this approach is less feasible due to the difficulties involved in amending complex laws like Private International Law. Additionally, since the Law on Contested Procedure is expected to be fully integrated into the forthcoming Civil Procedural Code, making amendments to this law would be highly unlikely.

To fully implement and transpose European standards in Kosovo, legislation should be supported by tailored education, capacity building sessions, and awareness-raising initiatives specifically designed to address SLAPPs. The Academy of Justice in Kosovo, in collaboration with the Beneficiary-level PRO-FREX action, has already conducted a series of capacity building sessions on SLAPPs for judges and prosecutors, incorporating these sessions into its annual training program. Such initiatives should continue. Civil society organization Levizja FOL is one of the few in Kosovo actively working to raise awareness about the harm caused by SLAPPs and has provided pro bono legal support to at least three SLAPP targets. Awareness-raising efforts should be expanded at the domestic level as part of a broader strategy, aiming to educate the general public about the importance of public participation in society.

³ The first draft of the Code of Civil Procedure has been completed, 13 May 2024, <https://md.rks-gov.net/page.aspx?id=1,15,3302>

Montenegro - It is recommended that domestic authorities in Montenegro adopt the approach of amending various legislation to equip them to counter SLAPPs. More concretely, it is recommended to amend the Law on Media (to include Anti-SLAPP indicators and dissuasive measures such as the publication of corrections and potential fines), the Law on Contested Procedure and the Criminal Procedure Act (to address early dismissal), the Law on Torts and the Law on Contested Procedure (to address compensation for damages and restitution of costs), and the Law on International Private Law (to address cross-border issues).

Furthermore, it is recommended to include additional SLAPP standards, such as those regarding SLAPP victim status and compensation for damages, in line with the whistleblower model outlined in the Law on Prevention of Corruption. SLAPP victim support (financial, psychological, etc.) should be provided through the Association of Journalists; however, expanding state legal aid to SLAPP victims would be difficult under current laws, which limit assistance to domestic abuse victims and financially vulnerable groups. The Media Law may also set a maximum amount of damages a claimant can receive in compliance with ECHR jurisprudence. When determining damages, the principle of proportionality must be followed to protect the media's survival and growth.

The introduction of a domestic Anti-SLAPP law may currently be a focus for the domestic authorities; however, it seems unfeasible and lacks compelling support. To effectively implement SLAPP laws in Montenegro, specialized education, capacity building sessions, and awareness-raising initiatives are essential, especially considering that judges and prosecutors have yet to be trained on anti-SLAPP standards. Additionally, non-governmental organisations providing pro bono legal assistance are vital for raising public awareness. NGOs and media self-regulatory bodies should collaborate to enhance public efforts on the importance of civic engagement.

North Macedonia - The transposition of European Anti-SLAPP standards into North Macedonia's legal framework can be achieved through one of the following approaches: introducing a dedicated Anti-SLAPP law, incorporating Anti-SLAPP provisions within the Civil and Criminal Procedure Codes, or amending existing legislation to integrate Anti-SLAPP measures (or a combination of all these measures). Each approach offers unique benefits and challenges, and thorough analysis in collaboration with the domestic authorities will be essential to determine the most effective implementation strategy. Below is a summary of the key recommendations:

Adopt a dedicated domestic Anti-SLAPP Law - It is recommended that North Macedonia introduce a comprehensive domestic law specifically targeting SLAPPs. This law should address all types of SLAPPs—domestic, cross-border, multiple or coordinated SLAPPs, and SLAPPs targeting anonymous public participation—while providing strong safeguards and

remedies. Key features of this law should include comprehensive coverage of all SLAPP types, mechanisms for early dismissal of SLAPPs claims, security for costs and restitution of legal expenses, compensation for damages, caps on damages and costs, and protection against cross-border SLAPPs.

Include Anti-SLAPP provisions in the Civil and Criminal Procedure Codes - By incorporating Anti-SLAPP provisions into the existing procedural codes, North Macedonia can build on its established legal framework. This practical approach would integrate SLAPP protections within the broader judicial system, though it may be limited to certain types of legal actions unless carefully expanded.

Amend existing legislation - Another viable approach is to amend various existing laws, such as the Civil Procedure Code, the Criminal Code, and the Law on Civil Liability for Defamation and Insult, as well as other relevant laws, to embed Anti-SLAPP protections. This would involve updating legal provisions to support the identification of SLAPP indicators, early dismissal of claims, cost security, and compensation mechanisms. However, the complexity of amending multiple laws requires careful coordination and could present challenges, particularly if procedural codes are simultaneously being updated.

It is also recommended to establish an Official SLAPP Lawsuits Register within judicial authorities, complemented by civil society-led initiatives. This register would serve as a centralised database to publish rulings on SLAPPs, enhancing transparency and accountability, and facilitating the effective monitoring of SLAPPs within the legal system. Lastly, the implementation of Anti-SLAPP measures should be supported by tailored education and capacity building sessions aimed at legal professionals, judges, and prosecutors. These programs should be integrated into ongoing judicial education efforts to ensure a widespread understanding of SLAPP-related issues. Additionally, domestic awareness raising initiatives should be launched to educate the general public about the importance of public participation and the dangers posed by SLAPPs.

Serbia - It is recommended that domestic authorities in Serbia adopt a dedicated law on Anti-SLAPP to comprehensively address all types of SLAPPs, indicators for identifying them, early dismissal of SLAPP claims, security for costs, restitution of legal costs, recognition of SLAPP victims' status, and protection against judgments from third countries. If a dedicated law is not feasible, it is recommended to include key procedural safeguards and remedies of Anti-SLAPP instruments in the Civil Code, which is currently undergoing amendments, although it is unclear when this will be finalized, as well as in the Civil Procedure Code. It is also recommended to organize capacity-building sessions for judges and lawyers. Additionally, manuals and guides addressing and clarifying the issue from both the court's perspective and that of practicing lawyers can provide valuable insights.

5. Early dismissal of lawsuits and other claims against public participation

Early dismissal of lawsuits and other claims against public participation is one of the key procedural safeguards outlined in the newly introduced EU Directive and Council of Europe Recommendation against SLAPPs. The Council of Europe Recommendation stipulates that Member States should establish provisions in their domestic legal frameworks to allow courts to dismiss claims as SLAPPs early in the proceedings, either on their own initiative or based on a request by the defendants.⁴ The EU Directive against SLAPPs requires that Member States ensure that courts and tribunals may dismiss claims against public participation as manifestly unfounded at the earliest possible stage in the proceedings.⁵

The purpose of this section is to determine whether the domestic laws of the Beneficiaries contain provisions addressing abusive lawsuits. It also identifies relevant regulations governing the dismissal and rejection of claims. These provisions are critical, as they establish the foundation for the necessary changes required to implement the early dismissal of SLAPPs as a procedural safeguard at the domestic level of the Beneficiaries.

Before analysing the specific provisions of the domestic laws, a clarification is needed. In all the Beneficiaries included in the regional analysis, domestic law provides for both the dismissal and rejection of claims/lawsuits. The domestic law in the Beneficiaries distinguishes between these two actions: dismissing a claim typically addresses procedural grounds without considering the merits of the case, while rejecting a claim involves a substantive judgment on its merits. To effectively implement the early dismissal procedural safeguard foreseen by European Anti-SLAPP standards, rejection should be used. Rejection on the merits allows courts to evaluate and determine whether a case qualifies as a SLAPP. In contrast, when a claim is dismissed, the court does not assess its content, making it impossible to identify and classify it as a SLAPP. Consequently, victims are unable to benefit from procedural safeguards and remedies.

In general, most domestic laws contain either general or specific provisions addressing the prohibition of abuse of court procedures and procedural rights, as seen in Albania, Bosnia and Herzegovina, and Montenegro. In Kosovo, the domestic legislation does not allow for the early dismissal of cases based solely on abusive nature of claim; however, courts cannot accept claims that contradict the legal system or public morality. In North Macedonia, there is no explicit clause addressing the abuse of procedural law in the domestic legislation; however, courts can impose a fine on a party, legal representative, or others for abusing their

⁴ Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), articles 25- 34, <https://rm.coe.int/0900001680af2805>

⁵ 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'), article 11, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401069

procedural rights. In Serbia, general provisions prohibit the misuse of rights, requiring parties to use their legal rights responsibly, and courts must prevent and penalise any such misuse during proceedings.

Regarding the dismissal and rejection of claims, all domestic laws analysed contain specific or general provisions for the dismissal of civil claims based on procedural aspects and for the rejection of claims based on merits. The following paragraphs provide detailed information on each jurisdiction. However, as a general remark, it should be noted that the existing provisions on dismissal and rejection facilitate the ability of lawmakers and the government to transpose and implement European Anti-SLAPP standards for the early dismissal of claims.

In **Albania**, the domestic courts can rely on the Civil Procedure Code, which includes special provisions to address “abusive lawsuits,” aimed at combating delaying tactics and abusive behaviour in the judicial system. If parties or their representatives file repeated or malicious claims, distort facts, or intentionally prolong proceedings, fines can be issued. Fines can also be imposed *ex officio* by the court if the parties file abusive requests to recuse judges.⁶ The Civil Procedure Code recognises final judgments, which are issued by the court at the end of proceedings and are based on merits, and non-final decisions, which are issued during the proceedings based on procedural grounds.⁷

In **Bosnia and Herzegovina**, the situation is more complex due to the existence of four civil procedure laws currently applicable in the jurisdiction.⁸ Civil procedure Law prohibit the abuse of procedural rights and require parties to act in good faith.⁹ It also empower courts to prevent delays and any abuse of procedural rights. Although courts can theoretically dismiss abusive lawsuits, the lack of clear criteria and concerns about violating the right to a fair trial under Article 6 of the European Convention limit the practical use of this provision.¹⁰ A claim/lawsuit can only be rejected as manifestly ill-founded in default judgment cases. Dismissal on procedural grounds can occur immediately after a lawsuit is filed if procedural issues are identified. In contrast, a judgment rejecting a claim is based on the merits and typically follows a trial, where the court assesses evidence and applies the relevant law. However, a judgment rejecting a claim can be issued without a hearing in exceptional cases, such as when the claimant renounces the claim or when a default judgment request is found to be manifestly ill-founded.

⁶ Civil Procedure Code of Albania, articles 34, 76 and 107

⁷ Civil Procedure Code of Albania, articles 126 and 127

⁸ There are four civil procedure laws currently applicable in Bosnia and Herzegovina; however, for practical reasons and given the similarity of many legal provisions, only the laws of the Federation of BiH and the Republika Srpska are analyzed (hereinafter: FBiH/RS Civil Procedure Law).

⁹ Civil Procedure Code of Bosnia and Herzegovina, article 9

¹⁰ According to available case law, there is only one set of cases where the dismissal of lawsuits was based on Article 10, paragraph 2. The FBiH Supreme Court dismissed the cases of a plaintiff who had filed nearly 700 vexatious lawsuits for damages against judges and courts, all based on largely the same factual basis.

In **Kosovo**, domestic legislation does not include provisions for the early dismissal of cases solely on the grounds of abusive lawsuits. However, the Law on Contested Procedure stipulates that the court may not accept claims that contradict the legal system, legal provisions, or rules of public morality.¹¹ Cases can be dismissed on procedural grounds (e.g., lack of jurisdiction, res judicata, expiration of the statute of limitations)¹² or rejected on their merits if the claim is contradictory to the facts or evidence.¹³ The court rejects the case if the claim is in contradiction with presented facts in the lawsuit, if the facts that form the basis of the lawsuit are in contradiction with the evidence provided by the claimant, or if the facts are well known publicly.¹⁴ It should be noted that such provisions did not exist before the Law on Contested Procedure was approved by the parliament, and the aim of such provisions is to contribute to the principle of effective administration of justice.¹⁵

In **Montenegro**, domestic legislation foresees a general principle that the court shall conduct the procedure without any unnecessary delay, within a reasonable period, at the lowest possible cost, and shall also prevent any abuse of rights pertaining to the parties in the procedure.¹⁶ In addition, another provision foresees that “the court may not approve claims that contradict the legal system, legal provisions, or rules of public morality.¹⁷ Dismissal and rejection of claims are foreseen in the domestic law of the Beneficiary. A claim can be dismissed after a preliminary examination if there is a lack of court competence, an agreement to arbitration, failure to file within prescribed deadlines, ongoing litigation on the same claim, the existence of a final judgment on the matter, a judicial settlement, a lack of legal interest in filing the complaint, or failure to remedy issues within court-set deadlines.¹⁸ A claim can be rejected on the merits if it is unfounded, meaning it contradicts the facts stated in the claim or the evidence provided by the claimants.¹⁹

In **North Macedonia**, there is no explicit abuse of procedural law clause in domestic law; however, the court can impose a fine on a party, legal representative, attorney, or intervener between €700 and €1,000 for abusing their procedural rights.²⁰ The Civil Procedure Law foresees dismissal and rejection of claims. The court can dismiss a lawsuit if it's incomprehensible or incomplete, or if there are deficiencies regarding the capacity of the

¹¹ Law No. 03/L-006 on Contested Procedure of Kosovo, article 3.3

¹² Law No. 03/L-006 on Contested Procedure of Kosovo, article 391

¹³ Law No. 03/L-006 on Contested Procedure of Kosovo, article 399.1

¹⁴ Law No. 03/L-006 on Contested Procedure of Kosovo, article 399.2

¹⁵ Manual on the Implementation of the Contested Procedure, 2019, https://www.gjyqesori-rks.org/wp-content/uploads/reports/72001_MANUAL_PER_ZBATIM_TE_PROCEURES_KONTESTIMORE.pdf

¹⁶ Law on Contested Procedure of Montenegro, article 11

¹⁷ Law on Contested Procedure of Montenegro, article 4

¹⁸ Law on Contested Procedure of Montenegro, article 276

¹⁹ Law on Contested Procedure of Montenegro, article 283

²⁰ Civil Procedure Law No. 124/2015 of North Macedonia, article 10

claimant or defendant to be parties in the procedure.²¹ In addition, the court can dismiss a lawsuit if the matter does not fall under court jurisdiction or if the lawsuit is filed after the deadline (if a special deadline for filing is prescribed by law).²² The court can reject cases as unfounded but the domestic law does not have specific provisions on grounds for rejections as it leaves up to the court to reject cases with a verdict.

In **Serbia**, the Law on Obligations contains general provisions on the misuse of rights, according to which it is prohibited to exercise rights from obligations contrary to the purpose for which they were established or recognised by law.²³ Furthermore, the parties are obliged to carefully use the rights recognised by the law, and the court is obligated to prevent and punish any misuse of the parties' rights during proceedings.²⁴ If the misuse of procedural powers by one of the parties causes damage, the court will award damages to that party upon request in a separate procedure (for reasons of expediency).²⁵ The court can dismiss a case if it lacks jurisdiction, the lawsuit was filed too late, the same issue is already being litigated or has been resolved, a court settlement has been reached, the claimant has no legal interest, or the claim is unclear or incomplete.²⁶ The court can reject cases but the domestic law does not have specific provisions on grounds for rejections as it leaves up to the court to reject cases with a verdict.

6. Burden of proof

When SLAPPs are filed, defendants face immense pressure, as they are required to engage legal representation, respond to claims—which may include explaining well-known and publicly accepted facts—and follow a trial that could take years. The power imbalance between claimants and defendants, a common feature of SLAPP cases, exacerbates the difficulty for defendants in addressing claims. Therefore, placing the burden of proof on claimants serves as a crucial procedural safeguard for public participation. The Council of Europe Recommendation stipulates that Member States are required to establish legal frameworks allowing courts to independently dismiss claims categorized as SLAPPs early in the legal process. Additionally, these frameworks should enable defendants to file for early dismissal of claims that target public participation. To proceed to trial, claimants must demonstrate a reasonable cause of action at the earliest possible stage.²⁷ It further foresees that when the defendant files an application for dismissal of claims against public

²¹ Civil Procedure Law No. 124/2015 of North Macedonia, article 266

²² Civil Procedure Law No. 124/2015 of North Macedonia, article 267

²³ Law on Obligations of Serbia, article 13

²⁴ Law on Obligations of Serbia, article 9

²⁵ Law on Civil Procedure of Serbia, article 187

²⁶ Law on Civil Procedure of Serbia, article 294

²⁷ Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), article 25, <https://rm.coe.int/0900001680af2805>

participation, bringing evidence that the claim is a SLAPP, it should be for the claimant to provide evidence against the dismissal. This does not prevent Member States from introducing rules of evidence that are more favourable to defendants.²⁸ The EU Directive against SLAPPs establishes that the burden of proving a claim is well-founded rests with the claimant who initiates the action.²⁹ Furthermore, the Directive stipulates that Member States must ensure that when a defendant applies for early dismissal, the claimant must substantiate the claim, enabling the court to assess whether it is manifestly unfounded.

This section provides information on how the burden of proof is regulated in the Beneficiaries. The general rule is that the claimant must provide evidence to support it. In Albania the court, by decision, permits the parties to prove the facts on which they base their requests and claims; as a rule, the burden of proof in defamation cases lies with the defendant, though it shifts in discrimination cases. In Bosnia and Herzegovina, the claimant must prove their claim, while the defendant must provide evidence for their defence, especially in defamation cases. In Kosovo, the laws vary by case type, with shared responsibilities for proving claims, but specific laws on discrimination and whistleblowing shift the burden to claimant. In Montenegro, the claimant bears the burden of proof. In North Macedonia, defamation cases generally require the defendant to prove the truth of their claims, but the burden can shift depending on some specific circumstances. Lastly, in Serbia, the claimant must prove their case, while the defendant must provide evidence to support their defence. While many Beneficiaries require claimants and defendants to share responsibility for providing evidence, most have legislation in specific areas where the burden of proof is fully shifted to the claimant. Such domestic laws provide a strong foundation for the transposition and implementation of European Anti-SLAPP standards, which aim to shift the burden of proof in SLAPP cases. The following paragraphs provide detailed information on each Beneficiary.

In **Albania**, the Civil Procedure Code places the burden of proof on the party making the claim, meaning they must present evidence to support their case.³⁰ Facts that are commonly known or legally presumed do not need to be proven. The court only allows relevant and necessary evidence. A study of defamation cases (2016-2021) shows that defendants carry the burden of proof, and there is no reversal of this burden.³¹ However, under Law no. 10221, "On Protection from Discrimination," there is a shift in the burden of proof when the court reviews a discrimination case. This shift is not regulated explicitly under the Civil Procedure Code and as such the provision is not applied by Albanian courts.

²⁸ Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), article 31, <https://rm.coe.int/0900001680af2805>

²⁹ 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'), article 12, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401069

³⁰ Civil Procedure Code of Albania, article 12

³¹ Studimi Liria e Shprehjes dhe Jurisprudenca e GJEDNJ në praktiken vendase, pg.89, 114-117 <https://rm.coe.int/studim-liria-e-shprehjes-dhe-jurisprudenca-e-gjednj-ne-praktiken-venda/1680a8982f>

In **Bosnia and Herzegovina**, each party is responsible for proving the facts on which they base their claim.³² This means that, as a general rule, the claimant must prove the facts supporting their claim, while the defendant must prove the facts supporting their objections or counterclaims. The basic principle is that the burden of proof lies with the party making a positive assertion, not with the one denying it, as negative statements of fact cannot be proven. In defamation cases, although the domestic laws on defamation do not explicitly assign the burden of proof, Bosnian case law indicates that the defendant must prove the truth of the statements. The defendant can defend against the claim by demonstrating that the statements were true or by showing that the expression was reasonable and made in good faith.

In **Kosovo**, the domestic laws differ in their approach to the burden of proof. The key civil procedure law, the Law on Contested Procedure, stipulates that both parties share the responsibility to substantiate their claims. In contrast, specific laws related to discrimination, whistleblower protection, and reputation protection impose the burden of proof on the claimant. The Law on Contested Procedure mandates that both parties share the responsibility of substantiating their claims, with both sides expected to present facts and evidence to support their positions.³³ Specific laws on discrimination, defamation, and whistleblower protection place the burden of proof primarily on the claimant. In Kosovo's Law on Protection from Discrimination, the burden shifts to the defendant, who must prove there was no breach of equal treatment.³⁴ The burden of proof also lies with the claimant in defamation cases, but only if the case involves a matter of public concern.³⁵ Furthermore, the law requires that in defamation and insult actions involving statements on matters of public concern, the defendant must prove that they acted responsibly in publishing the impugned statements. A court finding that the defendant acted responsibly, unless they knew the statement was false or acted with reckless disregard for its veracity, absolves the defendant of liability. In whistleblower cases, the employer must prove that any detrimental action taken against the whistleblower is unrelated to the whistleblowing.³⁶

In **Montenegro**, the person claiming a right must prove the facts necessary for that right to exist or be realised. If someone contests the existence of that right, they must show what prevented it from being established or caused it to end. This means that the party challenging the right must prove the facts related to its qualification or exercise. In summary, the burden of proof falls on the claimant.³⁷

³² Civil Procedure Laws of Bosnia and Herzegovina, article 123.1

³³ The Law on Contested Procedure of Kosovo, article 7 and 319

³⁴ Law no. 05/L-021 on the Protection From Discrimination of Kosovo, article 20

³⁵ Law no. 02/L-65 Civil Law Against Defamation and Insult, article 6

³⁶ Law No. 06/L-085 on Protection of Whistleblowers, article 25

³⁷ Law on Contested Procedure of Montenegro, article 219

In **North Macedonia**, in defamation cases the general burden of proof lies with the defendant to prove the truthfulness of their claims, but there are important exceptions, especially for cases involving public officials and matters of public interest.³⁸ Generally, the defendant must prove the truth of their claims.³⁹ However, if the claimant is a public official with a duty to explain relevant facts or if the defendant had reasonable grounds for making a claim in the public interest, the burden shifts to the claimant.⁴⁰ The defendant is not liable for defamation if they can prove the truth of their claim or had reasonable grounds to believe it was true.⁴¹ There are restrictions on proving facts related to the claimant's private life, and if a defamation claim involves criminal accusations, the defendant can avoid liability by proving the claim's truth or that they had reasonable grounds to believe it was true.⁴² The Law on Civil Procedure states that the burden of proof lies with the party claiming a fact or making an assertion. Each party must present the facts and evidence supporting their claims or disputing the opposing party's claims.⁴³ If the court cannot establish a fact with certainty based on the evidence, it will determine which party bears the consequences of failing to prove that fact.⁴⁴ Overall, each party is responsible for proving the facts they assert in their case.

In **Serbia**, the rules on the burden of proof in the domestic law imply that the party who believes they have a right bears the burden of proving the facts essential for the creation or realisation of that right. This means the claimant must provide evidence supporting the claims made in the lawsuit, specifically evidence indicating that the right they seek to protect has been violated. At the same time, the defendant must also provide evidence for their factual claims, reflecting a distribution of the burden of proof.

7. Security for procedural costs

Security for procedural costs and damages is another important safeguard outlined in the newly introduced EU Directive and the Council of Europe Recommendation against SLAPPs. The Council of Europe Recommendation stipulates that Member States should introduce rules, in line with the domestic law and practice, to ensure that courts handling proceedings against public participation have the power to require the claimant to provide security for procedural costs and damages.⁴⁵ Similarly, the EU Directive against SLAPPs mandates that

³⁸ Law on Civil Liability for Defamation and Insult of North Macedonia

³⁹ Law on Civil Liability for Defamation and Insult of North Macedonia, article 9.1

⁴⁰ Law on Civil Liability for Defamation and Insult of North Macedonia, article 9.3

⁴¹ Law on Civil Liability for Defamation and Insult of North Macedonia, article 9.2

⁴² Law on Civil Liability for Defamation and Insult of North Macedonia, article 9.4 and 9.5

⁴³ Law on Civil Procedure of North Macedonia, article 205

⁴⁴ Law on Civil Procedure of North Macedonia, article 208

⁴⁵ Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), article 37, <https://rm.coe.int/0900001680af2805>

Member States ensure courts can require the claimant to provide security for the estimated costs of proceedings and damages.⁴⁶

The requirement for security for costs in domestic cases is not explicitly regulated in any of the Beneficiaries. In some, exceptions are made for foreign nationals or stateless individuals. In Serbia, this obligation can be waived based on reciprocity agreements, ensuring that if a local citizen would not face such a requirement abroad, foreign plaintiffs from that jurisdiction would also be exempt from providing security. In most of the jurisdictions, civil procedures allow the court to secure costs for the presentation of evidence.

In terms of transposing and implementing European standards on Anti-SLAPP, all Beneficiaries will need to propose and adopt new provisions on security for costs that would apply to domestic cases. Introducing new provisions in civil law is typically a complex undertaking, as it involves not only legislative changes but also ensuring that other rights, such as access to justice, are properly balanced, and that the proposed legislation does not conflict with existing laws. The existence of procedural cost requirements for foreign nationals could be a useful model to introduce security cost and damages requirements for domestic cases of SLAPPs. The following paragraphs provide detailed information on each jurisdiction.

In **Albania**, security for costs in civil cases is not stipulated in the domestic law.

In **Bosnia and Herzegovina**, security for costs is not stipulated in the domestic law. The obligation to secure procedure costs only applies to plaintiffs who are not nationals of Bosnia and Herzegovina.⁴⁷

Similarly, in **Kosovo**, the domestic legislation does not regulate security for the estimated costs of proceedings in civil and criminal cases involving Kosovo residents. If a case before a court is initiated by a stateless person who is not habitually resident in the Republic of Kosovo, or by a foreign domestic or legal person who is not registered in the Republic of Kosovo, they are obliged to deposit security for costs in favour of the defendant.⁴⁸

In **Montenegro**, the legal system does not inherently incorporate the notion of security for costs. The law stipulates that if a foreigner or stateless person files a lawsuit before a

⁴⁶ 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'), article 10, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401069

⁴⁷ Law on the Resolution of Conflicts of Laws with the Regulations of Other countries in Certain Relations of Bosnia and Herzegovina, article 84

⁴⁸ Law No. 08/l -028 on Private International Law of Kosovo, article 153

Montenegrin court, they are required to provide the defendant with litigation costs upon request.⁴⁹

In **North Macedonia**, security for costs does not apply in domestic cases but is required when cases have foreign elements. This applies when the plaintiff is a stateless person without residence in North Macedonia, a foreign citizen, or a non-registered foreign legal entity. The security is typically provided in cash upon the defendant's request.⁵⁰

In **Serbia**, cost assurance for proceedings exists when foreign citizens and stateless people who do not have a residence in the Republic of Serbia appear as plaintiffs before Serbian courts.⁵¹ An exception to the rule of providing security for costs exists in the case of reciprocity—meaning that if Serbian citizens would not be required to provide security for litigation costs in the claimant's country of citizenship, the rule does not apply. In cases of doubt, an explanation regarding reciprocity is provided by the Ministry of Justice.

8. Compensatory damages

Compensatory damages are one of the remedies outlined in the newly introduced EU Directive and the Council of Europe Recommendation against SLAPPs, although they are not as straightforwardly regulated within the EU as early dismissal or other procedural safeguards and remedies. The Council of Europe Recommendation clearly stipulates that Member States should make adequate provisions for SLAPP victims to be recognized as such and fully compensated for damages incurred, covering both pecuniary and non-pecuniary damages, such as loss of income and emotional distress, as well as costs and expenses, including legal and administrative fees.⁵²

The EU Directive against SLAPPs links the payment of compensation for damages with penalties. Article 15 of the Directive states that Member States shall ensure that courts or tribunals handling abusive court proceedings against public participation may impose effective, proportionate, and dissuasive penalties or other equally effective measures. These may include the payment of compensation for damages or the publication of the court decision, where provided for by the domestic law, against the party who brought the proceedings.⁵³

⁴⁹ Law on International Private Law of Montenegro, article 137

⁵⁰ Law on International Private Law of North Macedonia, article 153

⁵¹ Law on Prevention of Conflicts of Law with Regulations of Other Countries of Serbia

⁵² Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), article 41, <https://rm.coe.int/0900001680af2805>

⁵³ 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'), article 15, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401069

This part focuses on whether the domestic law allows for compensatory damages for victims whose rights have been violated. All jurisdictions provide detailed provisions on compensation, emphasizing that those who culpably cause harm to others are generally liable unless they prove lack of fault. Compensation is available for both material and non-material damages, with specific provisions for non-pecuniary harm such as emotional distress, reputational harm, and violations of personal rights. Additionally, it is important to understand that in the majority of Beneficiaries, damages can often be claimed in the same proceedings, though the specifics may vary by Beneficiary, particularly regarding abusive lawsuits and shared liability. Overall, the main finding is the consistent principle of liability tied to fault and the comprehensive nature of compensatory damages available for various forms of harm. Current legislation does not allow for compensation for SLAPP victims; however, the existing provisions form a solid basis for transposing and implementing standards on compensatory damages for SLAPP victims. The following paragraphs provide detailed information on each jurisdiction.

In **Albania**, compensatory damages are regulated when it is asserted that a person culpably and illegally caused damage to another, either to their person or property. The person who caused the damage is not liable if they can prove that they were not at fault. Damage is considered illegal if it arises from the breach or impairment of another's rights or interests protected by the legal order or good customs.⁵⁴ Compensatory damages can be claimed for both material and non-material (non-property) damages. A person sustaining non-pecuniary damage is entitled to compensation in the following cases: a) harm to their health or physical or psychological integrity; b) impairment of their honour, personality, or reputation; c) violation of their right to their name; ç) violation of their right to privacy; d) damage to the memory of a deceased person.⁵⁵ The spouse or relatives of the deceased up to the second degree may also seek compensation for non-pecuniary damage. In addition, material damage can also be compensated and includes both the incurred damages and lost profits. Compensation also covers reasonable expenses incurred to avoid or reduce the damage, as well as necessary costs for establishing liability and damages.⁵⁶ Damages can be sought in the same proceedings without the need to initiate new proceedings.

In **Bosnia and Herzegovina**, under the domestic Laws on Obligations⁵⁷, anyone who causes damage to another person is obliged to compensate for it unless they can prove that the damage occurred without their fault.⁵⁸ Damage is considered to include the reduction of one's property (ordinary damage—actual loss), the prevention of its increase (lost gains),

⁵⁴ Civil Code of Albania, article 608

⁵⁵ Civil Code of Albania, article 625

⁵⁶ Civil Code of Albania, article 640

⁵⁷ [Law on Obligations of the FBiH](#), Official Gazette of the SFRY no. 29/78, 39/85, 45/89 and 57/89, Official Gazette of the RBiH no. 2/92 and 13/94, Official Gazette of the FBiH no. 29/03 and 42/11

[Law on Obligations of Republika Srpska](#), Official Gazette of the SFRY no. 29/78, 39/85, 45/89 and 57/89, Official Gazette of Republika Srpska no. 17/93, 3/96, 37/01, 39/03 and 74/04

⁵⁸ RS/FBiH Law on Obligations, Article 154

and the infliction of physical or psychological pain or fear on another (non-pecuniary damage).⁵⁹ Provisions regarding non-pecuniary damages⁶⁰ state that the court shall allocate just monetary compensation for physical pain suffered, mental suffering due to impairment in life activities, aesthetic disfigurement, offenses to one's reputation and honour, violations of freedom or personal rights, the death of a close person, and fear. According to current regulations and case law, a defendant cannot successfully claim compensatory damages due to an abusive lawsuit. Liability for damage presupposes unlawful conduct. Filing a lawsuit or initiating criminal proceedings is not considered unlawful and therefore, cannot form a basis for liability. Only if a lawsuit is explicitly dismissed or rejected as abusive would that constitute a basis for a damage claim.

In **Kosovo**, the Law on Obligations allows individuals to seek compensatory damages for harm caused by others unless it can be proven that the damage occurred without fault.⁶¹ Compensatory damages can be sought for both material and non-material harm.⁶² Material damages include compensation for lost earnings, medical treatment and funeral expenses, loss of financial support from a deceased person, damages for physical injuries or health impairments, adjustments to compensation amounts, and the principle that compensation rights are non-transferable.⁶³ Non-material damages can also be pursued, including the publication of court judgments or corrections to address harm, monetary compensation for emotional distress or reputational harm, compensation for death or serious disability affecting dependents, financial damages for violations of dignity, reimbursement for anticipated future damages, compensation for organisations suffering non-material harm, inheritance of claims for immaterial damages allowing heirs to continue legal actions, and shared liability situations that may reduce compensation based on multiple parties' responsibility.⁶⁴

In **Montenegro**, the Law on Torts mandates that anyone who causes damage to another must compensate unless they prove the damage occurred without their fault.⁶⁵ Article 209 of the Law on Torts allows individuals who suffer unlawful violations of their personal rights to seek protection. The Law on Torts specifies that individuals who injure another's honour or make false statements, knowing them to be untrue, must compensate for any resulting material damages. However, those who unknowingly make false statements may not be liable if they had a legitimate interest in the information. Under general rules, parties can seek damages within the same proceedings but may also initiate new ones. In criminal cases, compensation for damages is often pursued separately. Article 148 defines damage

⁵⁹ RS/FBiH Law on Obligations, Article 155

⁶⁰ RS/FBiH Law on Obligations, Article 200

⁶¹ Law No. 04/L-077 on Obligations of Kosovo, article 136

⁶² Law No. 04/L-077 on Obligations of Kosovo, articles 169 - 189

⁶³ Law No. 04/L-077 on Obligations of Kosovo, articles 177 - 181

⁶⁴ Law No. 04/L-077 on Obligations of Kosovo, articles 182 - 189

⁶⁵ Law on Torts of Montenegro, article 148

as a reduction of property (ordinary damage), prevention of its increase (lost benefit), and violations of personal rights (non-material damage), allowing for both material and non-material damages to be compensated.

In **North Macedonia**, it is possible to seek compensatory damages for abusive lawsuits under the Law on Obligations, even though the law does not specifically address this issue. Compensatory damages can be requested based on several provisions, including general liability for damages⁶⁶the definition of damage to include material losses and lost profits,⁶⁷ and the requirement for the responsible party to restore the previous situation or provide monetary compensation.⁶⁸ Non-material damages, such as emotional distress and reputational harm, are also compensated if justified by the court.⁶⁹ To obtain damages, the claimant must demonstrate that the abusive lawsuit caused actual harm and that the party filing the suit was at fault. The court will assess the intensity and duration of the harm when determining compensation and both types of damages can be compensated.⁷⁰

In **Serbia**, the Law on Obligations states that anyone who causes damage to another must compensate for it, covering both material and non-material damages. Material damage includes actual loss and lost profits, while non-material damage encompasses pain, humiliation, reputational harm, and loss of personal rights. Courts can award fair monetary compensation for non-material damage based on the intensity and duration of the suffering, regardless of material damage.⁷¹ Compensation aims to restore the injured party to their pre-damage state, but it may be reduced if the harm was not caused intentionally or through extreme carelessness, especially if the responsible party has limited financial means. Shared responsibility applies if the injured party contributed to the damage, resulting in proportional reductions in compensation.

In cases of personal rights violations, courts may order the publication of judgments or corrections at the injured party's expense to fulfil the compensation's purpose. Article 198 specifically addresses compensation for damage to honour, requiring those who spread false allegations to compensate for resulting material damage, while providing exemptions for those unaware of the untruth of their statements.⁷² Compensation is allowed also when damage arises from misuse of procedural powers, though it only covers litigation costs and not personal losses such as emotional distress. Compensation for non-material damage aims to restore the peace of individuals affected by procedural misuse.⁷³ To succeed in such

⁶⁶ Law on Obligations no 220/2023 of North Macedonia, article 141

⁶⁷ Law on Obligations no 220/2023 of North Macedonia, article 142

⁶⁸ Law on Obligations no 220/2023 of North Macedonia, article 174

⁶⁹ Law on Obligations no 220/2023 of North Macedonia, article 189

⁷⁰ Law on Obligations no 220/2023 of North Macedonia, article 142 and 189

⁷¹ Law on Obligations of Serbia

⁷² Law on Obligations of Serbia, article 198

⁷³ Law on Civil Procedure, article 187

claims, a causal connection between the perpetrator's actions and the resulting damage must be established.

9. Restitution of legal costs

Restitution of legal costs is a remedy that enables courts to order claimants to bear all the costs of proceedings and is outlined in the newly introduced EU Directive and Council of Europe Recommendation against SLAPPs. The Council of Europe Recommendation stipulates that Member States are encouraged to make appropriate provisions in their domestic legal systems to enable courts, upon determination that a legal claim constitutes a SLAPP, to order the claimants to bear all the costs of the proceedings, including the full costs of legal representation incurred by the defendant.⁷⁴ The EU Directive against SLAPPs requires that Member States ensure that a claimant who has brought abusive court proceedings against public participation can be ordered to bear all types of costs of the proceedings that can be awarded under domestic law, including the full costs of legal representation incurred by the defendant unless such costs are excessive.⁷⁵ Where domestic law does not guarantee the award in full of the costs of legal representation beyond what is set out in statutory fee tables, Member States shall ensure that such costs are fully covered, unless they are excessive, by other means available under the domestic law.⁷⁶

Domestic laws across Beneficiaries provide different legal frameworks for handling litigation costs. Courts typically have the discretion to decide which expenses are necessary and who bears them, often requiring the losing party to compensate the winning party for legal fees and other procedural costs. Special provisions are in place for addressing abusive lawsuits and the reimbursement of costs related to unendorsed claims or unreasonable delays caused by either party.

In **Albania**, courts have the discretion to allocate litigation costs on one or both parties; however, it can ex officio impose an additional court fee if the litigant or its representative, without reasonable cause, delays in the adjudication of the case. In **Bosnia and Herzegovina**, the costs are generally shared, but if a party loses the trial, they must reimburse the winning party's legal and procedural expenses. Similarly, in **Kosovo**, each litigant is responsible for their own legal costs, but the losing party must fully compensate

⁷⁴ Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), article 38, <https://rm.coe.int/0900001680af2805>

⁷⁵ 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'), article 14.1, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401069

⁷⁶ 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'), article 14.2, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401069

the winning party, including lawyer's fees. In **Montenegro**, the losing party covers all costs of the opposing party and their interveners, in principle. In **North Macedonia**, the losing party is responsible for reimbursing all litigation expenses, with courts having discretion over which costs are deemed necessary. In **Serbia**, the losing party must compensate the winning party's litigation costs, with reimbursement based on the court's assessment of necessary expenses, and partial successes may lead to shared costs. The following paragraphs provide detailed information on each jurisdiction.

In **Albania**, litigation costs include tariffs and necessary expenses related to court proceedings.⁷⁷ The party requesting witnesses, bailiffs, experts, or translations must prepay these costs as specified by the court. Domestic law outlines how litigation costs are divided among parties, allowing the court discretion to decide on a case-by-case basis. Generally, costs paid by the claimant, including legal fees, are charged to the defendant based on the portions of the lawsuit confirmed by the court.⁷⁸ If a party is exempt from certain costs, these may be charged to the opposing party according to the endorsed parts of the lawsuit. The defendant can also request reimbursement for costs related to any unendorsed claims, even if the case is dismissed. Additionally, the Civil Procedure Code addresses abusive lawsuits. If a litigant or their representative causes unreasonable delays in the case, the court may impose an additional fee. If the defendant did not cause the lawsuit, court costs will be charged to the claimant, even if the lawsuit is upheld.⁷⁹

In **Bosnia and Herzegovina**, the domestic civil procedure laws include detailed provisions regulating the payment of procedural costs at the conclusion of a trial.⁸⁰ The general rule is that each party bears its own litigation expenses; however, the losing party must compensate the winning party for all costs associated with the proceedings.⁸¹ These expenses encompass court fees, lawyers' fees, expert testimony costs, and any other expenses incurred during the proceedings. If a party experiences a partial loss in the case, they are responsible for a proportional payment of costs.

In **Kosovo**, lawyer's fees form a significant part of procedural costs.⁸² According to the domestic law, each party involved in a civil law case is responsible for covering its own legal costs. This principle ensures that each party manages its expenses related to its participation in the litigation. However, the party that loses the case is obliged to fully compensate the winning party for all costs incurred, including both the direct expenses of the litigation and the lawyer's fees of the winning party.⁸³ In instances where the court

⁷⁷ Civil Procedure Code of Albania, article 104

⁷⁸ Civil Procedure Code of Albania, article 105/b

⁷⁹ Civil Procedure Code of Albania, article 107

⁸⁰ FBiH/RS Civil Procedure Law, articles 383 – 405;

⁸¹ FBiH/RS Civil Procedure Law, article 386

⁸² Law No. 03/L-006 on Contested Procedure, article 449

⁸³ Law No. 03/L-006 on Contested Procedure, article 452.1

process concludes with a settlement, the responsibility for expenses is typically determined by the terms of the settlement agreement. If the agreement does not specifically address the allocation of costs, each party generally covers its own expenses.⁸⁴

In **Montenegro**, the party that has lost the litigation (regardless of whether it is the claimant or the defendant) in its entirety shall bear the costs of the opposing party and their interveners.⁸⁵

In **North Macedonia**, domestic law includes provisions that allow courts to order claimants to bear all the costs of the proceedings, including the full costs of legal representation incurred by the defendant.⁸⁶ The general principle establishes that the party who completely loses the lawsuit must compensate the costs of the opposing party and their interveners.⁸⁷ Litigation costs encompass expenses incurred during the proceedings, including attorney fees and remuneration for other entitled persons.⁸⁸ The court has discretion to determine which costs were necessary for the litigation and their amount, ensuring a careful assessment of the circumstances.⁸⁹ Additionally, attorney fees are calculated based on an established tariff.⁹⁰ Finally, the court will consider requests for cost reimbursement without conducting a hearing, meaning a party must formally request reimbursement for it to be considered.⁹¹

In **Serbia**, in civil law, the losing party must compensate the winning party for litigation costs, which include attorney fees, court fees, expert testimony, and other related expenses.⁹² Reimbursement is based on a court assessment of necessary costs, proportionality of expenses, and the success of the case. In partial successes, costs may be shared proportionately. Costs for non-material damage claims are awarded based on the compensation received, rather than the initial claim amount. The court only recognises necessary expenses and may not reimburse costs incurred due to a party's fault. Additionally, the court can exempt financially disadvantaged parties from litigation costs, evaluating their circumstances and providing necessary evidence for the request.

⁸⁴ Law No. 03/L-006 on Contested Procedure, article 457.1

⁸⁵ Law on Contested Procedure of Montenegro, article 152

⁸⁶ Law on Civil Procedure of North Macedonia

⁸⁷ Law on Civil Procedure of North Macedonia, article 148

⁸⁸ Law on Civil Procedure of North Macedonia, article 145

⁸⁹ Law on Civil Procedure of North Macedonia, article 149.1

⁹⁰ Law on Civil Procedure of North Macedonia, article 149.2

⁹¹ Law on Civil Procedure of North Macedonia, article 158

⁹² Lawyer's Tariff of Serbia

https://www.paragraf.rs/propisi/tarifa_o_nagradama_i_naknadama_troskova_za_rad_advokata.html

10. Acknowledgement of SLAPP victim status and compensation for damages

Legal recognition and acknowledgment of the status of victims in SLAPP cases is important because it enables the protection of victims' rights, access to various remedies such as compensation for damages, and access to support services where they exist (financial, legal, psychological, and other types of support services). As such, SLAPP victims could access justice that recognises their status and restores them, usually through damage compensation. The Council of Europe Recommendation stipulates 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.⁹³ The EU Directive against SLAPPs does not contain a specific provision on the acknowledgment of victims' status in SLAPP cases; however, provisions 14 and 15 foresee the awarding of costs for victims as well as compensation for damages, which are key features of victims' rights.⁹⁴

Considering that the Beneficiaries have not transposed or implemented the European Anti-SLAPP standards, it is understandable that none of them contains provisions that would enable the recognition of SLAPP victims. However, the purpose of this section is to determine whether the domestic legislation that foresees recognition of status could be used as a model or precedent during the transposition and implementation phase.

All Beneficiaries lack provisions or laws recognising the status of victims, particularly in relation to SLAPPs. However, the majority have legislation—mainly on the protection of whistleblowers—that provides judicial protection, although they do not extend victim status or automatic rights to compensation for damages. Exceptions exist in Kosovo, where certain groups are recognised as victims. Overall, there is a significant gap in legislation addressing victim recognition across the regions; however, it is not implied that, as a result of this, victims do not benefit from remedies. The following paragraphs provide detailed information on each Beneficiary.

In **Albania**, the right to seek compensation for damages is guaranteed under both civil and criminal law. Article 59 of the Criminal Procedure Code foresees the right of accusing victim who has been damaged by the criminal offence of insult (Article 119 of Criminal Code) and libel (Article 120 of Criminal Code), to submit a request in the court and to take part in the

⁹³ Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), article 41, <https://rm.coe.int/0900001680af2805>

⁹⁴ 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'), articles 14 and 15, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401069

trial as a party to prove the charge and claim the reimbursement of damages. Furthermore, the person who has suffered injury by the criminal offence or his/her heirs may file a civil lawsuit in the criminal proceedings against the defendant or the person liable to pay damages (defendant), claiming the restitution of the property and reimbursement of the injury. The court on the application of the parties or ex officio may order the severance of the civil lawsuit and its submission to the civil division (court), if its trial complicates or impedes the criminal process. Furthermore, Law on the Protection of Whistleblowers provides judicial protection for whistleblowers.

In **Bosnia and Herzegovina**, the recognition of victims of abuse of rights is regulated under the Law on the Protection of Persons Reporting Corruption in the Institutions of Bosnia and Herzegovina⁹⁵ and the Law on the Protection of Persons Reporting Corruption of Brčko District.⁹⁶ According to these laws, the competent authority can grant whistleblower status based on a report submitted in good faith, regardless of whether adverse measures have occurred or are merely suspected. While whistleblowers enjoy various forms of protection based on this status, they do not automatically gain the right to compensation for damages resulting from their reporting of corruption.

In **Kosovo**, the Law on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Sexual Violence Victims of the War, Civilian Victims, and Their Families, which was amended and supplemented by Law No. 04/L-172, has established a framework for recognising the victim status of certain groups.⁹⁷ In addition, the Law on the Protection of Whistleblowers provides judicial protection for whistleblowers but does not contain provisions for the recognition of their status.⁹⁸

In **Montenegro**, the recently adopted Law on the Prevention of Corruption, enacted on 7 June 2024, recognizes the rights of whistleblowers, including the right to compensation for damages and judicial protection.⁹⁹ This implies that the status of whistleblower is acknowledged; however, there is no specific provision in this law that enables the court or other administrative bodies to first ascertain the status of victims for whistleblowers and then allow them to seek remedies.

In **North Macedonia**, no law provides for the granting of victim status due to the violation of certain rights. However, the Law on Protection of Whistleblowers offers a framework for compensation and protection—specifically protection against retaliation, judicial

⁹⁵ Law on Protection of Persons Reporting Corruption in the Institutions of Bosnia and Herzegovina, Official Gazette of Bosnia and Herzegovina No. 100/13, article 7

⁹⁶ Law on Protection of Persons Reporting Corruption, Official Gazette of the Brčko District of BiH no. 25/18, article 7

⁹⁷ Law on Amending and Supplementing the Law no. 04/L-054 on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Sexual Violence Victims of the War, Civilian Victims and Their Families, Amended and Supplementing by the Law no. 04/L-172

⁹⁸ Law on Protection of Whistleblowers no. 06/L – 085 of Kosovo, articles 24-28

⁹⁹ Law on the Prevention of Corruption of Montenegro, articles 62-72

protection, and access to various remedies through lawsuits—that could inform amendments to support SLAPP victims.¹⁰⁰

In **Serbia**, there is no specific provision acknowledging the status of victims in any law; however, the Law on the Protection of Whistleblowers provides judicial protection for whistleblowers.¹⁰¹

11. Capping of costs and damages for the claimant

Capping costs and damages in courts is important because it can serve as a deterrent against excessive and abusive lawsuits, pre-empt financial penalties for defendants, and ensure that defendants can have an effective defence and protection against court procedures designed to exhaust their financial resources. The Council of Europe Recommendation foresees capping damages and costs. It stipulates that Member States should, within the possibilities of their domestic legal systems, provide for the capping of damages to pre-empt abusive or disproportionate financial penalties for defendants, which would have a chilling effect on their public participation, and to avoid creating financial incentives for filing legal action.¹⁰² Regarding costs, the Recommendation requires that Member States, within the possibilities of their domestic legal systems, provide for the capping of costs to ensure defendants can mount an effective defence and protect against court procedures being drawn out to exhaust their financial resources, which would also have a chilling effect on public participation.¹⁰³

In North Macedonia, the Law on Civil Liability for Insult and Defamation uniquely imposes caps on the damages claimants can recover for non-material damages in cases of insult or defamation. Specifically, journalists are limited to non-material damages of 400 euros, editors to 2,000 euros, and legal entities to 5,000 euros. This approach contrasts sharply with the lack of such limitations in Albania, Bosnia and Herzegovina, Kosovo, Montenegro, and Serbia, where the domestic laws do not impose caps on costs or damages. The example of North Macedonia is highly relevant and could serve as a model for other jurisdictions during the transposition and implementation phase of European standards on Anti-SLAPPs. The following paragraphs provide detailed information on each jurisdiction.

In **Albania**, the domestic law does not limit costs or damages.

¹⁰⁰ Law on Protection of Whistleblowers no. 257/2020 of North Macedonia

¹⁰¹ Law on the Protection of Whistleblowers of Serbia

¹⁰² Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), article 42, <https://rm.coe.int/0900001680af2805>

¹⁰³ Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), article 43, <https://rm.coe.int/0900001680af2805>

In **Bosnia and Herzegovina**, legislation does not impose limits on costs or damages awarded in individual cases. The Laws on Obligations mandate full compensation for actual losses and lost gains to restore the injured party's financial situation.¹⁰⁴ For non-pecuniary damages, compensation should be fair, considering the affected interest and its social purpose. The Supreme Courts of the Federation¹⁰⁵ and Republika Srpska¹⁰⁶ have established Orientation Criteria to guide fair monetary compensation for non-pecuniary damage. Although the criteria for defamation damages are not provided, courts typically award no more than 3,000 KM (approximately 1,500 Euros) in the Federation and 5,000 KM (2,500 Euros) in Republika Srpska.

In **Kosovo**, the domestic law does not limit costs or damages.

In **Montenegro**, the domestic law does not limit costs or damages.

In **North Macedonia**, the Law on Civil Liability for Insult and Defamation imposes caps on the damages that a claimant can recover from the defendant for non-material damages in cases of insult or defamation. Specifically, for journalists performing their professional duties, the court cannot award non-material damages exceeding 400 euros (in denar equivalent) for insult or defamation.¹⁰⁷ For editors, the court cannot award non-material damages exceeding 2,000 euros (in denar equivalent) for insult or defamation.¹⁰⁸ For legal entities, the court cannot award non-material damages exceeding 5,000 euros (in denar equivalent) for insult or defamation.¹⁰⁹ These caps are specifically designed to limit the financial liability of media professionals and organizations in cases of insult and defamation, likely to protect freedom of expression and press freedom while still allowing for some form of compensation to claimants.

In **Serbian** legislation, there are no legal restrictions regarding the amount of compensation for damages; however, judicial practice has adopted relatively uniform positions concerning compensation for non-material damages.

¹⁰⁴ Law on Obligations of the FBiH, article 190

¹⁰⁵ [FBiH Orientation Criteria and Amounts for Determining the Amount of Fair Monetary Compensation for Non-pecuniary Damage](#)

¹⁰⁶ [RS Orientation Criteria for Types of Fair Monetary Compensation for Non-Pecuniary Damage](#)

¹⁰⁷ Law on Civil Liability for Insult and Defamation of North Macedonia, article 18.1

¹⁰⁸ Law on Civil Liability for Insult and Defamation of North Macedonia, article 18.2

¹⁰⁹ Law on Civil Liability for Insult and Defamation of North Macedonia, article 18.3

12. Use of non-judicial remedies in SLAPP cases

The use of non-judicial remedies in SLAPP and other cases offers several important benefits, such as cost-effectiveness, as they typically involve lower costs. Non-judicial processes are also quicker, help reduce court backlogs, and encourage dialogue. In some cases, such as with media self-regulatory bodies, there is expertise that is helpful in resolving disputes. The Council of Europe Recommendation stipulates that Member States should ensure, by appropriate means, the conditions for effective access to non-judicial remedies, such as alternative dispute resolution, mediation, and press councils, while fully respecting the independence of these mechanisms for the resolution of SLAPP cases.¹¹⁰ The following paragraphs provide information on whether non-judicial mechanisms exist in cases involving media and journalists, and whether they are mandatory or voluntary.

Media self-regulatory bodies exist throughout the region and serve as important non-judicial mechanisms for citizens to address complaints and ethical violations against the media. While their decisions are not mandatory for courts, judges in several jurisdictions do reference these decisions, and they can be used to support claims for damages. The utilization of these mechanisms varies; in some jurisdictions, they are employed less frequently by both citizens and the courts. Current laws acknowledge the presence of self-regulatory mechanisms but do not formally recognize their authority in judicial proceedings related to defamation and insult. The following paragraph provides information about each self-regulatory and state regulatory body, including their competencies and their authority before the domestic courts.

In **Albania**, the Audiovisual Media Authority (AMA) oversees the media sector through a Complaint Council of three experts. This Council supervises compliance with AMA's regulations related to human dignity and human rights, particularly in protecting children and ensuring ethical broadcasting. In 2021, the Council received 300 complaints and imposed five fines from 2018 to 2022. The scope of the law is primarily the protection of public interest (for e.g. by means of protection from hate speech, protecting children, public order, etc.). If the publication of inaccurate facts and information is done in the ambit of broadcasting, the administrative means needs to be exhausted, otherwise the court will ascertain lack of jurisdiction. In all other cases, the protection of honour and dignity of individuals is granted directly under the Civil Code.

In **Bosnia and Herzegovina**, the Council for the Press and Online Media actively receives hundreds of complaints each year. However, plaintiffs seeking judicial protection rarely approach the Council before filing defamation lawsuits. The Communications Regulatory

¹¹⁰ Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), article 46, <https://rm.coe.int/0900001680af2805>

Agency (the Agency), established under the Law on Communications, ensures compliance with broadcasting and telecommunications codes by issuing warnings, imposing fines, ordering temporary suspensions, and revoking licenses. While individuals can file complaints about broadcast content, the Agency does not handle defamation complaints, deferring such matters to the courts. The Council's decisions are not binding, whereas the Agency's decisions can be subject to judicial review but are mandatory once finalized and cannot be contested in court.

The **Kosovo** Print Media Council (Press Council of Kosovo) is a self-regulatory body founded for and by the print media sector in Kosovo. It has 40 members and its mission is based on the convictions of the Press Code of Kosovo. The aim of the Press Council of Kosovo is to protect citizens from false information and journalists from baseless complaints. There is no data to show the extent to which the press council is used by claimants before they address the courts. In recent years, the Press Council has seen an increase in the number of complaints for alleged ethical violations. In 2020, there were 110 complaints, in 2023, there were 184 complaints and by June 2024, there were 60 complaints.

The Independent Media Commission (IMC) was established in 2005 and is the body responsible for regulating, managing, and overseeing the broadcasting frequency spectrum in Kosovo. The IMC is an independent body established by Article 141 of the Constitution of Kosovo and has the authority to license public and private broadcasters, establish and implement policies, and regulate broadcasting rights, obligations, and responsibilities of individuals and entities providing audio and audiovisual media services. IMC has licensed 102 radio and television channels through terrestrial frequency and 119 cable TV channels. In 2022 the IMC received only 10 complaints for alleged violation of the ethical code.¹¹¹

If utilised properly, the Press Council and the Independent Media Commission (IMC) could play a crucial role in addressing SLAPPs by offering non-judicial remedies that help avoid lengthy court procedures. The Kosovo Print Media Council, which oversees print media and enforces the Press Code of Kosovo, should be highlighted as an important option for resolving ethical disputes in the media. By raising public awareness about the council's role, more people might turn to this resource before considering legal action. Similarly, the IMC, responsible for regulating broadcasters, should be more actively engaged in resolving media issues. By enhancing the visibility of the IMC's functions and its effectiveness in handling ethical complaints, Kosovo can resolve disputes more efficiently without resorting to the courts. Greater reliance on these non-judicial bodies can help reduce court caseloads and provide faster resolutions for media-related complaints.

¹¹¹ Independent Media Commission, Annual Report 2022, available here - <https://www.kpm-ks.org/assets/cms/uploads/files/KPM%20Raporti%20Vjetor%20i%20pun%C3%ABs%202022.pdf>

Decisions of press council and broadcaster's regulators are not obligatory for the domestic courts. According to Civil Law Against Defamation and Insult, the claimant is obliged to try to mitigate the harm caused by the expression. Particularly, the claimant should (obligatory) request a correction of that expression from the person who allegedly caused the harm. Further, the law says that such actions may include seeking correction from the publisher of an allegedly defamatory or insulting expression and filing an ethical complaint before the broadcaster's regulatory body or self-regulatory body.¹¹² During potential amendments to the Civil Law Against Defamation and Insult, the legislator should consider strengthening the impact of decisions made by the Press Council and broadcaster regulators in judicial cases.

Montenegro has several active self-regulatory bodies, including a media self-regulatory body, a self-regulatory council for local and periodical newspapers, and ombudsmen for TV Vijesti and Dan. The largest, the media self-regulatory body, covers 90 percent of media outlets and facilitates mediation between defamed individuals and media. However, it does not include key outlets such as the public broadcaster RTCG, Dan, Vijesti, and the weekly Monitor as members. The Agency for Electronic Media (AEM) serves as the media regulator in Montenegro. It has the authority to address objections from individuals and entities regarding AEM service providers. The Agency can issue warnings, impose fines, and revoke broadcasting authorisations for noncompliance with the law. Claimants can raise objections before going to court, although this is not mandatory. Domestic courts are not bound by the decisions of press councils or broadcasters' regulators. While these decisions may influence court rulings, there is no legal obligation for courts to adhere to them.

In **North Macedonia**, there are two effective self-regulatory mechanisms. The first and oldest is the Council of Honor¹¹³ within the Association of Journalists of Macedonia,¹¹⁴ which focuses solely on complaints from the audience regarding journalists. The second is the Press Compliance Commission within the Council of Media Ethics of Macedonia, which addresses complaints about media outlets as a member-based organisation.

The law indirectly acknowledges the existence of self-regulatory mechanisms in journalism, though it does not explicitly mention a press council. Specifically, it stipulates that "professional rules of the journalistic profession are considered to be the rules for collecting, analysing, and publishing information established by the professional organisation of journalists, in accordance with the ethical principles of the International Federation of Journalists."¹¹⁵ This reference to professional rules suggests the presence of some form of self-regulation in the media sector.

¹¹² Law No. 02/l-65 Civil Law Against Defamation and Insult of Kosovo, article 12

¹¹³ Association of Journalists of Macedonia. "Совет на Чест." Accessed August 20, 2024. <https://znm.org.mk/sovet-na-chest/>.

¹¹⁴ Council of Media Ethics of Macedonia. "Комисија за Жалби." Accessed August 20, 2024. <https://semm.mk/komisija/>.

¹¹⁵ Law on Civil Liability for Insult and Defamation of North Macedonia, 5.3

The Agency for Audio and Audiovisual Media Services (AVMU) is the independent regulatory body for television and radio broadcasters in North Macedonia. However, it is not commonly used by claimants before approaching the courts, as there is no established practice of seeking resolution through the AVMU before pursuing legal action.

The Law on Civil Liability for Insult and Defamation primarily focuses on civil court proceedings and does not indicate that courts are bound by decisions from any self-regulatory bodies or media regulators. While the law acknowledges professional standards in journalism, it does not give any formal legal weight to decisions made by press councils or broadcasting regulators in court proceedings related to insult and defamation cases. However, it is common practice for the decisions of self-regulatory mechanisms to be used by attorneys to strengthen lawsuits or defences in court.

In **Serbia**, there is a Press Council, an independent self-regulatory body founded by the Association of Journalists of Serbia and the Independent Association of Journalists of Serbia. Some individuals turn to the Press Council before initiating legal proceedings because if the Council finds that the Code of Journalists of Serbia has been violated, it can facilitate obtaining compensation for damages in court. The Code seems to contain stricter rules regarding the professional behaviour of journalists than those prescribed by the Law on Public Information and Media. The decisions of the Press Council are not binding on the courts, but the courts do take them into account when making their rulings. The Regulatory Body for Electronic Media (REM) is an independent organization entrusted with public powers. The Council of REM members, which consists of prominent and respected experts, is elected by the National Assembly of the Republic of Serbia based on authorized proposals. The functioning and methods of REM's operations are somewhat contentious.

13. Cross border SLAPPs

Cross-border SLAPPs, or SLAPPs pursued in different jurisdictions, involve additional layers of complexity, costs, and stress. Successfully defending cross-border SLAPPs requires expert knowledge of multiple domestic legal systems. This typically involves engaging lawyers who are professionally active in or who have expertise in the relevant jurisdictions, thereby increasing the overall time and costs spent on preparing and defending the legal actions and exacerbating the chilling effect.¹¹⁶

The Council of Europe recommendation encourages Member States to take appropriate and effective measures to limit forum shopping that is unfavourable to public participation or vexatious to the defendant, including as set out in the Declaration of the Committee of

¹¹⁶ Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), articles 11-13, <https://rm.coe.int/0900001680af2805>

Ministers on the Desirability of International Standards dealing with Forum Shopping in respect of Defamation, “Libel Tourism,” to Ensure Freedom of Expression.¹¹⁷ It further stipulates that Member States should also provide effective protection against third-country judgments, bearing in mind, as relevant, emerging European and international standards in this respect.

The EU Directive against SLAPPs provides specific standards related to grounds for refusal of recognition and enforcement of a third-country judgment. According to the Directive, 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.¹¹⁸

In addition, both instruments foresee that Member States must allow individuals or entities facing abusive legal actions from claimants based outside the EU or Council of Europe to seek compensation in their local courts for damages and costs incurred due to these proceedings. This section focuses solely on grounds for refusal of recognition and enforcement of third-country judgments at the domestic level.

In the Beneficiaries, the recognition and enforcement of foreign court decisions are regulated by each country's civil procedure laws and international private law provisions. These countries generally require that the foreign court has jurisdiction, proper procedural conduct, and no conflict with local public order or previous domestic rulings. Grounds for refusing recognition include lack of jurisdiction, improper notification of parties, existing domestic rulings on the same matter, and conflicts with fundamental principles of the domestic law. Additionally, procedural irregularities, such as failure to properly notify defendants, can lead to refusal of enforcement.

In **Albania**, foreign court decisions are recognised and enforced according to the relevant articles in the Civil Procedure Code. If there is a special agreement between Albania and the foreign State, that agreement prevails.¹¹⁹ The Civil Procedure Code outlines several legal obstacles that can prevent the enforcement of these decisions, including if the foreign court lacked jurisdiction, if the defendant was not properly notified, if a different decision exists from an Albanian court on the same issue, if an ongoing Albanian lawsuit predates the

¹¹⁷ Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), articles 11-13, <https://rm.coe.int/0900001680af2805>

¹¹⁸ 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’), article 17, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401069

¹¹⁹ Civil Procedure Code of Albania, article 393

foreign court's final decision, if the foreign decision violated its own laws, or if it contradicts fundamental principles of Albanian law.¹²⁰

In **Bosnia and Herzegovina**, the recognition and enforcement of foreign judicial decisions are governed by the Law on the Resolution of Conflicts of Laws.¹²¹ According to these provisions, domestic courts will refuse to recognise a foreign decision if the opposing party did not participate in the proceedings due to procedural irregularities,¹²² if the matter falls under the exclusive jurisdiction of Bosnian courts or other authorities,¹²³ if a final and binding decision has already been made by a Bosnian court in the same matter, or if another foreign judicial decision has been recognised in Bosnia and Herzegovina.¹²⁴ Additionally, a foreign judicial decision will be rejected if it contradicts the fundamental principles of public order as established by the Constitution of Bosnia and Herzegovina.¹²⁵

In **Kosovo**, the Law on Private International Law establishes rules on the recognition and enforcement of foreign judgments and of decisions of other authorities of foreign states in Kosovo. Foreign judgements can be refused a) if the court or other authority of the Republic of Kosovo has exclusive jurisdiction over the specific matter¹²⁶ b) if the foreign court based its jurisdiction on facts which are not by this Law or another law of the Republic of Kosovo deemed as grounds for the establishment of jurisdiction of a court of the Republic of Kosovo for deciding on a matter with an international element of the same type¹²⁷ c) if on the same matter the court or other authority of the Republic of Kosovo has rendered a final decision or if another foreign judgment has been recognised in the Republic of Kosovo that was rendered for the same matter and between the same parties¹²⁸ d) if the effect of its recognition would be manifestly contrary to the public order of the Republic of Kosovo¹²⁹ e) if one of the parties proves that: due to irregularities in proceedings, he/she could not state his/her defence in the proceedings; or the summons, the statement of claim or the decision which initiated the proceedings, had not been served upon the party personally, or that no personal service had been attempted, unless he/she has pleaded to the merits of the principal case in first instance proceedings; or the defendant was not allowed sufficient time to arrange for his/her defence from the time the claim was served to the time the hearing was scheduled.¹³⁰

¹²⁰ Civil Procedure Code of Albania, article 394

¹²¹ Law on the Resolution of Conflicts of Laws of Bosnia and Herzegovina, articles by Articles 86-96

¹²² Law on the Resolution of Conflicts of Laws of Bosnia and Herzegovina, article 88.1

¹²³ Law on the Resolution of Conflicts of Laws of Bosnia and Herzegovina, article 89.1

¹²⁴ Law on the Resolution of Conflicts of Laws, of Bosnia and Herzegovina, article 90.1

¹²⁵ Law on the Resolution of Conflicts of Laws of Bosnia and Herzegovina, article 91

¹²⁶ Law No. 08/l -028 on Private International Law of Kosovo, article 161

¹²⁷ Law No. 08/l -028 on Private International Law of Kosovo, article 162

¹²⁸ Law No. 08/l -028 on Private International Law of Kosovo, article 163

¹²⁹ Law No. 08/l -028 on Private International Law of Kosovo, article 165

¹³⁰ Law No. 08/l -028 on Private International Law of Kosovo, article 166

In **Montenegro**, there are several grounds for refusing the recognition and enforcement of a third-country judgment. The Law on International Private Law stipulates that a foreign court decision will not be recognised if recognising it would clearly contradict public order in Montenegro.¹³¹ The Court of Montenegro will also refuse recognition if the person against whom the decision was made could not participate in the proceedings due to procedural irregularities, such as not receiving the summons, lawsuit, or decision that initiated the procedure.¹³² Additionally, a foreign court decision will not be recognized if there is exclusive jurisdiction of a Montenegrin court or authority, or if a final decision has already been issued by a Montenegrin court or authority in the same matter.¹³³

In **North Macedonia**, the Law on Private International Law¹³⁴ outlines several grounds under which a foreign court judgment may not be recognised. These include cases where there is exclusive jurisdiction of a North Macedonian court or authority unless the law permits proceedings in foreign courts for certain disputes. Recognition can also be denied if the foreign court based its jurisdiction on circumstances not recognised by North Macedonian law in cases with an international element, or if a final decision on the same matter has already been issued by a North Macedonian court or recognised from another foreign court. Additionally, recognition will be refused if it is manifestly contrary to North Macedonia's public order, or if a party proves they were unable to present their defence due to procedural irregularities or improper service of documents.

In **Serbia**, the recognition of foreign court decisions is governed by the Law on the Resolution of Conflicts of Laws¹³⁵ and relevant bilateral agreements. For recognition, the decision must be legally binding, and enforceable if requested. Recognition will be denied if the person against whom the decision was made could not participate in the proceedings due to procedural irregularities. It will also be refused if the domestic courts have exclusive jurisdiction, if a final decision on the same matter has already been issued by a domestic or foreign court, or if the decision contradicts Serbia's Constitution. Reciprocity is required for recognition, but it is assumed to exist unless proven otherwise. Additionally, recognition will be suspended if a domestic lawsuit on the same matter is already underway.

¹³¹ Law on International Private Law of Montenegro, article 147

¹³² Law on International Private Law of Montenegro, article 143

¹³³ Law on International Private Law of Montenegro, article 144

¹³⁴ Law on International Private Law No. 32/2020 of North Macedonia, article 160 - 164

¹³⁵ Law on the Resolution of Conflicts of Laws with Regulations of Other Countries of Serbia

14. Conclusions

The regional baseline assessment of legislative and policy needs for implementing Council of Europe and European Union standards on Anti-SLAPPs is one of the first legal analyses of the necessary legislative provisions, policies, and regulations that should be changed to implement and transpose European anti-SLAPP standards. It covers six Beneficiaries: Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia. The baseline assessment provides information and analysis of the legislative provisions, policies, and regulations currently in place relevant to SLAPPs, as well as the necessary legislative, policy, and regulatory changes for the successful implementation and transposition of the European Anti-SLAPP standards in these six Beneficiaries.

The general conclusion is that the research shows that all Beneficiaries have, at the domestic level, procedural safeguards and remedies that are already applicable in civil matters, not necessarily being used in SLAPPs cases, forming a solid basis for the implementation and transposition of European standards on anti-SLAPPs.

All domestic laws across the Beneficiaries allow for both dismissal on procedural grounds and rejection based on the merits, which can facilitate compliance with European anti-SLAPP standards. In general, the burden of proof rests with the claimant across Beneficiaries. While many Beneficiaries require shared evidence responsibility, most have specific areas where the burden fully shifts to the claimant, establishing a strong foundation for implementing European Anti-SLAPP standards aimed at shifting the burden of proof in SLAPP cases.

None of the Beneficiaries explicitly regulate the requirement for security for costs in domestic cases, although some allow exceptions for foreign nationals or stateless individuals. Generally, civil procedures in many of Beneficiaries permit courts to secure costs related to evidence presentation. All Beneficiaries provide detailed provisions on compensation, emphasising that those who culpably cause harm to others are generally liable unless they prove lack of fault. Compensation is available for both material and immaterial damages, with specific provisions for non-pecuniary harm such as emotional distress, reputational harm, and violations of personal rights. The domestic laws across Beneficiaries establish different frameworks for managing litigation costs. Generally, courts have the discretion to determine necessary expenses and assign responsibility for them, usually requiring the losing party to compensate the winning party for legal fees and other costs.

None of Beneficiaries have provisions or laws recognising the status of victims, particularly in relation to abusive claims. However, the majority have legislation - mainly concerning the protection of whistleblowers - that provides judicial protection, although they do not extend

victim status or automatic rights to compensation for damages. Overall, there is a significant gap in legislation addressing victim recognition status across the region.

Media self-regulatory bodies exist throughout the region and serve as important non-judicial mechanisms for citizens to address complaints and ethical violations against the media. While their decisions are not mandatory for courts, judges in several jurisdictions do reference these decisions, and they can be used to support claims for damages. The utilisation of these mechanisms varies; in some jurisdictions, they are employed less frequently by both citizens and the courts. Current laws acknowledge the presence of self-regulatory mechanisms but do not formally recognise their authority in judicial proceedings related to defamation and insult.

In the Beneficiaries, the recognition and enforcement of foreign court decisions are regulated by each country's civil procedure laws and international private law provisions. These countries generally require that the foreign court has jurisdiction, proper procedural conduct, and no conflict with local public order or previous domestic rulings. Grounds for refusing recognition include lack of jurisdiction, improper notification of parties, existing domestic rulings on the same matter, and conflicts with fundamental principles of the domestic law. Additionally, procedural irregularities, such as failure to properly notify defendants, can lead to refusal of enforcement.

This Report was produced with the financial support of the European Union and the Council of Europe, through the joint programme “Horizontal Facility for the Western Balkans and Türkiye” under the joint action "Protecting freedom of expression and of the media (PRO-FREX)".

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