

[NL] Bill implementing the EU Anti-SLAPP Directive submitted to parliament

IRIS 2025-5:1/8

*Ronan Ó Fathaigh
Institute for Information Law (IViR)*

On 15 April 2025, the Dutch Secretary of State for Legal Protection (*Staatssecretaris Rechtsbescherming*) submitted an important bill to the House of Representatives (*Tweede Kamer*), seeking to implement the 2024 EU Directive on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings (strategic lawsuits against public participation – SLAPPs), known as the Anti-SLAPP Directive (see IRIS 2024-3/5 and IRIS 2022-5/6). The purpose of the directive is to provide safeguards against SLAPPs, which are manifestly unfounded claims or abusive court proceedings brought against natural and legal persons on account of their engagement in public participation. Notably, the directive only applies to “civil matters with cross-border implications”, although an accompanying European Commission recommendation states that member states “should aim to include in their national laws similar safeguards for domestic cases”, and should ensure their legal frameworks governing “criminal proceedings” provide for the necessary safeguards to address SLAPPs. Member states are required to implement the directive by May 2026.

The bill, which was originally published in October 2024, was open for public consultation (see IRIS 2024-10/8), and having considered the public consultation submissions, the Secretary of State for Legal Protection has now submitted the implementing bill to the lower house of parliament (House of Representatives). Crucially, while the Anti-SLAPP Directive has over 21 provisions with various rules on definitions, procedural safeguards, accelerated treatment of applications, and support for defendants, the 2025 implementing bill is two pages long, and contains two articles.

In this regard, the bill amends the Code of Civil Procedure, and inserts a new Article 224a into the code. It seeks to implement Article 10 of the directive on security for costs, and the Article 224a amendment to the code provides that in court proceedings brought against natural or legal persons on account of their engagement in public participation, the court may, at the request of the other party, oblige the person instituting the action to “provide security for the costs of the proceedings and damages” under Articles 10 and 14 of the Anti-SLAPP Directive which they could be ordered to pay. The provision does not apply if it would “hinder effective access to justice for the person from whom security is

sought”.

Crucially, the Secretary of State, and the explanatory memorandum to the bill, stated that “with the exception of the measure of security for legal costs and damages” included in Article 10 of the directive, “Dutch (procedural) law already provides for the measures prescribed by the Directive”; and therefore, “no separate implementation is required for this”. As such, the bill contains no further implementing provisions. The Secretary of State said that the bill will now proceed through the House of Representatives, and then the Senate, and that the directive must be converted into national legislation by 7 May 2026 at the latest.

Wijziging van het Wetboek van Burgerlijke Rechtsvordering ter implementatie van Richtlijn (EU) 2024/1069 betreffende bescherming van bij publieke participatie betrokken personen tegen kennelijk ongegronde vorderingen of misbruik van procesrecht ('strategische rechtszaken tegen publieke participatie'), 15 april 2025

<https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorstedetails&qry=wetsvoorstel:36731#wetgevingsproces>

Amendment to the Code of Civil Procedure to implement Directive (EU) 2024/1069 on the protection of persons involved in public participation against manifestly unfounded claims or abusive litigation ("strategic litigation against public participation"), 15 April 2025

