



CASE

Legal Ethics Report



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TABLE OF CONTENTS

1. Executive summary	4
2. Introduction	6
3. Methodology	8
4. Analysis of survey responses	10
4.1. Ethical standards for lawyers	10
4.1.1. Ethical standards restricting improper or abusive lawsuits	11
4.1.2. Ethical standards regulating legal tactics intended to harass, intimidate, or drain resources	20
4.1.3. Rules on non-discrimination and the obligation to represent abusive litigants	27
4.1.4. Client loyalty vs court duties	31
4.1.5. Good faith litigation	39
4.2. Procedural law frameworks addressing abusive litigation	45
4.2.1. Court responses to abusive proceedings	46
4.2.2. Procedural tools and sanctions against abusive litigation	50
4.3. Effective management of future SLAPP lawsuits	55
4.3.1. Guidance needed for lawyers and other actors	55
4.3.2. Guidance and tools needed for courts	58
4.3.3. National or European level?	60
4.3.4. National approaches: ethics or legislation?	61
APPENDIX 1: Recommended Standards for Legal Professional Ethics	65
For Lawyers	65
For Bar Associations and Regulators	67
Further Reading	68
APPENDIX 2: CASE Legal Ethics Questionnaire	69

1. Executive summary

Strategic Lawsuits Against Public Participation (SLAPPs) are an abuse of the legal process that chill advocacy and undermine democratic scrutiny. This Legal Ethics Report examines how Europe’s legal profession and court systems should prevent lawyers from enabling such abuse and how institutions should respond when it occurs. The analysis is based on a CASE questionnaire circulated through PILnet’s Global Clearinghouse and CASE networks (**Appendix 2**). As of August 2024, responses were received from legal practitioners in **27 European jurisdictions** spanning civil and common law systems. The report synthesises ethical standards and procedural tools currently in place, identifies best practices, and distils needs for future guidance and reform.

Ethical standards for lawyers (4.1). Across jurisdictions, explicit “anti-SLAPP” rules in bar codes are rare. Most systems instead rely on broader duties such as good faith, honesty, fairness, dignity of the profession, and loyalty constrained by duties to the court. At least **11 jurisdictions** explicitly recognise that duties to the court and the administration of justice can limit client-led tactics. Harassment, intimidation, or cost-draining strategies are therefore considered unethical even when not labelled “SLAPPs.” Respondents from **20 jurisdictions** confirmed that obligations of good faith are enshrined in procedural law, in codes of ethics, or in both. Enforcement, however, remains uneven and findings of abuse are infrequent. Rules on declining instructions generally preserve professional independence to refuse

abusive mandates. Respondents from **16 jurisdictions** affirmed that lawyers can decline and sometimes must refuse abusive instructions, while in the United Kingdom the “cab-rank rule” significantly narrows refusal for barristers. Best practice illustrations include the UK Solicitors Regulation Authority’s SLAPP Warning Notice (a guidance-led approach), the Netherlands’ explicit prohibitions on harassment and unnecessary costs, and integrated good faith regimes in Spain and Portugal.

Procedural frameworks addressing abuse (4.2). Courts possess a patchwork of tools, with wide variation in scope and judicial discretion. Reported approaches include: (i) duties of legal advisors to discourage baseless or abusive pursuit of remedies, as in France; (ii) balancing sanctions such as fines, dismissal of bad faith claims, and corrective measures, as in Estonia, Lithuania, Latvia, Denmark, Romania, and Belgium; (iii) admissibility filters and strike-out powers to screen unfounded claims early, as in Norway and Ireland; and (iv) narrow or residual tools where real-time control is limited and remedies depend on ex post civil liability, as in Luxembourg. Respondents from **10 jurisdictions** referred to the ability of courts to issue lawyers with sanctions or fines for their conduct, while respondents from **14 jurisdictions** indicated that abusive litigation could form the basis of a complaint in court. Best practice examples demonstrate effective early dismissal, calibrated sanctions, and burden-shifting (France, Ireland, Lithuania) and robust mixed toolkits (Portugal, Serbia).

Managing future SLAPPs (4.3). Respondents identified three priorities. First, stronger bar guidance and enforceable ethics that translate general duties into SLAPP-specific rules, supported by continuing education and credible discipline. **Seven respondents** explicitly underlined the need for clearer guidance and rules. Second, court-facing tools and guidance: early dismissal powers, structured sanctions and cost rules, and training aligned with Article 10 ECHR standards. Respondents also recommended greater transparency, including funding disclosure, and proportionate use of ADR (Alternative Dispute Resolution) to reduce chilling effects. Third, multi-level regulation: non-EU states tended toward national solutions, while most EU respondents favoured a European framework first, through the transposition of Directive (EU) 2024/1069 by May 2026. This should be supplemented by the Council of Europe Recommendation and the European Commission Recommendation so that safeguards cover not only cross-border civil matters but also domestic, criminal, and administrative proceedings. On the question of whether ethics or legislation should lead, respondents were divided. The emerging consensus supports integrated models combining professional standards with statutory tools such as early dismissal, deterrent sanctions, and equality of arms. Portugal illustrates this hybrid path.

The report does not propose an overall conclusion but instead culminates in a set of **Recommended Standards for Legal Professional Ethics (Appendix 1)**. These standards translate the comparative findings into concrete guidance for lawyers, bar associations, and

regulators, clarifying how professional independence can be preserved while preventing abuse. They are designed to help practitioners, regulators, and policymakers navigate SLAPP-specific dilemmas in practice and to strengthen the legal profession's role in safeguarding public participation.

2. Introduction

This report has been prepared by the Coalition Against SLAPPs in Europe (CASE) to highlight the role of the legal profession in enabling, resisting, and being targeted by Strategic Lawsuits Against Public Participation (SLAPPs), and to underline the importance of clarifying ethical rules around such actions.

The definition of a SLAPP is simple: it is an abusive lawsuit with the purpose of silencing critical speech on issues of public interest. The more difficult question is how you identify this abusive purpose.¹ Litigants rarely disclose such abusive intent openly; instead, it must be inferred from the characteristics of the case. The Council of Europe's 2024 Recommendation on SLAPPs assists this assessment by identifying ten indicators of SLAPPs in Paragraph 8.

Lawyers play an important role in defending against SLAPPs, and sometimes find themselves on the receiving end of SLAPPs, but they also play a central role in enabling and facilitating them. Such an enabling role play is anti-ethical to the legal profession. Lawyers owe ethical obligations not only to their clients,

but to the courts of law, the interests of justice, and indeed the other party to the lawsuit.

Nearly all jurisdictions in Europe prohibit lawyers from abusing the legal process, and the majority of jurisdictions expressly recognise that lawsuits filed with an improper purpose are “abusive”. The filing of or participation in SLAPPs is therefore inconsistent with the ethical obligations lawyers owe to the court and to the interests of justice

The European Commission's 2022 Recommendation on SLAPPs highlights this in three respects: ethics, urging deontological rules and disciplinary measures to discourage SLAPPs²; training, calling on Member States to support targeted training for judges, lawyers, and potential targets of SLAPPs, and to ensure that professional associations are directly involved in developing and delivering such training³; and awareness-raising, stressing the need for consistent guidance across the profession.⁴

The Parliamentary Assembly of the Council of Europe (PACE) has likewise called for bar associations to “*require [lawyers], on pain of disciplinary action, to refrain from knowingly*

1 CASE, *How to Identify a SLAPP*, available at: <https://www.the-case.eu/slapps/>.

2 European Commission, Recommendation (EU) 2022/758, para. 9, available at: <https://eur-lex.europa.eu/eli/reco/2022/758/oj/eng>

3 European Commission, Recommendation (EU) 2022/758, para. 10 - 11, *ibid.*

4 European Commission, Recommendation (EU) 2022/758, para. 19, *ibid.*

participating in the actions of clients who are clearly seeking to abuse the legal system by bringing SLAPPs.”⁵

The Council of Bars and Law Societies of Europe (CCBE), in its survey of national bar rules, confirmed that while no EU bar makes explicit reference to SLAPPs, most codes prohibit abusive, intimidatory, or unmerited litigation.⁶

The EU Anti-SLAPP Directive (2024/1069), while ground-breaking in creating minimum safeguards against cross-border SLAPPs, does not directly address the role of the legal profession. By contrast, the Council of Europe’s 2024 Recommendation emphasises professional ethics as the “first shield” against SLAPPs and calls on Member States to encourage Bars and law societies to integrate SLAPP-awareness into training and codes of conduct. Also the

European Commission’s 2022 Recommendation contains analogue attention to the importance of professional lawyers’s ethics and training of legal professionals.⁷ At present, however, no European bar has yet incorporated SLAPPs explicitly into its ethical codes.

The question of whether such explicit rules are necessary remains unsettled. England and Wales have pioneered a guidance-based approach: the Solicitors Regulation Authority (SRA) has issued a thematic review and a warning notice (updated in 2024) requiring solicitors to conduct due diligence into their clients’ motives. However, commentators have noted that strong language has not always translated into visible or consistent enforcement, with debate continuing around high-profile cases such as the complaint concerning representatives of Yevgeny Prigozhin.⁸

5 Parliamentary Assembly of the Council of Europe (PACE), Countering SLAPPs: an imperative for a democratic society Report, 2023, available at: <https://pace.coe.int/en/files/33161/html>.

6 See *SLAPPs and Lawyers* webinar (European Lawyers Foundation & Free Access to Information Europe, 2023), video recording at 1:44:00, available at: <https://elf-fae.eu/slapps-and-lawyers/>. See also the accompanying presentation slides: <https://elf-fae.eu/wp-content/uploads/2023/12/SLAPPs-webinar-Presentations.pdf>. The presentation notes: “No EU bar has specific reference to SLAPPs in its code of conduct. Nearly all had some reference to how a lawyer should behave in the face of being asked to conduct abusive, intimidatory or unmerited litigation. Eight bars had clear reference to such conduct (e.g. pursuing claims with undue harshness to enforce the client’s claims is not allowed). Six had possible references (e.g. lawyers must always uphold the principles of dignity, righteousness and discretion). One had no reference at all.”

7 Council of Europe, *Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation* (5 April 2024), paras. 57-58, available at: <https://rm.coe.int/0900001680af2805> and Recommendation (EU) 2022/758 on protection of journalists and human rights defenders, in particular recommendations 9-12, available at: <https://eur-lex.europa.eu/eli/reco/2022/758/oj/eng>

8 Neil Rose, ‘SRA investigation into Prigozhin lawyers was “supine”’ (*Legal Futures*, 1 April 2025) <https://www.legalfutures.co.uk/latest-news/sra-investigation-into-prigozhin-lawyers-was-supine>

3. Methodology

In order to identify what ethical standards, rules, regulations, national procedural laws and mechanisms exist in jurisdictions across Europe to impede the filing of abusive litigation, the **CASE Legal Working Group** developed a questionnaire (**Appendix 2**) and shared it with legal professionals across Europe. The survey was distributed through **PILnet's Global Clearinghouse** and **CASE networks**.

The questionnaire sought information on measures designed to address abusive lawsuits and legal tactics more broadly, whether frivolous or vexatious claims, or procedural abuses such as protracting proceedings or otherwise harassing defendants. Importantly, measures did not need to explicitly mention “SLAPPs” in order to fall within scope.

The questionnaire covered three guiding areas:

1. To what extent ethical standards impeding SLAPPs or abusive lawsuits exist in Europe;
2. To what extent national procedural law codes prevent or can be used to prevent SLAPPs;
3. What mechanisms could support the effective management of future SLAPP lawsuits in each jurisdiction.

As of **August 2024**, responses had been received from **27 different countries across Europe**: Austria, Belgium, Croatia, Czech Republic, Denmark, Estonia, France, Germany, Greece,

Finland, Hungary, Italy, Ireland, Lithuania, Latvia, Luxembourg, Norway, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Switzerland, the Netherlands, and the United Kingdom. Examples of best practice found in specified jurisdictions are highlighted.

Identification of best practices

To assist law societies and bar associations considering reforms, the report also extracts **best practices** from the survey responses. These were identified by posing additional questions, including:

- Given that SLAPPs represent an abuse of process, how can lawyers, as agents of the administration of justice, most effectively be held accountable for facilitating this abuse?
- How can bar associations and regulatory bodies ensure that lawyers do not undermine the interests of justice in pursuit of their clients' interests?
- How can efforts to exhaust resources and weaponise litigation to harass defendants best be identified and sanctioned?

The practices highlighted are not exhaustive, but illustrate promising approaches that could inform reform in other jurisdictions.

Limitations and sources

This report is the outcome of a **three-year project** initiated in 2022, during which survey responses were collected and analysed. It reflects the professional knowledge and experience of respondents at the time of submission. While every effort has been made to capture developments accurately, the findings have not been independently verified against subsequent legislative or judicial changes. As a result, certain details may no longer reflect the most current state of national law or practice.

In the course of drafting, **unofficial translations of national laws, codes of conduct, and judicial decisions** were consulted and, where relevant, cited in this report. These translations are provided for context and accessibility only; the **authentic and authoritative versions remain those published in the official language(s)** of the respective jurisdiction.

This report reflects the **perspectives and frameworks developed over the project period**. While it does not aim to be a definitive or exhaustive account, it offers a substantial contribution by bringing together key insights and setting the stage for further work and impact beyond the report itself.

4. Analysis of survey responses

The survey responses show that across Europe, SLAPPs intersect with both professional ethics and procedural law, as well as with emerging proposals for reform. **Section 4.1** explores the ethical dimension, examining how bar rules and professional standards regulate improper lawsuits, abusive tactics, representation duties, client loyalty, and good faith obligations. **Section 4.2** turns to procedural frameworks, assessing how courts address abusive proceedings in practice and what sanctions or remedies are available against abusive litigants. **Section 4.3** looks forward, capturing respondents' views on how lawyers, courts, and legislators should be guided in the future, and whether regulation is best developed nationally or at European level. Together, these findings reveal a fragmented but evolving landscape: while most jurisdictions prohibit abuse in principle, enforcement is uneven, and clearer standards, both ethical and procedural, are needed to ensure that the legal profession plays a constructive role in countering SLAPPs.

4.1. Ethical standards for lawyers

National responses to SLAPPs at the ethical and professional level reflect diverse but converging approaches.

Section 4.1.1 examines ethical standards prohibiting the filing of improper lawsuits, focusing on whether such obligations are

enforced through codes of ethics, legislation, or a hybrid model.

Section 4.1.2 considers rules addressing litigation tactics designed to harass, intimidate, or exhaust opponents, highlighting how some jurisdictions explicitly regulate abusive conduct while others rely on broader duties of fairness.

Section 4.1.3 addresses non-discrimination rules and the obligation to represent clients, including potentially abusive litigants, tracing tensions between access to representation and safeguards against misuse of procedure.

Section 4.1.4 explores the balance between client loyalty and duties owed to the court and the administration of justice, stressing that lawyers' obligations to uphold the rule of law and prevent abuse may override client interests in certain contexts.

Finally, **Section 4.1.5** analyses the principle of good faith litigation, which in some jurisdictions is enshrined explicitly in both procedural law and codes of ethics, while elsewhere it is inferred from adjacent duties such as honesty, loyalty, or fairness.

Collectively, these subsections demonstrate that while national frameworks vary in scope and form, they converge on the need to regulate professional conduct to prevent lawyers from becoming facilitators of abusive lawsuits.

4.1.1. Ethical standards restricting improper or abusive lawsuits

Question 1: Are there any ethical standards prohibiting the filing of improper lawsuits?

Overall pattern. Respondents reported that **explicit prohibitions on SLAPPs are rare.** Instead, most jurisdictions rely on broader ethical principles that discourage abusive litigation, such as good faith, dignity, loyalty, probity, and respect for the profession. These standards can be interpreted to cover SLAPP-like behaviour, but they are **rarely framed in those terms** and are often weakly enforced.

Notable exceptions stand out as **best practice:** in the **United Kingdom**, the Solicitors Regulation Authority has issued a binding **Warning Notice on SLAPPs**, and in **Ireland**, both solicitors' and barristers' codes explicitly prohibit abusive litigation. Across jurisdictions, disciplinary sanctions (warnings, suspension, disbarment) or civil liability are theoretically available, but in practice these mechanisms are seldom applied, leaving the standards largely aspirational.

At the transnational level, instruments such as the **CCBE Charter of Core Principles** and the **Code of Conduct for European Lawyers** reinforce common expectations of honesty, integrity, and dignity, though their enforceability varies.

The survey responses cluster around four main types of ethical standards:

- **Core principles** such as good faith and honour, requiring lawyers not to misuse procedural rights (4.1.1.1.);
- **Professional duties** like loyalty, confraternity, and probity, which reinforce integrity and mutual respect (4.1.1.2.);
- **General rules of conduct** on dignity, professionalism, and respect, sometimes backed by disciplinary sanctions (4.1.1.3.);
- **Systemic safeguards** linking the lawyer's role to the proper administration of justice, emphasising independence and the duty not to undermine the system (4.1.1.4.);

Best practice spotlight. The clearest models come from the **United Kingdom**, where SLAPP-specific warning has been issued (4.1.1.5.).

4.1.1.1. Core principles: good faith and honour

In **Spain**, lawyers take an oath upon entering the profession to act in good faith, with full respect for the Spanish Constitution, the Spanish Code of Ethics, and the broader legal system.⁹ The Code of Ethics further obliges lawyers to inform their clients when a legal

9 Spanish General Statue of the Legal Profession, Article 10.1, available at: <https://www.boe.es/boe/dias/2021/03/24/pdfs/BOE-A-2021-4568.pdf>; Spanish Lawyers' Code of Ethics, Article 1.4, available at: [https://web.icam.es/bucket/Codigo-Deontologico-2019%20\(1\).pdf](https://web.icam.es/bucket/Codigo-Deontologico-2019%20(1).pdf)

action is unfounded and to uphold honourable conduct in all dealings with the courts.¹⁰

In **Finland**, the Code of Conduct prohibits lawyers from exerting inappropriate pressure on the opposing party. It is unlawful to file improper statements or notifications with the police, the prosecutor's office, or other authorities or to threaten such actions. Lawyers must not present false information or deny facts they know to be true. They are required to treat all parties and authorities with respect and refrain from any conduct that could undermine the dignity of the Bar or public trust in the legal profession.¹¹

In **Greece**, the Civil Procedure Code requires lawyers to act in good faith and in accordance with public morals.¹² They must uphold the duty of truth and avoid contributing to unnecessary delays or the protraction of the proceedings.

In **Switzerland**, the manifest abuse of procedural rights is unlawful under the Swiss Civil Code.¹³ This provision is in particular applicable to lawyers. The Swiss Civil Code further obliges advocates to exercise their rights and duties in accordance with the principles of good faith.¹⁴

In **Romania**, ethical and procedural rules converge to prohibit lawyers from filing improper lawsuits. The Civil and Civil Procedure Codes require that substantive and procedural rights be exercised in good faith and only for the purposes for which they were recognised by law.¹⁵ Abusive exercise of such rights gives rise to liability for both material and moral damages and may also attract judicial fines.¹⁶ Lawyers are bound to promote and defend only the legitimate rights and interests of clients, and any action must be grounded in a determined, legitimate, personal, and current interest, subject to narrowly defined preventive exceptions.¹⁷

10 Spanish Lawyers' Code of Ethics, Article 48.3, *ibid*.

11 Finnish Code of Conduct for Attorneys-at-Law, Articles 1, 2.3(1), 3, 7.3, 7.4, 8.2, 8.3, unofficial translation available at: <https://asianajajat.fi/wp-content/uploads/2025/05/B-01-Code-of-conduct-for-attorneys-at-law-2023.pdf>.

12 Greek Code of Civil Procedure, Article 116.

13 Swiss Civil Code, Article 2.

14 Swiss Civil Code, Article 2 reads as follows in French: (1) *Chacun est tenu d'exercer ses droits et d'exécuter ses obligations selon les règles de la bonne foi.* (2) *L'abus manifeste d'un droit n'est pas protégé par la loi.*

15 Romanian Civil Code, Articles 14 – 15, available at: <https://legislatie.just.ro/public/detaliidocument/175630>

16 Romanian Code of Civil Procedure, Articles 10 – 12, available at: <https://legislatie.just.ro/public/detaliidocument/140271>; Romanian Lawyer's Code of Deontology, Articles 4 and 16(2), available at: <https://www.unbr.ro/publicam-hotararea-consiliului-unbr-nr-26817-iunie-2017-prin-care-se-aproba-codul-deontologic-al-avocaturii-roman-prevezut-in-anexa/>.

17 Romanian Code of Civil Procedure, Article 32(1)(d), and Art. 33, available at: <https://legislatie.just.ro/public/detaliidocument/140271>; Law No. 51/1995 on the Organisation and Practice of the Legal Profession, Articles 3(3), (9), available at: <https://legislatie.just.ro/Public/Detaliidocument/126008>.

4.1.1.2. Professional duties: loyalty, confraternity, probity

In **Belgium**, the Codes of Ethics for Belgian lawyers, available in both French and Dutch, explicitly recognises the duty of loyalty and confraternity.

Loyalty has a dual meaning: loyalty to the client, which entails not abandoning them when their situation is difficult, and loyalty in overall behaviour, which requires respect for the law, the lawyer's oath, and independence. Robert de Baerdemaeker, former President of the Brussels (French) Bar, explains: “[t]he lawyer’s loyalty to their client, which undoubtedly creates a moral obligation not to abandon the client when their situation becomes difficult; and loyalty also means that the lawyer’s overall behaviour must be loyal. They should respect the law, their oath as a lawyer and their independence. This loyalty is a general obligation towards everyone, and it necessarily goes beyond the individual interests of a client.” In the context of SLAPPs, this duty prevents a lawyer from asserting facts they know to be false or from misleading an opposing party.

In the Flemish Code of Ethics, the duty of confraternity, meanwhile, promotes camaraderie among lawyers, discouraging unnecessary lawsuits and protecting the reputation of

the legal profession. However, it is generally accepted that confraternity must not conflict with or prejudice the legitimate interests of clients. Lawyers in Belgium are also bound by Article 1 of the Flemish Code of Ethics according to which they are to respect the professional principles of dignity, integrity and discretion or by the French Code of Ethics that also refers to these principles. According to Article 1.2. of the French Code the lawyer is bound by the duties of dignity, probity, equality, non-discrimination and tact which form the basis of the profession and guarantee its proper exercise. The Code also stipulates the duty of loyalty and diligence, next to the respect for the fraternity without any corporatist spirit. It also explicitly refers to the lawyers’ duty to contribute to the good administration of justice and the respect for professional rules and authorities.¹⁸ These ethical norms entail the rigorous observance of justice and morality. Assisting a client in an illegal act would directly breach this duty.

The Belgian Judicial Code reinforces these standards, requiring advocates to act with dignity, righteousness and respectability (discretion)¹⁹. It further instructs lawyers to promote amicable resolution of disputes where appropriate and prohibits unnecessary attacks on the

18 Flemish Lawyers’ Code of Ethics, Article 1 and Article 97, available at: https://storage.googleapis.com/ovb-web_prod_public/Advocaat.be-documenten/Codex-Deontologie-versie-update-tot-BS-2025-10-02.pdf. French Lawyers’ Code of Ethics, available at <https://avocats.be/sites/avocatsbe/files/2025-08/01.09.2025-code-deontologie-version-francaise-en-vigueur-au-01.09.2025.pdf>, in particular art. 1.1-1.3.

19 Belgian Judicial Code, Article 456.

honour or reputation of others, except where strictly required for the case²⁰.

In **Italy**, the Lawyers' Ethical Code combines these duties with others, stipulating that lawyers must act with independence, loyalty, fairness, probity, dignity, decency, diligence and competence.²¹ It also provides safeguards against improper lawsuits: lawyers may refuse assistance for immoral reasons and must refuse if the client's request is grossly or manifestly contrary to the law.²²

4.1.1.3. General rules of conduct: dignity, professionalism, respect

In **Austria**, the Disciplinary Statute for Lawyers and Trainee Lawyers provides that lawyers who culpably violate the duties of their profession or whose conduct within or outside their profession damages the honour and reputation of the profession may face discipline²³. This could extend, in extreme cases, to the filing of improper lawsuits.

In **Estonia**, the rules of professional ethics of the Estonian Bar Association require lawyers to act in accordance with the law, the Bar Association's decisions, professional ethics, good manners and their conscience.²⁴ They must act with dignity in dealings with clients, courts, colleagues and the public.²⁵ Lawyers are prohibited from accepting assignments if it is clear that their assistance is sought for purposes contrary to the law or if a claim lacks a legal basis.²⁶ If it is clear that the lawsuit a client seeks is improper, the lawyer must refuse to take on the case. Where representation has already begun, the lawyer is required to terminate the client relationship if the client insists on unlawful measures or requests conduct contrary to the lawyer's conscience or ethics.²⁷ While lawyers should consider the client's wishes, this is limited to requests that are lawful and ethically sound.²⁸ Assignments may only be fulfilled if they are legal; if the client persists in seeking otherwise, the lawyer should explain why the request cannot be carried out and may lawfully withdraw from the engagement. Breaches of ethical standards may

20 Belgian Judicial Code, Article 444.

21 Italian Lawyers' Ethical Code, Article 9, available at: <https://www.consiglionazionaleforense.it/documents/20182/451926/Nuovo+Codice+Deontologico+Forense/dde0cdb5-a420-4379-9c46-c3872163f763>.

22 Italian Lawyers' Ethical Code, Article 23(5) – (6), *ibid*.

23 Austrian Disciplinary Statute for Lawyers and Trainee Lawyers, Article 1, available at: <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10002940>.

24 Estonian Rules of Professional Ethics, Estonian Bar Association, Article 4(1), available at: https://www.ccbe.eu/NTCdocument/EN_Estonia_CODE_OF_C1_1251980836.pdf.

25 Estonian Rules of Professional Ethics, Article 9(1), *ibid*.

26 Estonian Rules of Professional Ethics, Article 12(3), *ibid*.

27 Estonian Rules of Professional Ethics, Article 18(1), pp.2-3, *ibid*.

28 Estonian Rules of Professional Ethics, Article 8(2) and (3), *ibid*.

give rise to disciplinary proceedings before the Bar Association's Ethics Tribunal.

In **Serbia**, the Code of Professional Ethics does not explicitly prohibit the filing of improper lawsuits, but such a prohibition can be inferred from its general rules and ethical principles. Articles 8.2 to 8.4, which reflect the principle of fairness, require lawyers to inform the client “fully, openly and sincerely” about their legal assessment of the case, to use only “permissible and honourable means”, and to refrain from any “impermissible acquisition of rights.”²⁹ Lawyers must also ensure that clients disclose their true motivations and aims³⁰. The Code also establishes responsibility for the measures a lawyer undertakes or omits to undertake, particularly when navigating conflicting values and interests,³¹ and explicitly allows refusal of representation where malice, or other inhumane or immoral motives, are identified as the client's principal aim.³² In addition, Article 39.2 prohibits attorneys from abusing procedure, such as by invoking invalid reasons to delay hearings or by presenting evidence they know to be false. Together, these provisions

impose a duty on Serbian lawyers to resist client demands that would instrumentalise legal proceedings for improper ends.

In **Norway**, the Code of Conduct establishes the overarching duty that is “*the lawyer's duty to promote justice and prevent injustice*”³³ which would apply to the filing of improper lawsuits. This may, however, appear in tension with another provision requiring lawyers to “*promote the interests of the clients to the best of their ability within the scope of the law.*”³⁴ In cases where a client seeks to pursue a SLAPP, the Code directs the lawyer to act both as an advisor and spokesperson for the client³⁵. This means that while representing the client's interests, the lawyer must also advise against filing an improper lawsuit, particularly where the action would fail to promote justice or prevent injustice.³⁶ Importantly, Norwegian lawyers are not obliged to accept every assignment: they must individually decide whether to undertake an assignment.³⁷ If a client requests the filing of an improper lawsuit designed to obstruct public participation, a lawyer should refuse the mandate. Accepting such an assignment

29 Serbian Code of Professional Ethics of Attorneys-at-Law, Articles 8.2 – 8.4, available at: <https://aks.org.rs/aks/wp-content/uploads/2015/11/Code-of-Professional-Ethics.pdf>

30 Serbian Code of Professional Ethics of Attorneys-at-Law, Articles 24.2.1, *ibid.*

31 Serbian Code of Professional Ethics of Attorneys-at-Law, Articles 12.1-12.2, *ibid.*

32 Serbian Code of Professional Ethics of Attorneys-at-Law, Articles 22.1.4, *ibid.*

33 Norwegian Code of Conduct for Lawyers, Article 1.2 ‘The Lawyer's Duties’, available at: <https://www.advokatforeningen.no/en/lawyer-ethics/code-of-conduct-for-norwegian-lawyers2/>.

34 *Ibid.*

35 *Ibid.*

36 *Ibid.*

37 *Ibid.*

would risk breaching the Code by failing to prevent injustice, and could also violate the rule requiring lawyers to conduct themselves professionally and avoid any behaviour that has the potential to harm the reputation of the Bar or the profession.”³⁸

In **Slovenia**, the Attorneys Act and the Code of Professional Conduct provide a framework of ethical obligations that, while not expressly prohibiting SLAPPs, set clear limits against abusive litigation. Attorneys must act independently, conscientiously, fairly and with due diligence, and may only employ legal remedies within the bounds of the law and professional principles.³⁹ The Code requires that legal actions be factually and legally justified and prohibits distortion of facts, demagogic conduct, or the pursuit of client instructions that undermine a lawyer’s independence or integrity.⁴⁰

In **Denmark**, ethical standards are anchored in the principle of *good legal practice*, set out in Section 126(1) of the Danish Administration

of Justice Act. This provision requires lawyers to act conscientiously, responsibly, and with due speed, guided by both their clients’ legitimate interests and broader considerations of justice.⁴¹ The content of good legal practice is further shaped through the decisions of the Lawyers Disciplinary Board (*Advokatnævnet*) and reflected in the Code of Professional Conduct for Lawyers (*De Advokatetiske Regler*)⁴². Taken together, these sources establish that while Danish lawyers are expected to act vigorously in the interest of their clients, they may not pursue lawsuits that are purely harassing or intimidating in nature. According to reported practice, the Disciplinary Board has indicated that while Danish lawyers enjoy wide latitude in filing lawsuits, it would be contrary to ethical standards to pursue actions whose sole purpose is harassment or intimidation. Although there are no explicit references to SLAPP cases, such abusive litigation would fall foul of the overarching duty to act in accordance with good legal practice.

38 Norwegian Code of Conduct for Lawyers, Article 1.3 ‘The Lawyer’s Conduct’, *ibid*.

39 Slovenian Attorneys Act, Article 11, unofficial translation available at: <https://www.odv-zb.si/en/slovenian-bar-association/regulations/attorney-act/>; Slovenian Code of Professional Conduct of the Bar Association, Article 4, 11, 41, unofficial translation available at: <https://www.odv-zb.si/en/slovenian-bar-association/regulations/code-of-professional-conduct/>

40 Slovenian Code of Professional Conduct of the Bar Association, Article 20, *ibid*.

41 Danish Administration of Justice Act, Section 126, subsection 1, reads as follows: “*A lawyer must behave in a manner consistent with good legal practice. The lawyer must perform his duties thoroughly, conscientiously and in accordance with what is dictated by legitimate considerations of the interests of the clients. Cases must be processed with the necessary speed.*”, available at: <https://www.advokatsamfundet.dk/regler-for-advokater/god-advokatskik/>.

42 Danish Code of Professional Conduct for Lawyers (*De Advokatetiske Regler*) was revised in April 2025, with the updated provisions entering into force on 1 July 2025, in order to clarify lawyers’ duties and is available at: <https://www.advokatsamfundet.dk/media/qymm30zs/aer-2025-endelig-version.pdf>.

In **Ireland**, solicitors and barristers play a central role in safeguarding public trust in the courts, a cornerstone of the democratic system and the rule of law. Ethical standards explicitly prohibit improper lawsuits. For solicitors, the Law Society’s Code of Conduct requires avoidance of “*improper or abusive litigation, predatory litigation, abuse of process, taking unfair advantage, misleading the court, and conducting frivolous and/or vexatious cases.*”⁴³ These principles are reinforced by the Charter of Core Principles of the European Legal Profession and the Code of Conduct for European Lawyers, which although not binding, are cited as reflecting the profession’s core principles.⁴⁴ Solicitors may face disciplinary action under the Legal Services Regulation Act 2015 for misconduct such as fraud, dishonesty, inadequate services, or breaches of statutory obligations. Complaints are assessed by the Legal Services Regulatory Authority and, where admissible, may be referred to the Complaints Committee, which may impose sanctions including compensation of up to €5,000.

Barristers are bound either by the Code of Conduct of the Bar of Ireland (for members of the Law Library) or by Professional Code of the Honourable Society of King’s Inns (for non-members). Both prohibit misleading the

court and forbid conduct that undermines justice, discredits the profession, or would compromise its integrity.

4.1.1.4. *Systemic safeguards: integrity of the legal system*

In **Germany**, the Federal Code for Lawyers, the Rules of Professional Practice and the Constitution (*Grundgesetz*) provide lawyers with a wide margin of discretion in and outside civil proceedings. Importantly, there is no explicit rule obliging the lawyer to file only “appropriate” or “reasonable” claims. The independence of lawyers, particularly vis-à-vis the courts and the executive, serves as a safeguard against any rules that might unduly restrict that independence.⁴⁵ At the same time, attorneys are recognised as an independent organ of the administration of justice (*unabhängiges Organ der Rechtspflege*), which requires them to protect the integrity of the legal system while representing clients. This dual role can create tensions, as the duty to uphold the legal order is limited to preventing direct violations, leaving a grey area around what conduct is considered “improper”.

In **Poland**, attorneys may be disciplined for breaching ethics or the dignity of the

43 Irish Solicitor’s Guide to Professional Conduct, Chapter 5 ‘The Solicitor and their Relationship with the Court’, p. 62, available at: <https://www.lawsociety.ie/globalassets/documents/committees/conduct-guide.pdf>.

44 Irish Solicitor’s Guide to Professional Conduct, Chapter 1 “Core Values of the Profession”, p. 15, footnote 4, *ibid.*

45 *Brüggemann*, in: Weyland, Bundesrechtsanwaltsordnung: BRAO, 10th ed. 2020, § 1 Para. 8a; *Träger*, in: Bundesrechtsanwaltsordnung: BRAO, 10th ed. 2020, § 1 Para. 33; § 43 Para. 1 f. (Commentary on the German Federal Lawyers’ Act). All German sources given for documentation purposes only.

profession.⁴⁶ The Code of Attorney Ethics requires them to defend clients' interests with courage and honour, while showing due respect to courts and other authorities.⁴⁷

In **Portugal**, the Statute of the Bar Association obliges lawyers to act with integrity, honesty, probity, rectitude, loyalty, courtesy, and sincerity.⁴⁸ They are expressly prohibited from advocating against the law, employing illegal means or expedients, or promoting proceedings that are dilatory, useless or detrimental to the proper application of the law or the discovery of truth or pursuing objectives that are not professional.⁴⁹ Breaches of these obligations can result in disciplinary action against the lawyer⁵⁰ and, separately, could even trigger civil liability.⁵¹

In the **Czech Republic**, there is no specific prohibition on filing improper lawsuits, but general ethical rules apply. The Act on the Legal Profession requires lawyers to protect client interests but forbids compliance with instructions contrary to the law or professional rules.⁵² Lawyers must act so as not to degrade the dignity of the profession.⁵³ Additionally, the Code of Conduct imposes a general duty on lawyers to uphold the dignity and standing of the legal profession through conduct that is honest, honourable, and decent.⁵⁴

In **Lithuania**, the Code of Ethics prohibits lawyers from using unlawful means, satisfying unlawful client demands,⁵⁵ or encouraging unfounded disputes.⁵⁶ Where claims are groundless, or where there are even doubts about their reasonableness, advocates must

46 Polish Code of Ethics for Advocates, Article 4, available at: https://www.ccbe.eu/NTCdocument/Code_of_Ethics_for_A1_1331278211.pdf

47 Polish Code of Ethics for Advocates, Article 43, *ibid*.

48 Statute of the Portuguese Bar Association, Article 88, available at: <https://portal.oa.pt/ordem/regras-profissionais/estatuto-da-ordem-dos-advogados/>.

49 Statute of the Portuguese Bar Association, Article 90(2) a),d),g), *ibid*.

50 Statute of the Portuguese Bar Association, Articles 115(1), *ibid*.

51 Statute of the Portuguese Bar Association, Articles 116(1), *ibid*.

52 Czech Republic's Act No.85/1996 on the Legal Profession, Section 16(1), available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/National_Laws_on_the_Bars/EN_Czech_Rep_ACT-No-851996-Sb-of-13th-March-1996-on-the-Legal-Profession.pdf.

53 Czech Republic's Act No.85/1996 on the Legal Profession, Section 17(1), *ibid*.

54 Czech Republic's Code of Conduct of Lawyers, Article 4(1), available at: https://www.cak.cz/cs/download/code-of-conduct_1.pdf

55 Lithuanian Code of Ethics for Advocates, Article 7(3), available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_Lithuania_Code_of_professional_conduct_for_advocates_of_Lithuania.pdf

56 Lithuanian Code of Ethics for Advocates, Article 10(9), *ibid*.

advise against pursuing them and clearly warn of the potential risks; if the client insists, the advocate may withdraw with reasonable notice.⁵⁷ Advocates are also required to refuse a client or assignment, or to unilaterally terminate the relationship, where fulfilling the mandate would compromise their independence or contravene professional ethics or the law.⁵⁸ Moreover, the Law on the Bar obliges lawyers to comply with the Code of Ethics and to act in the spirit of honesty and public interest.⁵⁹ Breaches of these obligations may result in disciplinary proceedings.⁶⁰

In **Latvia**, although the Code of Ethics does not explicitly ban improper lawsuits, together with the binding Code of Conduct for European Lawyers, it prohibits knowingly providing false or misleading information to courts⁶¹ and requires due regard for the fairness of proceedings.⁶² Filing an improper lawsuit would thus breach these duties.

In **Belgium**, the French Code of Ethics for lawyers emphasises that, faithful to their oath, lawyers must safeguard not only the interests of their clients but also respect for the rule of law, the defence of rights and liberties, and the proper administration of justice.⁶³ This framework underscores that the lawyer's role extends beyond a strict mandate of representation.

4.1.1.5. Best practice spotlight: United Kingdom

In the **United Kingdom**, the Solicitors Regulation Authority (SRA) issued a SLAPP-specific Warning Notice in 2022,⁶⁴ which is binding on solicitors and law firms and taken into account in regulatory proceedings. It makes clear that they must not bring or threaten unmeritorious claims or deploy tactics that are intimidatory or oppressive. An overriding duty to the court and the rule of law takes precedence over client interests where these conflict.

57 Lithuanian Code of Ethics for Advocates, Article 10(11), *ibid*.

58 Lithuanian Code of Ethics for Advocates, Article 10(19), *ibid*.

59 Republic of Lithuania Law on the Bar, Article 39(1), (unofficial translation) available at: <https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=pohw8vb24&documentId=ddd86b12689011ecb2fe9975f8a9e52e&category=TAD>

60 Republic of Lithuania's Law on the Bar, Article 52(1), *ibid*.

61 Latvian Sworn Advocates Code of Ethics, Article 8.2, available at: <https://www.advokatura.lv/sites/default/files/2022-09/Code%20of%20Ethics%20.pdf>; Code of Conduct for European Lawyers, Article 4.4, available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/DEONTOLOGY/DEON_CoC/EN_DEON_CoC.pdf.

62 Code of Conduct for European Lawyers, Article 4.2, *ibid*.

63 French Code of Ethics in Belgium, Articles 1.1. - 1.3., available at: <https://avocats.be/sites/avocatsbe/files/2025-08/01.09.2025-code-deontologie-version-francaise-en-vigueur-au-01.09.2025.pdf>

64 UK Solicitors Regulation Authority's *Warning Notice on Strategic Lawsuits Against Public Participation (SLAPPs)*, available at: <https://www.sra.org.uk/solicitors/guidance/slapps-warning-notice/>.

The Warning Notice highlights features indicative of SLAPPs: actions targeting public-interest speech (such as academic research, whistle-blowing, campaigning or investigative journalism), marked power imbalances between claimant and defendant, and litigation designed to suppress scrutiny or distort the public record. Solicitors and law firms are expected to perform due diligence into clients' motives, assess the arguability of claims before advancing them, and decline instructions that would amount to abuse of process.

The SRA also warns that regulatory action is likely where solicitors and law firms facilitate strategies that undermine public participation, employ heavy-handed tactics, or compromise integrity and public trust in the profession. They must generally comply with the [SRA Principles](#)⁶⁵, which require them to uphold the rule of law, maintain public trust, act independently, and conduct themselves with honesty and integrity.

The SRA Warning Notice was updated in May 2024, with an explicit acknowledgement that solicitors should explore their client's motives and intentions for pursuing a claim, and make sure there is a proper basis for doing so. Unfortunately, cases that have been investigated and concluded since this notice was issued have suggested a low standard of application. The case of Yevgeny Prigozhin - where the Russian

oligarch sued Bellingcat founder Elliot Higgins for writing about the widely-known fact that Prigozhin had founded the Wagner Group - has been a particular point of concern, though a number of cases remain pending.⁶⁶

4.1.2. Ethical standards regulating legal tactics intended to harass, intimidate, or drain resources

Question 2: Are there any ethical standards regulating legal tactics intended to harass, intimidate, or drain resources?

Overall pattern. Explicit prohibitions of such tactics are rare. Most jurisdictions rely instead on **broader ethical standards** such as dignity, respect, honesty, or fairness that can be interpreted to cover harassment, intimidation, or cost-draining behaviour.

A smaller number contain **direct prohibitions**, while some jurisdictions report **no applicable standards at all**. As with improper lawsuits, enforcement is weak and the provisions are seldom framed explicitly in terms of SLAPPs.

The survey responses cluster around two main approaches:

- **Explicit prohibitions** that directly forbid harassment, intimidation, or abusive cost-draining tactics (4.1.2.1.);

65 The UK Solicitors Regulation Authority's SRA Principles, available at: <https://www.sra.org.uk/solicitors/standards-regulations/principles/>

66 Law Gazette, 'SRA to take no action on "textbook SLAPP" complaint', 29/01/25, available at: <https://www.lawgazette.co.uk/news/sra-to-take-no-action-on-textbook-slapp-complaint/5122177.article>

- **Implied regulation** through general duties of dignity, fairness, honesty, or respect (4.1.2.2.);

Best practice spotlight. The Netherlands stands out as a clear model: its Lawyers' Code of Conduct prohibits harassment and intimidation and also requires lawyers to avoid unnecessary litigation costs and to consider settlement before initiating proceedings (4.1.2.3.).

4.1.2.1. *Explicit prohibitions*

In **Estonia**, the Code of Conduct of the Bar Association prohibits harassment, intimidation, or draining resources.⁶⁷ Lawyers are obliged to act with dignity, courtesy, and respect towards the opposing party and other parties to the proceedings, and must refrain from disparaging them.⁶⁸ Attorneys are further forbidden from abusing procedural rights: they may not influence witnesses outside court, exert pressure on other participants, intentionally mislead them, or use procedural tools maliciously.⁶⁹

In **Finland**, lawyers may not, without special reason, file a lawsuit without first allowing the opposing party to settle the claim.⁷⁰ They are also prohibited from making threats or spreading defamatory information.⁷¹ Lawyers may be held responsible for the defendant's legal fees if they pursue ungrounded or improper claims or unduly prolong the proceedings. If a lawyer harasses the defendant, the court may prohibit the attorney from further acting before the court.

In **Portugal**, lawyers are obliged to treat all participants in proceedings with respect and consideration, to promote justice and to avoid abuse of the legal system. Where a lawyer engages in tactics amounting to harassment, intimidation, or improper use of appeals, this may constitute a breach of the Bar Association's Statute.⁷² Complaints can be brought before the Bar Association, which regulates the profession.

In **Spain**, the Code of Ethics requires lawyers to avoid violent actions against opposing parties

67 Estonian Rules of Professional Ethics of the Bar Association, Articles 4, 8(3), 9, and 12(3), available at: https://www.ccbe.eu/NTCdocument/EN_Estonia_CODE_OF_C1_1251980836.pdf.

68 Estonian Rules of Professional Ethics of the Bar Association, Article 22(1), *ibid*.

69 Estonian Rules of Professional Ethics of the Bar Association, Article 22(3), *ibid*.

70 Finnish Code of Conduct for Attorneys-at-Law, Article 7.1, (unofficial translation) available at: <https://asianajajat.fi/wp-content/uploads/2025/05/B-01-Code-of-conduct-for-attorneys-at-law-2023.pdf>.

71 Finnish Code of Conduct for Attorneys-at-Law, Article 7.3(1)-(2), *ibid*.

72 Statute of the Portuguese Bar Association, Articles 90, 95, 108, 110(2), 112(1)a, available at: <https://portal.oa.pt/ordem/regras-profissionais/estatuto-da-ordem-dos-advogados/>.

and to prevent their clients from engaging in that behaviour.⁷³

In **Italy**, the Ethical Code prohibits lawyers from aggravating the debts of the opposing party through onerous or multiple legal actions, unless these are justified by the effective protection of the client's interests.⁷⁴

In **Slovenia**, rules on relations with opposing parties reinforce this standard: lawyers must not aggravate disputes, cause unnecessary costs, abuse the ignorance of an unrepresented party, or resort to ridicule, threats, or harassment. They are encouraged to seek peaceful settlement of disputes before initiating proceedings and to dissuade clients from unnecessary escalation.⁷⁵ Respect for courts and public trust is also mandated,⁷⁶ meaning that abusive or frivolous proceedings would breach

professional duties. Violations of these principles may lead to disciplinary proceedings, ranging from warnings to sanctions⁷⁷, and foreign lawyers practising in Slovenia are equally bound by these rules⁷⁸.

In **Romania**, the law expressly prohibits vexatious or prejudicial tactics.⁷⁹ Lawyers are required to conduct themselves with dignity, honour, and probity, and to avoid offensive or demeaning language in proceedings. In pursuing a client's case, a lawyer "*will avoid humiliating the adversary, the opposing colleague, or any other person connected with the case.*"⁸⁰ Parties [and their representatives] have the "*obligation... to contribute to the timely conduct of the process, also aiming for its finalisation.*" The Civil Procedure Code further provides that parties exercising procedural rights abusively are liable for damages and fines.⁸¹

73 Spanish Code of Ethics of the Legal Profession, Article 11(4) and 13(3), available at: [https://web.icam.es/bucket/Codigo-Deontologico-2019%20\(1\).pdf](https://web.icam.es/bucket/Codigo-Deontologico-2019%20(1).pdf).

74 Italian Code of Conduct for Lawyers, Article 66, available at (unofficial translation): https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_Italy_Code_of_Conduct_for_Italian_Lawyers.pdf.

75 Slovenian Code of Professional Conduct of the Bar Association, Article 54-60, (unofficial translation) available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_Slovenia_code-of-professional-conduct-of-the-Bar-Association-of-Slovenia.pdf.

76 Slovenian Code of Professional Conduct of the Bar Association, Article 18, *ibid*.

77 Slovenian Code of Professional Conduct of the Bar Association, Article 3, 6-7, *ibid*.

78 Slovenian Code of Professional Conduct of the Bar Association, Article 5, *ibid*.

79 Romanian Statute of the Legal Profession, Article 134(7).

80 Romanian Lawyer's Code of Deontology, Articles 13(1) and 14(1)-(2), available at: <https://www.unbr.ro/publicam-hotararea-consiliului-unbr-nr-26817-iunie-2017-prin-care-se-aproba-codul-deontologic-al-avocaturului-roman-prevazut-in-anexa/>.

81 Romanian Code of Civil Procedure, Articles 12(1)-(2), Article 187(1)-(2); Romanian Law No. 51/1995 on the Organisation and Practice of the Legal Profession, Article 3(11).

In **Greece**, lawyers must exercise their duties diligently and avoid conduct that would unnecessarily prolong proceedings, such as filing baseless claims. They are also prohibited from threatening or exerting pressure on the opposing party and from increasing the costs of proceedings for the other side without a legitimate reason.⁸²

In **Serbia**, the Code of Ethics prohibits abusive conduct in proceedings. Lawyers must not influence proceedings or decision-making by unprofessional means or by exerting pressure, especially by invoking authorities or individuals who have no role in the process.⁸³ They are also barred from procedural abuse, such as using unfounded reasons to delay hearings or submitting evidence that they know to be false.⁸⁴ Additionally, when dealing with unrepresented parties, lawyers must not exploit their ignorance, delusion, or confusion to secure unjustified benefits for their clients.⁸⁵

In **Ireland**, the Law Society requires solicitors to refrain from fraudulent or deceitful

conduct,⁸⁶ prohibits them from threatening to sue an opposing solicitor personally for costs,⁸⁷ and imposes a duty not to knowingly allow dishonest omission by a client in discovery, statements of truth, affidavits, and disclosure.⁸⁸ These standards have recently been complemented by judicial recognition of SLAPP-related concerns. The Irish High Court recently cited UK SRA's guidance on SLAPPs in *Glenveagh Homes Limited v Pat Lynch and Denise Leavy* [2024] IEHC 157. The court considered the SRA guidance instructive, emphasising that SLAPPs should be understood within existing legal principles and applied in a context-sensitive manner. In that case, however, the defendants failed to establish that the legal action had the necessary indicia of a strategic lawsuit or that it should be struck out as an abuse of process. Further ethical obligations apply to barristers under the Code of Conduct for the Bar of Ireland, which requires them to assist the court in the administration of justice, prohibits them from deceiving or knowingly misleading the court, and obliges them not

82 Greek Lawyers' Code, Article 6 a), b); Article 7 a), b), d), f), h), i), (unofficial translation) available here: <https://www.taxlaw.gr/en/useful-links-en/code-conduct-legal-profession/>

83 Serbian Code of Professional Ethics of Attorneys-at-Law, Article 39.1.1., available at: <https://aks.org.rs/aks/wp-content/uploads/2015/11/Code-of-Professional-Ethics.pdf>

84 Serbian Code of Professional Ethics of Attorneys-at-Law, Article 39.1.5., *ibid*.

85 Serbian Code of Professional Ethics of Attorneys-at-Law, Article 42.3.1., *ibid*.

86 Irish Solicitor's Guide to Professional Conduct, p. 77 (Professional Standard of Conduct), available at: <https://www.lawsociety.ie/globalassets/documents/committees/conduct-guide.pdf>.

87 Irish Solicitor's Guide to Professional Conduct, p. 89 (Threat by one solicitor to sue the opposing solicitor personally), *ibid*.

88 Irish Solicitor's Guide to Professional Conduct, p. 65 (Perjury by a Client), *ibid*.

to compromise professional standards to satisfy a client.⁸⁹

4.1.2.2. Implied regulation

In **Slovakia**, there is no express prohibition on filing improper or abusive lawsuits, nor are there any specific standards regulating harassment, intimidation, or resource-draining tactics. Attorneys must nevertheless perform their duties in compliance with the law and with professional care, which entails acting honestly, conscientiously, and appropriately, and using only lawful means.⁹⁰ Conduct must also conform to good manners and principles of decent behaviour, though these standards are relatively subjective. Attorneys are, however, expressly prohibited from knowingly making false statements.⁹¹

In **Lithuania**, lawyers must uphold professional honour and dignity, refrain from

discrediting the legal profession, swear an oath to justice, and act honestly, politely, and fairly.⁹² Lawyers may not engage in conduct incompatible with honesty, ethical norms, or morality, nor undermine public confidence in the profession, harm the reputation of the Bar Association, or degrade the professional title.⁹³ A core principle is that lawyers must defend clients' rights only through lawful means and within the limits of their professional powers, while respecting the rights of others.⁹⁴

In **Latvia**, legal tactics intended to harass, intimidate, or drain resources would conflict with the fairness of proceedings and risk damaging public trust in the legal profession.⁹⁵ Such conduct would breach the Code of Ethics, which requires lawyers to refrain from behaviour that discredits the profession or casts doubts on their dignity, integrity, fairness, or trustworthiness.⁹⁶ When dealing with courts, authorities, and other parties, lawyers

89 Code of Conduct for the Bar of Ireland, Articles 2.5 and 2.8, available at: <https://www.lawlibrary.ie/app/uploads/2024/10/9.-Code-of-Conduct-Amended-by-AGM-22.7.24-Updated.pdf>.

90 Slovak Rules of Professional Conduct for Lawyers, Section 2, available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_Slovak_Republic_Rules_of_professional_Conduct_for_Lawyers.pdf.

91 Slovak Rules of Professional Conduct for Lawyers, Section 14(2), *ibid*.

92 Lithuanian Code of Ethics for Advocates, Article 6(2), available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_Lithuania_Code_of_professional_conduct_for_advocates_of_Lithuania.pdf.

93 Lithuanian Code of Ethics for Advocates, Article 6(5), *ibid*.

94 Lithuanian Code of Ethics for Advocates, Article 7(1), *ibid*.

95 Code of Conduct for European Lawyers, Article 4, available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/DEONTOLOGY/DEON_CoC/EN_DEON_CoC.pdf.

96 Latvian Sworn Advocates Code of Ethics, Article 2.2, (unofficial translation) available at: <https://www.advokatu-ra.lv/sites/default/files/2022-09/Code%20of%20Ethics%20.pdf>,

are also reminded that they represent a profession integral to the judicial system and must act in a way that preserves the legal profession as a whole.⁹⁷

In **Austria**, there are no explicit ethical standards that address harassment or resource-draining tactics; however, in extreme cases, such conduct may fall under general professional duties.⁹⁸

In **Croatia**, the Code of Ethics requires lawyers to act considerately and objectively towards the opposing party. They may not advance claims in an unduly harsh manner, even when such claims are otherwise permitted by law, and must not exploit the ignorance, delusion, or timidity of the opposing party.⁹⁹

In **Poland**, the Code of Attorney Ethics prohibits attorneys from providing information that is unlawful, contrary to the principles of morality, or that undermines the dignity of participants in the proceedings or of the profession itself.¹⁰⁰

In **France**, there is no express regulation of legal tactics intended to harass, intimidate, or drain resources in the context of SLAPPs. However, Article P.1.0.3 of the Rules of Procedure of the Paris Bar provides that: “[i]t is an offence against the essential principles for a lawyer to harass another person or to have a discriminatory attitude towards them, within the meaning of the law. Any behaviour by a lawyer that constitutes sexist conduct, i.e. any conduct related to a person’s sex, the purpose or effect of which is to undermine dignity or to create an intimidating, hostile, degrading, humiliating or offensive environment, constitutes a breach of essential principles.”¹⁰¹ This rule is grounded in the essential principles of the profession, including dignity, conscience, probity, and humanity. Lawyers must act with respect, good morals, and honesty. Although originally aimed at workplace harassment, the provision is drafted in general terms and could be interpreted to cover abusive lawsuits.

The National Rules of Procedure further provide that when lawyers contact the opposing party, they must refrain from “any unfair presentation of the situation or any threat,” although they may indicate the possibility of initiating

97 Latvian Sworn Advocates Code of Ethics, Article 8.3, *ibid*.

98 Austrian Bar’s Act Regulating the Exercise of the Lawyer’s Profession, Section 9(1), (unofficial translation) available at: https://www.oerak.at/fileadmin/user_upload/Gesetzestexte/RAO/rao_eng_01072021.pdf.

99 Croatian Attorneys’ Code of Ethics, Articles 74 and 75, available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_Croatia_The_Attorneys_Code_of_Ethics.pdf

100 Polish Code of Ethics of Attorneys at Law, Article 32, available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_Poland_KIRP_Code_of_professional_Conduct.pdf

101 French Rules of Procedure of the Paris Bar (RPBP), Article P.1.0.3.

legal action.¹⁰² Contact must be made only in writing (letter or email), and lawyers must inform the opposing party of the right to appoint a lawyer. Professional conduct rules require exemplary behaviour in such exchanges. For example, Ethics Advisory No. 183/20.6640 (1 February 2011) stated that communications must avoid excessive comments such as threats of criminal penalties or accusations of proven misconduct. Ethics Advisory No. 183/30.6212 (3 May 2018) added that prudence and moderation are lacking when a lawyer writes directly to an opposing party, referring to conduct likely to be classified as criminal without using the conditional language.

In **Luxembourg** and **Belgium**, lawyers are bound by fundamental principles, including diligence, dignity, conscience, independence, probity, humanity, honour, loyalty, delicacy, moderation, courtesy, disinterestedness and confraternity. Within these boundaries, the principle of independence gives each lawyer freedom to determine the means and tactics best suited to protect the client's interests. At the same time however lawyers must also contribute to the good administration of justice and the respect for these professional rules.

Breach of these principles could lead to disciplinary sanctions.

In **Hungary**, the Code of Ethics prohibit lawyers from accepting mandates contrary to public morals,¹⁰³ from engaging in conduct that undermines public confidence in the legal profession,¹⁰⁴ and from making submissions that are offensive to human dignity or discriminatory.¹⁰⁵ While the rules do not explicitly address SLAPP-type tactics, the broad prohibitions against abusive or dignity-undermining behaviour, combined with obligations of fairness and respect, could be applied to regulate such practices.

4.1.2.3. Best practices spotlight: the Netherlands

In the **Netherlands**, the Lawyers' Code of Conduct, Rule 7, makes clear that a lawyer should refrain from harassment and intimidation.¹⁰⁶ On the issue of resource draining (through expensive litigation), Rules 5 and 6(1) of the Code of Conduct require that settlement be considered before initiating formal proceedings and that unnecessary litigation

102 French National Rules of Procedure, Article 8.

103 Hungarian Regulation 6/2018 on the Ethical Rules and Expectations of the Legal Profession, Article 5.8(a), available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_2023_Hungarian-Code-of-Ethics.docx.

104 Hungarian Regulation 6/2018 on the Ethical Rules and Expectations of the Legal Profession, Article 5.4 and 13.1, *ibid*.

105 *Ibid.*, Article 11.5.

106 Dutch Lawyers Code of Conduct, Rule 7, available at: <https://www.advocatenorde.nl/document/nova-code-of-conduct-gedragregels-2018>.

costs, including those incurred by the opposing party, be avoided.¹⁰⁷

4.1.3. Rules on non-discrimination and the obligation to represent abusive litigants

Question 3: To what extent do rules on non-discrimination oblige a lawyer to represent an abusive litigant?

Overall pattern. Across most jurisdictions, lawyers retain broad discretion to choose their clients and may refuse abusive or vexatious cases. Obligations to act usually arise only in the context of **legal aid or ex officio appointments**, and even here safeguards are typically in place to prevent engagement in manifestly abusive claims. A smaller group of countries impose **stricter duties to accept representation**, though generally allowing exceptions where claims are unlawful, hopeless, or would compromise professional integrity. The United Kingdom is unique in applying the **cab-rank rule**, which obliges barristers to accept any competent work, subject to narrow exceptions.

The survey responses cluster around four main approaches:

- **General freedom to refuse**, with obligations arising only in legal aid or court-appointed cases (4.1.3.1.);
- **Limited freedom to refuse**, where lawyers may reject cases on ethical or moral grounds despite non-discrimination duties (4.1.3.2.);
- **Very limited freedom to refuse**, where refusal is allowed only in narrowly defined circumstances such as unlawful or hopeless claims (4.1.3.3.);
- **No freedom to refuse**, as under the UK cab-rank rule (4.1.3.4.).

4.1.3.1. General freedom to refuse (except legal aid)

In the **Netherlands**, Dutch law allows a lawyer to represent a client or case they believe to be justified.¹⁰⁸

In **Spain**, the Code of Ethics guarantees lawyers' independence, meaning they are not obliged to represent every client. They are entitled to reject a case without providing further explanation, provided this does not jeopardise the client during the proceedings. Lawyers must refrain from acting where the

107 Lawyers Code of Conduct, Rules 5 and 6(1), *ibid*.

108 Dutch Act on Advocates, Section 10a, available at: <https://www.advocatenorde.nl/document/advocatenwet-engels-definitief-21-08-2017>.

client's intentions conflict with professional duties, trust is lacking, or the client rejects the proposed legal strategy, or the lawyer does not share the client's approach to the case, and the client will not reconsider.¹⁰⁹

In **Italy**, the Ethical Code allows lawyers to freely accept or reject assignments, but requires them to refuse cases that, based on known facts, are aimed at illicit purposes.¹¹⁰

In **Romania**, lawyers are generally not obliged to justify refusing a case if it does not align with their professional conviction,¹¹¹ except for cases where legal assistance is mandatory or free.¹¹² This allows lawyers to decline cases they deem improper or unethical. They should only take on cases that match their professional competence and for which they can adequately prepare in the client's interest.

In **Denmark**, lawyers are generally free to choose clients, with exceptions in criminal cases, family court, and legal aid cases, where the court appoints representation (though such

situations are typically irrelevant to abusive litigation).

In **Austria**, while lawyers generally retain wide discretion to refuse a case, court appointments in legal aid proceedings narrow this discretion to specific grounds of conflict or prejudice.¹¹³

In **Germany**, the principle of freedom of contracts applies equally to lawyers, who are free to refuse any request for representation, including from abusive litigants.¹¹⁴ The General Equal Treatment Act of 2006,¹¹⁵ which prohibits discrimination in employment and standard business transactions, does not extend to client selection in litigation and therefore offers no basis for obliging lawyers to act in SLAPPs. An exception arises in civil proceedings, where courts may appoint counsel for parties entitled to legal aid,¹¹⁶ but such aid is available only for claims with *prima facie* merit and is rarely relevant to SLAPP-type litigation.

In **France**, the principle of independence allows lawyers to decline representation where

109 Spanish Code of Ethics, Articles 2, 12.A.1, 3, 5, 6, available at: <https://www.abogacia.es/wp-content/uploads/2019/07/CODIGO-DEONTOLOGICO-2019-1.pdf>.

110 Italian Code of Conduct for Lawyers, Article 23(5), available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_Italy_Code_of_Conduct_for_Italian_Lawyers.pdf.

111 Romanian Statute of the Legal Profession, Article 229(2).

112 Romanian Law No. 51/1995 on the Organisation and Practice of the Legal Profession, Articles 3(8), (12).

113 Austrian Bar's Act Regulating the Exercise of the Lawyer's Profession, Section 10(1) corroborated with Section 45(4), available at: https://www.oerak.at/fileadmin/user_upload/Gesetzestexte/RAO/rao_eng_01072021.pdf.

114 Nöker, in: Weyland, Bundesrechtsanwaltsordnung: BRAO, 10. Auflage 2020, § 44 Para. 1 f.

115 Allgemeines Gleichbehandlungsgesetz, AGG.

116 BRAO, § 48

they consider the lawsuit the intended lawsuit to be abusive.

In **Luxembourg**, the principle of independence likewise ensures that a lawyer may choose not to take on a client or may withdraw from representation. Where legal representation is obligatory in certain cases comparable to legal aid, such assistance is not granted where the claim is manifestly abusive.

In **Belgium**, lawyers have the discretion to accept or reject cases and may therefore choose to represent or refuse litigants known for bringing abusive lawsuits.

In **Norway**, the Code of Conduct provides that “*the lawyer must individually decide whether to undertake an assignment.*”¹¹⁷ Accordingly, lawyers are under no obligation to represent abusive litigants.

In **Poland**, the Code of Attorney Ethics guarantees full freedom of expression in the exercise of their profession.¹¹⁸

In **Finland**, the Non-Discrimination Act applies to lawyers, but there are no provisions obliging them to represent any client. An attorney may always refuse a case, if they consider it to conflict with their ethical standards.

In **Latvia**, attorneys are generally free to choose their cases and clients. The Code of Ethics specifies that they are not obliged to provide legal aid or take a case, except where state-mandated legal aid applies, a situation unlikely to include SLAPPs.¹¹⁹ Attorneys are not required to give reasons for refusing a case.

In the **Czech Republic**, the Act on the Legal Profession allows lawyers to refuse to provide legal services, except in certain cases such as *ex officio* representation.¹²⁰ It follows that a lawyer may decline a case for moral reasons or because of the nature of the intended action.

4.1.3.2. Limited freedom to refuse (ethical or moral grounds)

In **Lithuania**, non-discrimination duties are not expressly codified in the legislation governing advocates, but arise from general principles.

117 Code of Conduct for Norwegian Lawyers (*Advokatforeningen*), Article 1.2 ‘The Lawyer’s Duties’, available at: <https://www.advokatforeningen.no/en/lawyer-ethics/code-of-conduct-for-norwegian-lawyers2/>.

118 Polish Code of Ethics of Attorneys at Law, Article 17, available at: https://www.ccbe.eu/NTCdocument/Code_of_Ethics_for_A1_1331278211.pdf

119 Latvian Sworn Advocates Code of Ethics, Article 3.4, available at: <https://www.advokatura.lv/sites/default/files/2022-09/Code%20of%20Ethics%20.pdf>

120 Czech Republic’s Act No.85/1996 on the Legal Profession, Section 18, available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/National_Laws_on_the_Bars/EN_Czech_Rep_ACT-No-851996-Sb-of-13th-March-1996-on-the-Legal-Profession.pdf.

Where valid grounds exist to refuse a client, these principles do not prevent a lawyer from declining to act for an abusive litigant.¹²¹

In **Estonia**, if there exist any grounds for refusing a client, the non-discrimination rules do not prevent the attorney from refusing an abusive litigant. The non-discrimination rules are aimed at preventing discrimination on the grounds of race, gender, sexuality etc.

In **Croatia**, non-discrimination rules do not affect a lawyer's discretion to represent, or to refuse to represent, an abusive litigant. However, the Code of Ethics allows lawyers to decline representation in specific circumstances, including for immorality of the client's motives, or a known tendency towards vexatious litigation.¹²²

In **Serbia**, a lawyer may refuse representation where the client displays arrogant, inhumane, or immoral motives, or where the chances of success are insignificant.¹²³ Conversely, refusal

is mandatory if the claim is manifestly illegal, has no prospect of success, or would require the use of impermissible or dishonourable means, including the unlawful acquisition of rights.¹²⁴

In **Portugal**, non-discrimination rules prevent lawyers from refusing representation on the basis of protected characteristics such as race, religion, sex, sexual orientation, or national origin. However, there are clear limits to representation. Where a client engages in illegal activities, abusive conduct, or seeks to litigate in a vexatious or improper manner, a lawyer may refuse the case. Lawyers also have an ethical duty to avoid participating in actions that could be considered unethical or harmful to the legal system.¹²⁵

In **Ireland**, solicitors are bound by equality legislation, but retain discretion to accept or decline instructions, guided by professional, legal, and moral obligations.¹²⁶ Barristers should not take instructions directly from a client in contentious matters. The Code of

121 Lithuanian Code of Ethics for Advocates, Articles 10(9), 10(11), 10(18), available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_Lithuania_Code_of_professional_conduct_for_advocates_of_Lithuania.pdf

122 Croatian Attorneys' Code of Ethics, Article 43, available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_Croatia_The_Attorneys_Code_of_Ethics.pdf

123 Serbian Code of Professional Ethics of Attorneys-at-Law, Articles 22.1.4, 22.1.7, available at: <https://aks.org.rs/aks/wp-content/uploads/2015/11/Code-of-Professional-Ethics.pdf>

124 Serbian Code of Professional Ethics of Attorneys-at-Law, Articles 22.5.1., 22.5.4, and 22.5.9, *ibid*.

125 Portuguese Statute of the Bar Association, Articles 89 and 90(2) a), d), g) available at: <https://portal.oa.pt/ordem/regras-profissionais/estatuto-da-ordem-dos-advogados/>.

126 Irish Solicitor's Guide to Professional Conduct, Chapter 2 'The Solicitor and Client Relationship', p. 9, available at: <https://www.lawsociety.ie/globalassets/documents/committees/conduct-guide.pdf>.

Conduct for the Bar of Ireland also requires barristers not to discriminate, but they may refuse cases where independence would be compromised.

4.1.3.3 Very limited freedom to refuse (only unlawful, hopeless claims)

In **Greece**, lawyers are generally obliged to represent any claimant whose case is arguable. They may refuse, however, if the client's claims are unlawful or manifestly unfair, or if the information provided makes it certain that the case will be lost. A lawyer may also decline representation where litigating the matter would require them to act contrary to publicly expressed views on the same issue. Finally, if the client rejects the proposed legal strategy, the lawyer is entitled to resign.

4.1.3.4. No freedom to refuse (UK cab-rank rule)

In the **United Kingdom**, the cab-rank-rule obliges barristers to accept any work within their area of competence, before a court where they normally appear, and at their usual rates. The rule, set out in the Bar Standards Board Handbook,¹²⁷ requires a barrister who receives instructions from a professional client to accept them (subject to the exceptions¹²⁸), provided the instructions are appropriate given their

experience, seniority, and field of practice. This obligation applies regardless of the identity of the client, the nature of the case, or whether the client is privately or publicly funded, or any beliefs or opinions the barrister may hold about their client's character, reputation, cause, conduct, guilt, or innocence.

This rule has been subject to debate, including in the context of SLAPPs and climate change litigation.¹²⁹

4.1.4. Client loyalty vs court duties

Question 4: To what extent does the obligation to pursue or promote the best interests of the client permit a lawyer to use the litigation process as a means of forcing the defendant to concede a lawsuit? How is this balanced with a lawyer's duty to the court – and obligation not to abuse the judicial process?

Overall pattern. Across jurisdictions, lawyers are expected to act in their clients' best interests, but this duty is constrained by obligations of honesty, fairness, and respect for the court. These obligations prevent abuse of process, though in practice findings of abuse are rare. Systems differ in how explicitly they prioritise duties to the court: some rely heavily on

127 UK Bar Standards Board Handbook, rC29, available at: <https://www.barstandardsboard.org.uk/the-bsb-handbook.html?part=&audience=&q=Rc29>

128 UK Bar Standards Board Handbook, rC30, *ibid.*

129 Goldsmith, Jonathan, *Cool rules for a hot debate*, 27 March 2023, *Law Gazette* (opinion piece), available at: <https://www.lawgazette.co.uk/commentary-and-opinion/cool-rules-for-a-hot-debate/5115564.article>

professional judgment, others codify clear limits, and only a few provide robust enforcement.

The survey responses cluster around four main approaches:

- **Overriding duty to the court and respect for the profession**, where client loyalty is expressly limited by the lawyer's duty to justice and professional integrity (4.1.4.1.);
- **Professional judgement over client demands**, where lawyers are not required to pursue abusive strategies and must independently assess how litigation should proceed (4.1.4.2.);
- **Duties from codes of ethics and procedure**, which prohibit tactics such as threats, harassment, or unfounded claims and provide disciplinary recourse against improper conduct (4.1.4.3.);
- **Limited capacity to prevent filings**, where lawyers may advance client interests but only within fair, honest, and lawful bounds (4.1.4.4.).

Best practice spotlight. We selected clear balancing frameworks that can be found in **Portugal** and **Ireland**, where professional codes and case law emphasise that the pursuit of client interests must not override duties to the court or the prohibition of abuse of process. In these systems, lawyers are required

to advocate vigorously while recognising that professional integrity and the administration of justice impose meaningful limits on litigation tactics (4.1.4.5.).

4.1.4.1. Overriding duty to the court and the respect of the profession

In the **United Kingdom**, a lawyer's duty to the client is ultimately subordinated to their duty to the court.

In **Denmark**, lawyers must not go beyond what is necessary to protect their client's interests. Whether this ethical standard has been breached depends on a balancing of the client's interests against those of others, including the defendant and the court.

In **Latvia**, attorneys must act in accordance with their client's legal interests and place them above their own or those of colleagues, provided these do not conflict with the Code of Ethics or the law.¹³⁰ Principles such as fairness, honesty, and respect for the profession may therefore override client interests where they are incompatible. In practice, such conflicts are weighed in light of the specific circumstances, including the apparent propriety of the client's claim.

In **Belgium**, the Code of Ethics requires lawyers to safeguard not only their client's interests but also the rule of law. Their role extends beyond faithfully executing a client's

130 Latvian Lawyers' Code of Ethics, Article 3.2

mandate, as emphasised in the (French) Code of Ethics.¹³¹ Before admission to the profession, Belgian lawyers also swear an oath under Article 429 of the Judicial Code committing “*not to depart from the respect due to the courts and public authorities, not to advise or defend any cause that I do not believe to be just in my soul and conscience.*”¹³² A lawyer who deliberately abuses the judicial process would therefore not only disrespect the courts and public authorities but also betray their oath and act against their own conscience.

In **Romania**, lawyers are recognised as “*partners of justice and the rule of law*” and are bound to act for the discovery of truth, the proper administration of justice, and respect for fair trial guarantees.¹³³ While they must employ the most appropriate legal means in their clients’ interests, this duty is circumscribed by their overriding obligation to ensure justice and to avoid undermining the effective functioning of the judicial system. Improper or abusive lawsuits are inconsistent with this role as indispensable actors in the judicial process.¹³⁴

4.1.4.2. *Professional judgement over client demands*

In **Slovakia**, there is no express obligation to represent an abusive litigant under non-discrimination rules, and there is no express prohibition either. Attorneys must independently assess whether representing a client, whose claim appears abusive, would breach the governing rules on legal representation. Where this is the case, they should refuse the mandate or withdraw from it.

In the **Netherlands**, lawyers are required to represent their clients to the best of their abilities, but they must also remain independent. This independence requires lawyers to make their own determination as to whether, and how, litigation should be instituted and conducted, rather than simply following a client’s instructions to pursue coercive or abusive tactics.¹³⁵

131 Belgian Lawyers’ Code of Ethics (French version), Article 1.1

132 Belgian Judicial Code, Article 429. See also Article 25 of the Belgian Lawyers’ Code of Ethics (Flemish version).

133 Romanian Lawyer’s Code of Deontology, Articles 2, 3(1), 10(1)-(3); Romanian Law No. 51/1995 on the Organisation and Practice of the Legal Profession, Articles 36 – 38(1); Romanian Statute of the Legal Profession, Article 3(1).

134 Romanian Law No. 51/1995 on the Organisation and Practice of the Legal Profession, Articles 3(3)–(5), 3(10); Romanian Code of Deontology, Article 30.

135 Dutch Lawyers’ Code of Conduct, Rule 2.1, available at: <https://www.advocatenorde.nl/document/nova-code-of-conduct-gedragregels-2018>; Dutch Act on Advocates, Section 10a, available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/National_Laws_on_the_Bars/EN_The-Netherlands_Act-on-Advocates.pdf

4.1.4.3. Duties from codes of ethics and procedure

In **Norway**, it is generally unproblematic for a lawyer to bring a lawsuit on behalf of a client, should the client wish to do so, as lawyers are not identified with their client. However, they must refrain from creating conflict through threats or other coercive tactics aimed at silencing the opposing party, as such conduct would breach several provisions of the Code of Conduct. Where a lawyer acts improperly on behalf of a client, such as by repeatedly filing unfounded lawsuits or engaging in harassment, the opposing party may lodge a complaint with the Disciplinary Board, which has the authority to impose sanctions, including disbarment in the most serious cases.

In **Spain**, the obligation to pursue a client's best interests does not allow lawyers to misuse litigation as a means of harassing the opposing party or securing an unfair advantage. Both the Code of Ethics and the General Statute of the Legal Profession require lawyers to discourage clients from initiating claims without legal foundation and, where appropriate, to

advise them on alternative means of dispute resolution.¹³⁶

In **Estonia**, the Code of Ethics expressly prohibits attorneys from employing illegal or unethical measures, even if these serve the client's interests,¹³⁷ and obliges them to avoid abusing their procedural rights.¹³⁸ These rules ensure a balanced framework, preventing attorneys from resorting to tactics that would be considered unethical.

In **Slovenia**, lawyers are explicitly reminded that loyalty to the client does not override their professional objectivity¹³⁹ and are under a clear duty not to abuse the judicial process for their client's advantage. The Attorneys Act allows them to use any legal remedy they deem useful within the limits of the law and their mandate, but requires them to act conscientiously, fairly, diligently, and in line with professional conduct.¹⁴⁰

In **Lithuania**, the Code of Ethics prohibits advocates from defending a client's interests where this would require the use of unlawful means of defence or involve assisting the client

136 Spanish General Statute of the Legal Profession, Article 48.3, available at: <https://www.boe.es/boe/dias/2021/03/24/pdfs/BOE-A-2021-4568.pdf>; Spanish Lawyers' Code of Ethics, Article 12, available at: [https://web.icam.es/bucket/Codigo-Deontologico-2019%20\(1\).pdf](https://web.icam.es/bucket/Codigo-Deontologico-2019%20(1).pdf)

137 Estonian Rules of Professional Ethics, Article 8(1), available at: https://www.ccbe.eu/NTCdocument/EN_Estonia_CODE_OF_C1_1251980836.pdf.

138 Estonian Rules of Professional Ethics, Article 8(3), *ibid*.

139 Slovenian Code of Professional Conduct of the Bar Association, Article 43, available at: <https://www.odv-zb.si/en/slovenian-bar-association/regulations/code-of-professional-conduct/>.

140 Slovenian Attorneys Act, Article 11, available at: <https://www.odv-zb.si/en/slovenian-bar-association/regulations/attorney-act/>.

in activities contrary to the law.¹⁴¹ Advocates are also prohibited from engaging in conduct incompatible with honesty, generally accepted norms of ethics and morality, or behaviour that would undermine public confidence in advocates, damage the reputation of the Bar Association, or degrade the advocate's professional title.¹⁴² These obligations ensure that lawyers are not compelled to employ measures that may be considered unethical.

In **Poland**, attorneys are bound by ethical obligations, and the framework does expressly prohibit knowingly submitting false information to the court.¹⁴³ The Code of Civil Procedure also addresses the abuse of rights,¹⁴⁴ by allowing courts to impose fines or other financial penalties where procedural rights are exercised in a manner contrary to their purpose.¹⁴⁵

In **Serbia**, the principle of conscientiousness requires lawyers to prioritise their clients' interests over their own and those of

colleagues, other parties, or third parties.¹⁴⁶ At the same time, the Code of Ethics makes clear that lawyers must not identify with the client or their interests.¹⁴⁷ Tactics aimed at pressuring a defendant into submission would therefore breach professional rules. The Code explicitly prohibits threats, coercion, or deception against the opposing party; provoking or encouraging impermissible conduct; engaging in negotiations without client's knowledge or the opposing party's lawyer consent; and resorting to, or inciting the client to resort to, criminal prosecution of the opposing party for insults made during hearings provoked by the lawyer or their client.¹⁴⁸

In **Croatia**, one of the general principles of the Code of Ethics for Lawyers requires that a lawyer's attitude towards their own client, the opposing party and their representatives, other lawyers, courts, state attorneys, and public authorities be guided by their role as a protector of the rights of citizens and legal

141 Lithuanian Code of Ethics for Advocates, Article 7(3), available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_Lithuania_Code_of_professional_conduct_for_advocates_of_Lithuania.pdf.

142 Lithuanian Code of Ethics for Advocates, Article 6(5), *ibid.*

143 Polish Code of Ethics for Advocates, Article 11, available at: https://www.ccbe.eu/NTCdocument/Code_of_Ethics_for_A1_1331278211.pdf.

144 Polish Code of Civil Procedure, Article 4(1).

145 Polish Code of Civil Procedure, Article 226(2).

146 Serbian Code of Professional Ethics of Attorneys-at-Law, Article 7.4, available at: <https://aks.org.rs/aks/wp-content/uploads/2015/11/Code-of-Professional-Ethics.pdf>

147 Serbian Code of Professional Ethics of Attorneys-at-Law, Articles 24.6, *ibid.*

148 Serbian Code of Professional Ethics of Attorneys-at-Law, Articles 42.3.2 – 42.3.5. *ibid.*

entities.¹⁴⁹ A lawyer may safeguard a client's interests only through means consistent with the law, the dignity of the profession, good customs, and the lawyer's own conscience.¹⁵⁰ When appearing before the courts, the lawyer must ensure that both they and their client conscientiously exercise their rights in the proceedings, while also affirming their conviction that they serve as collaborators in upholding the law and protecting fundamental rights and legitimate interests.¹⁵¹

In **Switzerland**, the limits of a lawyer's duty of loyalty and care towards the client are set in the Code of Obligations and the Federal Lawyers' Act,¹⁵² with further detail provided by the Swiss Code of Professional Conduct (SSR). The SSR obliges lawyers to exercise their profession diligently and conscientiously in accordance with the legal system and to avoid any conduct that could undermine their trustworthiness.¹⁵³ This duty extends beyond the client-lawyer relationship to encompass the integrity of the entire legal system. In the context of SLAPPs, the SSR also regulates professional behaviour towards colleagues, prohibiting personal attacks.¹⁵⁴

4.1.4.4. *Limited capacity to prevent a filing*

In **Finland**, lawyers are not empowered to prevent clients from initiating proceedings, but they may be held accountable if they pursue claims that are clearly unfounded or improperly prolong proceedings. In such cases, the court can dismiss the action and order costs against the lawyer, and the Bar's Supervisory Board may impose disciplinary penalties.

In **Austria**, lawyers must represent their clients' interests conscientiously and fearlessly, showing respect and courtesy towards the judicial office, and acting independently of their own interests or any personal consequences. However, they are strictly prohibited from intentionally providing false or misleading information to the court and must always ensure that the proceedings are conducted fairly.

In **Hungary**, lawyers may pursue their client's best interests as long as this does not constitute an abuse of the judicial process. In practice, however, findings of abuse are extremely rare.

149 Croatian Attorneys' Code of Ethics, Article 3, available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_Croatia_The_Attorneys_Code_of_Ethics.pdf

150 Croatian Attorneys' Code of Ethics, Article 8, *ibid.*

151 Croatian Attorneys' Code of Ethics, Article 86, *ibid.*

152 Swiss Code of Obligations (CO), Article 398(2); Federal Lawyers' Act, Article 12(a);

153 Swiss Code of Professional Conduct (SSR), Articles 6 and 8, available at: https://www.sav-fsa.ch/documents/672183/1748990/Swiss_Code_of_professional_conduct_1.7.23.pdf/d5df9d4d-c4a1-bcdb-393e-95b70a76128d?t=1728456843048.

154 Swiss Code of Professional Conduct (SSR), Article 27, *ibid.*

In the **Czech Republic**, the Code of Conduct requires lawyers to act faithfully and with integrity; and to make consistent use of all legal measures they believe may benefit the client.¹⁵⁵ This indicates that the client's interests are treated as the lawyer's primary obligation.

In **Germany**, contract law obliges lawyers to pursue the client's interests to the best of their ability. A plaintiff's lawyer must therefore explore any reasonable and lawful means of advancing the client's goals.¹⁵⁶ At the same time, the principle of independence places lawyers on an institutional level comparable to the court.¹⁵⁷ While they may rely on case law that exclusively supports their client's claim, they must still frame arguments within the applicable law. This ensures that client advocacy does not disregard the rights of other parties, particularly defendants, and reflects the lawyer's role as an independent actor within the judicial system.¹⁵⁸

In **France**, lawyers have an obligation to defend their clients' best interests, irrespective of their own interests or those of their colleagues, but this is subject to strict compliance with legal and ethical rules. This rule is expressly

stated in the National Rules of Procedure.¹⁵⁹ Accordingly, while lawyers may use litigation to press a defendant to concede a case, this duty does not extend to situations where the process is abusive.

In **Luxembourg**, lawyers are bound by core professional principles, but the principle of independence gives them discretion in selecting the means and tactics used to protect their client's interests, provided these remain within ethical and legal limits. Breaches of these principles may result in disciplinary sanctions.

4.1.4.5. Best practices spotlight: Portugal and Ireland

In **Portugal**, as in many other jurisdictions, lawyers have a duty to pursue their client's best interests, but this duty is not absolute. It must be exercised within clear ethical and legal limits. Lawyers are required to balance client advocacy with their obligations to the court and their duty not to abuse the judicial process. Using litigation as a means of pressuring a defendant to concede must therefore be approached with caution. While lawyers have a responsibility to defend their clients

155 Czech Republic's Act No.85/1996 on the Legal Profession, Section 16(2), available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/National_Laws_on_the_Bars/EN_Czech-Rep_ACT-No-851996-Sb-of-13th-March-1996-on-the-Legal-Profession.pdf.

156 *Hamm*, in: Beck'sches Rechtsanwalts-Handbuch, 12. Auflage 2022, Teil C. Kanzlei 1. Abschnitt Mandatsverhältnis § 53 Anwaltsvertrag Para. 21.

157 BRAO, § 3

158 *Brüggemann*, in: Weyland, Bundesrechtsanwaltsordnung: BRAO 10th ed. 2020, § 1 BRAO Para. 8a; *Träger*, in: Bundesrechtsanwaltsordnung: BRAO, 10th ed. 2020, § 3 Para. 10.

159 French National Rules of Procedure, Article 21.2.7

vigorously, they also have an ethical duty not to abuse the judicial process.

This means that they should not file lawsuits that are frivolous, vexatious or designed only to harass or pressure the other party. They also owe the court duties of honesty, integrity, and respect, which prohibit the presentation of false or misleading information and require strict compliance with procedural and ethical rules.

The balance between advancing the client's objectives and respecting these wider duties is often delicate. Lawyers must seek solutions that are both legally sound and ethically responsible. Abuse of the judicial process can lead to disciplinary sanctions and reputational harm for the lawyer.

In **Ireland**, the obligation to pursue or promote a client's best interests is balanced by the solicitor's overriding duty to the court as an officer of the court. This duty requires solicitors to uphold the public interest by ensuring the proper and efficient administration of justice and by assisting the court in reaching a just determination. A solicitor must not assert what they know to be untrue or support a fraud, as this would amount to a deception of the court.

The Supreme Court in *Doran v Delaney* [1998] IR 61 affirmed that a solicitor, once acting professionally, warrants that they have exercised the care, skill, and knowledge expected of the

profession. They cannot therefore accept their client's instructions without question when it is reasonable to probe them.¹⁶⁰ More recently, in *Glenveagh Homes Limited v Pat Lynch and Denise Leavy* [2024] IEHC 157, the court held that solicitors are required to act in good faith and not misuse litigation to force concessions.

Barristers are subject to the same balancing act. The Professional Code of Conduct of the Kings Inns requires barristers to promote and protect their client's best interests fearlessly and by all proper and lawful means, without regard to personal consequences or interests of colleagues. At the same time, as officers of the court, barristers owe duties that ensure the administration of justice can rely on their integrity.

Both solicitors and barristers are therefore expected to use their professional judgment to recognise when client interests conflict with their wider obligations and to take the correct course of action. They must not prioritise clients' interest over their other duties.

160 *Doran v Delaney* [1998] IR 61: "...once [the solicitor] is acting professionally, he warrants that so far as his own acts are concerned, he has taken the care and applied the skill and knowledge expected of a member of his profession. He cannot therefore accept his client's instructions without question when it is reasonable to query them..."

4.1.5. Good faith litigation

Question 5: Is good faith litigation included either in procedural laws or in a code of ethics? Is there any other equivalent general principle enshrined in law that is supposed to guide litigation and the behaviour of litigants?

Overall pattern. Across most jurisdictions, good faith is recognised as a guiding principle of litigation, either expressly in procedural law, in professional ethical codes, or both. In some countries, like Spain, Portugal, Romania, and Slovenia, it is enshrined in both sets of rules. In others, such as the Netherlands and Denmark, it is primarily framed as an ethical duty, while in places like Serbia and Hungary it appears only in procedural law. A few jurisdictions, most notably France and Belgium, rarely mention good faith expressly, but comparable duties such as honesty, loyalty, or fairness are applied in its place. Luxembourg stands out for its limited reliance on adjacent principles, with no explicit good faith requirement.

The survey responses cluster around five main approaches:

- **Explicit in both procedural law and ethics**, where good faith is a central obligation reinforced by sanctions against abuse (4.1.5.1.);
- **Primarily ethical / not lawyer-specific in procedure**, where the duty is articulated more as a professional standard than a procedural rule (4.1.5.2.);
- **Implicit from other rules**, where duties such as loyalty, honesty, or abuse-of-right provisions are applied as functional equivalents (4.1.5.3.);
- **Lack of explicit obligation**, where no good faith standard exists in procedural or ethical frameworks (4.1.5.4.).

Best practice spotlight. Strong examples come from **Spain and Portugal**, where good faith litigation is firmly embedded in both procedural law and professional ethics. These systems not only enshrine good faith as a principle but also back it with enforceable sanctions, creating a coherent framework that both constrains abusive tactics and promotes fairness in proceedings (4.1.5.5.).

4.1.5.1. Good faith as an explicit principle in procedural laws and codes of ethics

In **Slovenia**, both ethical and procedural rules enshrine the principle of good faith. The Code of Professional Conduct requires lawyers to assist courts and other bodies in safeguarding their clients' rights and interests,¹⁶¹ ensuring that applications are conscientiously presented and both factually and legally justified.

161 Slovenian Code of Professional Conduct of the Bar Association, Article 20, available at: https://www.ccbe.eu/file-admin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_Slovenia_code-of-professional-conduct-of-the-Bar-Association-of-Slovenia.pdf.

Lawyers must act realistically, tolerantly, and to the point; while also being exhaustive, thorough, conscientious and persuasive. Their interpretations must be clear and acceptable, avoid distortion or demagoguery, and they are expected to introduce educational elements into their practice. Attorneys must represent clients conscientiously, fairly, and with due diligence, in line with professional standards. Likewise, the Civil Procedure Act obliges parties, their representatives, and attorneys to tell the truth and exercise their rights fairly,¹⁶² with Article 11 explicitly prohibiting any abuse of procedural rights.¹⁶³

In **Norway**, good faith litigation is embedded in both procedural law and professional rules. The Dispute Act is designed to ensure the fair, responsible, efficient, and confidence-building resolution of disputes through independent and impartial courts, safeguarding both the individual's right to a remedy and society's interest in respect for the rule of law. It further requires that claimants demonstrate a genuine need for their claim to be decided against the defendant, assessed in light of the claim's relevance and the parties' connection to it. An illustration of these standards in practice is a case where a lawyer was disbarred by the

Disciplinary Board for, among other things, threatening former clients with lawsuits in an attempt to pressure them into paying legal fees he was not entitled to.

In **Greece**, the Code of Civil Procedure requires lawyers to act in good faith. Similarly, the Lawyers' Code of Conduct, prohibits them from deliberately restricting the rights of the opposing party and obliges them to act with honesty in all dealings.

In **Estonia**, the Code of Civil Procedure requires parties to exercise their procedural rights in good faith.¹⁶⁴ If a party or their representative abuses these rights, the court is obliged to intervene.¹⁶⁵ The Code of Ethics further prohibits attorneys from misusing procedural rights, for example, by misleading the court, knowingly submitting false or falsified evidence, or deliberately obstructing the proceedings.¹⁶⁶ In addition, the Penal Code contains provisions on obstruction of justice, though these apply to more serious situations, such as causing severe bodily harm or using violence.

In **Lithuania**, advocates are required, as both a professional duty and a condition of

162 Slovenian Civil Procedure Act, Article 9.

163 Slovenian Civil Procedure Act, Article 11.

164 Estonian Code of Civil Procedure, § 200(1).

165 Estonian Code of Civil Procedure, § 200(2).

166 Estonian Rules of Professional Ethics of the Bar Association, Article 21, available at: https://www.ccbe.eu/NTCdocument/EN_Estonia_CODE_OF_C1_1251980836.pdf.

membership in the legal profession, to uphold traditional values of professional honour and integrity.¹⁶⁷ Parties and their representatives must exercise procedural rights in good faith,¹⁶⁸ and monetary fines may be imposed for abuse of such rights. Advocates who violate the requirements of the Law on the Bar or the Code of Ethics may face disciplinary proceedings.¹⁶⁹ Sanctions include a remark, a reprimand, a publicly announced reprimand, or even removal from the Bar.¹⁷⁰ Lithuanian courts have also found parties and representatives in breach for conduct such as deliberately delaying proceedings, failing to cooperate, or withholding documents essential to the case, etc. The standards referred to above are applied frequently.

In **Latvia**, the principle of good faith is rooted in substantive law, namely the Civil Law.¹⁷¹ It also applies to civil proceedings as a general principle of law and forms part of the obligations of the parties, who must exercise their rights and fulfil their duties in good faith.¹⁷² While the concept is not explicitly defined, its

content can be inferred from case law and legal doctrine. The Administrative Procedure Law likewise refers to good faith, requiring participants in administrative proceedings to act accordingly. The Criminal Law also contains provisions on obstruction of justice, though these concern specific crimes less relevant to SLAPP cases, such as submitting falsified evidence or witness testimony. Courts have applied these standards, imposing fines on parties or their representatives acting in bad faith, for instance, by deliberately delaying proceedings through failure to attend hearings, submitting evidence, explanations, or applications late, or submitting unnecessary applications and complaints.

In **Switzerland**, acting in good faith is a fundamental principle of the legal system,¹⁷³ reflected in the Civil Procedure Code¹⁷⁴ and derived from the Federal Constitution.¹⁷⁵

In **Serbia**, by contrast, good faith litigation is addressed in procedural rules but not explicitly in ethical rules. The Civil Procedure Act

167 Lithuanian Code of Ethics for Advocates, Article 6, available at: https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/DEON_National_CoC/EN_Lithuania_Code_of_professional_conduct_for_advocates_of_Lithuania.pdf.

168 Lithuanian Civil Procedural Code, Article 42(5).

169 Lithuanian Law on the Bar, Article 52(1), available at: <https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=pohw8vb24&documentId=ddd86b12689011ecb2fe9975f8a9e52e&category=TAD>

170 Lithuanian Law on the Bar, Article 53, *ibid*.

171 Latvian Civil Law, Article. 1

172 Latvian Civil Procedure Law, § 74(6).

173 Swiss Civil Code, Article 2(1).

174 Swiss Code of Civil Procedure, Article 52.

175 Swiss Federal Constitution, Article 9.

requires that rights conferred under it be exercised in good faith (or, as the Act states, “conscientiously”). Courts are obliged to prevent and sanction any abuse of procedural rights. With respect to the substance of claims, courts must reject waivers, admissions and settlements of claims that conflict with mandatory norms, public order, morality, or good customs. The Criminal Procedure Code, which permits private prosecutions, does impose a general duty on the parties to exercise procedural rights in good faith. Instead, it places an obligation on the court to “prevent every abuse of rights aimed at causing delays in the process.” It also contains detailed provisions defining the court’s policing role in procedure, including measures to prevent delays and maintain order during hearing. Although good faith litigation is not explicitly included in the Code of Ethics, it may be regarded as implicit in the principle of fairness.

In **Hungary**, the 2016 Civil Procedural Code establishes a general obligation to conduct litigation in good faith.

In **Romania**, good faith litigation is both an ethical and a procedural duty for lawyers. The Deontological Code of the Romanian Lawyer and the Statute of the Legal Profession clearly articulate good faith as a fundamental ethical requirement.¹⁷⁶ The Civil Procedure Code explicitly states that “procedural rights

must be exercised in good faith, according to the purpose for which they were recognised by law and without infringing upon the procedural rights of another party.” This principle is reinforced by the generally applicable provisions of the Civil Code¹⁷⁷. Furthermore, a party who exercises their procedural rights abusively is liable for material and moral damages and may be subject to judicial fines.¹⁷⁸

In the **Netherlands**, the requirement of good faith in litigation is embedded in the various ethical rules mentioned in respect to the previous questions. Procedural law sets standards for efficient and justified litigation, though these do not specifically impose obligations to the lawyers involved.

4.1.5.2. Good faith as an implicit principle in procedural laws and codes of ethics

In **Denmark**, elements of “good faith litigation” can be found in both procedural law and ethical standards. The Disciplinary Board has held that it is contrary to professional ethics for lawyers to file lawsuits intended solely to harass or intimidate, although no decisions have addressed SLAPP cases explicitly.

In **Ireland**, the Code of Conduct of the Law Society outlines the core values of the solicitor’s profession: honesty, integrity and independence. Solicitors are expected to uphold these

176 Romanian Lawyer’s Code of Deontology, Articles 4 and 16(2); Romanian Statute of the Legal Profession, Article 175(1).

177 Romanian Civil Code, Articles 14 – 15.

178 Romanian Civil Procedure Code, Articles 10 – 12.

principles in all professional dealings, with honesty forming the basis of their engagement with clients, colleagues and the courts. Breaches of the rules of professional conduct may give rise to a complaint before the Legal Services Regulatory Authority (LSRA) and can result in a finding of misconduct, with legal and professional consequences. Similarly, the Code of Conduct for the Bar of Ireland and the Professional Code of the Honourable Society of King's Inns require barristers to act with honesty and integrity and prohibit conduct that is prejudicial to the administration of justice or that could bring their profession into disrepute. Non-compliance may likewise amount to professional misconduct.

In **Belgium**, good faith litigation is not expressly mentioned in procedural rules. However, the principle of loyalty defines a lawyer's duty towards their client, the opposing party, the courts, and other third parties. The lawyer's oath further requires respect for the courts and public authorities and prohibits advising or defending a cause that they "*do not believe to be just in my soul and conscience.*" Thus, a lawyer who deliberately abuses the judicial process would not only disrespect the courts and public authorities but also act against their own sworn conscience. In addition, the Judicial Code requires lawyers to act with dignity, righteousness, and respectability, while exercising their duties freely in defence of law and truth.¹⁷⁹

In **Finland**, good faith is not explicitly mentioned in legislation or the code of conduct. However, the rules in the Code of Conduct require attorneys to act properly and refrain from bringing unfounded or harassing cases to court. While no civil SLAPP claims have been reported yet, the Bar Association's Supervisory Board would be expected to respond to such conduct if a complaint were filed against the attorney involved.

4.1.5.3. Good faith implicit from other rules

In **Austria**, the principle is reflected broadly across legal provisions. Judges have wide discretion in managing proceedings and may dismiss unjustified claims. Where a claim lacks merit, as is usually the case with SLAPPs, the courts dismiss it with costs, and the successful party is awarded statutory compensation.

In **Poland**, the Civil Code establishes a general principle that a right may not be that one cannot make use of a right which would be contrary to the socio-economic purpose of this right or to the principles of social coexistence.¹⁸⁰

In **France**, the principle of good faith is central in contract law but rarely appears explicitly in procedural or ethical rules. Instead, references are made to bad faith or the duty of loyalty. Professional ethics impose duties of loyalty, courtesy, and humanity on lawyers, under the National Rules of Procedure, which in

179 Belgian Judicial Code, Articles 444 and 456.

180 Polish Civil Code, Article 5.

practice require them to act in good faith.¹⁸¹ For instance, lawyers should not oppose justified requests to postpone hearings, such as for medical reasons, and must not plead in the absence of an opposing lawyer who is delayed, but instead request a postponement. Procedural law also treats manifestly reckless claims as an abuse of the right to litigate without proof of malicious intent. Several provisions in the Civil Procedure Code and the Penal Procedure Code prohibit dilatory or abusive actions.¹⁸²

In **Germany**, the general principle of good faith under the *Bürgerliches Gesetzbuch* (BGB, German Civil Code) extends to court proceedings, which are treated as legal relationships between the parties.¹⁸³ Plaintiffs are therefore prohibited from engaging in abusive conduct, such as filing a lawsuit solely to harass the defendant.¹⁸⁴ In practice, however, the allegations of abuse of rights are rarely upheld, given the exceptional nature of such findings in procedural matters.

4.1.5.4. *Lack of obligation*

In **Luxembourg**, lawyers are required only to remain loyal to opposing counsel and respectful

towards the courts. These standards have not yet been applied in the SLAPP context.

4.1.5.5. *Best practice examples*

In **Spain**, when being admitted to the profession, lawyers take an oath to act in good faith, with full respect for the Spanish Constitution, the Code of Ethics, and the legal system. Acting in good faith requires that any conduct or action pursued complies with ethical and moral standards as recognised by the legal system. This action should be aligned with what society considers loyal and honest. Good faith is generally understood in both a subjective and an objective sense: subjectively, where the lawyer genuinely believes they are acting correctly and in accordance with the legal system, even if their conduct may does not fully meet legal requirements; and objectively, where the lawyer's conduct can, without further interpretation, be regarded as consistent with the law.

The duty to act in good faith is expressly enshrined in the Spanish Civil Code, which provides that all rights must be exercised in good faith,¹⁸⁵ as well as in the Code of Ethics,¹⁸⁶ and the General Statute of the Legal

181 French National Rules of Procedure, Article 1.3.

182 French Civil Code of Procedure, Articles 32-1, 559, 581, 628; Penal Code of Procedure, Article 212-2

183 Sutschet, in: beckOK BGB, Stand: 1.5.2023, § 242 BGB Para. 9.

184 Sutschet, in: beckOK BGB, Stand: 1.5.2023, § 242 BGB Para. 9; Schubert, in: Münchener Kommentar, BGB, 9th ed. 2022, § 242 BGB Para. 58.

185 Spanish Civil Code, Article 7, available at: <https://data.globalcit.eu/NationalDB/docs/spanish-civil-code-ENG%202013.pdf>

186 Spanish Code of Ethics of the Legal Profession, Preamble, Articles 3(5) and 10(2)a), available at: [https://web.icam.es/bucket/Codigo-Deontologico-2019%20\(1\).pdf](https://web.icam.es/bucket/Codigo-Deontologico-2019%20(1).pdf).

Profession.¹⁸⁷ These provisions apply not only in civil proceedings, but across all jurisdictions.

In **Portugal**, good faith litigation is a principle embedded in procedural law and considered fundamental to the judicial system. Although the term itself is not often used in legislation, the principle is implicit in several provisions of the Code of Civil Procedure. Parties are required to act truthfully, cooperate with the court in establishing the facts, and contribute to a fair resolution of the dispute,¹⁸⁸ obligations that reflect the essence of good faith litigation. The Code of Civil Procedure also discourages frivolous, vexatious, or unfounded claims: parties litigating in bad faith may be ordered to pay fines and damages.¹⁸⁹ In parallel, the Code of Ethics for Lawyers, requires practitioners to act with honesty, integrity and respect for the law, which includes litigating in good faith. Together, procedural laws and professional ethics establish the duty of litigants and lawyers in Portugal to act honestly and cooperatively. These principles are essential to the proper functioning of the judicial system and to ensuring justice and fairness in legal proceedings.

4.2. Procedural law frameworks addressing abusive litigation

Procedural responses to SLAPPs vary widely across jurisdictions, reflecting differences in judicial discretion, statutory design, and enforcement.

Section 4.2.1 examines court responses to abusive proceedings, ranging from duties of legal advisors to discourage hopeless or abusive remedies (4.2.1.1), to rules that balance rights through fines and corrective measures (4.2.1.2), admissibility barriers filtering out unfounded claims (4.2.1.3), and narrow or residual tools with limited real-time effect (4.2.1.4).

Section 4.2.2 turns to procedural tools and sanctions, distinguishing between disciplinary action against lawyers (4.2.2.1), fines and other sanctions imposed directly by courts (4.2.2.2), and the possibility of civil liability or damages for abusive conduct (4.2.2.3).

While these mechanisms are widely recognised in legislation, they remain unevenly applied in practice, often hampered by evidentiary burdens or judicial reluctance. Best practice examples, from France, Ireland, Lithuania, Portugal, and Serbia, illustrate how procedural safeguards can be deployed proactively,

187 Spanish General Statute of the Legal Profession, Article 55.2, available at: <https://www.boe.es/boe/dias/2021/03/24/pdfs/BOE-A-2021-4568.pdf>.

188 Portuguese Code of Civil Procedure, Articles 7 and 8.

189 Ibid., Article 542.

whether through early dismissal, fines, or integrated disciplinary and liability frameworks, to prevent misuse of legal processes and safeguard public participation (4.2.1.5; 4.2.2.4).

4.2.1. Court responses to abusive proceedings

Question 6: Have you ever come across a case where the court has used anti-abusive litigation measures to prevent abusive lawsuits and/or these kinds of legal tactics? If so, please describe. What is the level of the court's discretion in applying measures against abusive litigants?

Overall pattern. Across most jurisdictions, courts have developed tools to curb abusive proceedings, though their scope, effectiveness, and level of judicial discretion vary widely. In some countries, such as **France** and **Ireland**, courts have explicitly recognised SLAPP-like conduct and intervened through strike-out powers or findings of abuse. In others, like **Lithuania** and **Latvia**, procedural codes now include mechanisms to fine parties or dismiss claims brought in bad faith. By contrast, in places such as **Luxembourg**, measures appear to be narrower or depend on civil liability actions brought after the fact, leaving courts with a more limited real-time control.

The survey responses cluster around four main approaches:

- **Duties of legal advisors**, where courts or case law establish an obligation to

warn against hopeless or abusive remedies (4.2.1.1.);

- **Balancing rights and sanctioning abuse**, where procedural rules allow fines, dismissal of bad faith claims, or corrective measures to prevent harassment and intimidation (4.2.1.2.);
- **Admissibility barriers**, where courts filter cases at the threshold, striking out those that lack a genuine claim or legitimate purpose (4.2.1.3.);
- **Narrow or residual tools**, where only limited sanctions (such as civil damages or fines for specific abuses) are available (4.2.1.4.).

Best practice spotlight. Strong examples come from France, Lithuania, and Ireland, where courts have recognised abusive litigation in explicit terms and imposed meaningful consequences. These systems show how procedural tools, whether fines, dismissal, or burden-shifting, can be deployed to prevent the misuse of judicial processes in ways that threaten public participation and press freedom (4.2.1.5.).

4.2.1.1. Duty of legal advisors

In **France**, case law has established that lawyers have a duty to advise against pursuing legal remedies that are either doomed to fail or abusive. In a 2004 judgement, the Cour de cassation (France's highest court for civil and criminal matters) held that legal advisors cannot be required to provide information that would serve only to enable a client to

bring an abusive or purely dilatory action.¹⁹⁰ Also, in July 2023, a French court recognised as abusive a lawsuit brought by a Member of Parliament against an investigative journalist. The claim, based solely on documents and witness statements provided by the claimant, was found to lack serious evidentiary basis. The court concluded that the proceedings were unfounded and ordered the claimant to pay €6,000 in damages in addition to legal costs.¹⁹¹ The judgement also referred to the concept of a “gagging procedure” (*procédure-bâillon*), officially defined in the *Journal officiel* (2019) as the misuse of legal action to silence expression, particularly that of journalists.

4.2.1.2. *Balancing rights and sanctioning abuse*

In **Estonia**, the Supreme Court has reprimanded parties for conduct such as knowingly submitting defective documents, filing

cassations with false information, abusing deadline extensions by sending documents to the wrong court, misleading the court, and inflating legal costs for the opposing party.

In **Lithuania**, courts may order a party who brings an unjustified action in bad faith to compensate the opposing party for damages caused or impose a fine up to €5,000.¹⁹² If a defendant believes that a claim has been dishonestly filed to harm their activities related to public information, to obstruct the defence of the public interest, or to deter them from such activities, they may request that the court require the plaintiff to provide additional justification. Should the plaintiff fail to submit further evidence within the court’s deadline, the claim may be left unexamined.¹⁹³ These provisions, in force since 31 December 2022, establish the SLAPP mechanism in Lithuanian law.

190 Cour de cassation (First Civil Chamber), 23 November 2004, No. 03-15.090. Extract: “*While the duty to provide information must be fulfilled in a complete and objective manner, it is the duty of the auxiliary of justice, under ethical standards, to advise against the exercise of a legal remedy that is doomed to failure or, a fortiori, abusive, so that he cannot be required to provide information which, according to the very findings of the judgment under appeal, would have had the sole justification of enabling the client to bring an action abusively, for purely dilatory purposes*”.

191 Tribunal judiciaire de Lille, 7 July 2023, *Valérie Spillebout v. Jacques Trentesaux*. Extract: “*It follows from the above analysis of the proceedings that the prosecution is not based on any serious evidence, since the proceedings, which consist exclusively of documents provided by the plaintiff and the testimony or written statements of witnesses whose names she herself provided, clearly do not make it possible to establish the offence referred to in the summons... The proceedings initiated in these circumstances cannot be regarded as anything other than abusive and Mrs Spillebout should legitimately be ordered to pay damages of 6,000 euros.*”; Médiacités, “*Condamnée par la justice, la députée macroniste Violette Spillebout calomnie le directeur de Médiacités*,” 10 July 2023, updated 18 Sept. 2023, [Condamnée par la justice, la députée macroniste Violette Spillebout calomnie le directeur de Médiacités](#).

192 Lithuanian Code of Civil Procedure, Article 95(1).

193 Lithuanian Code of Civil Procedure, Article 951.

In **Latvia**, the Civil Procedure Law does not explicitly sanction filing a claim in bad faith. However, courts may impose fines up to €800 where a party exercises their rights or duties dishonestly, for example, by knowingly submitting false information or deliberately delaying proceedings.¹⁹⁴ In one case, a respondent was fined the maximum amount after sending an employee, summoned as a witness, on a business trip to prevent their attendance at the hearing date. Courts may also impose fines up to €1,200 for filing a claim in bad faith to pursue an unlawful objective or obstruct another's lawful interests.¹⁹⁵ In practice, however, this sanction is difficult to apply, as it requires proof that the claimant acted with such intent.

In **Denmark**, a party that engages in unnecessary litigation may be ordered to compensate the other party's costs.¹⁹⁶ If a judgment is appealed, the High Court can dismiss the appeal if it finds that the outcome would not differ from the district court's decision.¹⁹⁷

In **Belgium**, in recent years, some journalists have faced lawsuits brought by wealthy or influential individuals, despite the robust protection of press freedom under the Belgian Constitution.¹⁹⁸ A notable example is *Chodiev v Humo Magazine* (2017) where, alleging defamation, entrepreneur Patokh Chodiev, linked

to the “*Kazachgate*” criminal investigation, sought the removal of an article published in the Humo magazine and claimed €10,000/day while it remained online. The court rejected the claims, holding that the interests of a private individual could not outweigh the public's right to information, and stressing the strong protection afforded to investigative journalism as a vital part of public debate. More recently, in *RSC Anderlecht v. Humo journalist* (2024), the Brussels Civil Court of First Instance defamation proceedings brought by the football club against a Humo journalist. The court noted that the lawsuit was clearly intended to intimidate the journalist and observed that the claims “flirted” with the limits of reckless and vexatious litigation. All claims were rejected but the journalist received no compensation for damages and only a small amount as compensation for legal costs.¹⁹⁹ In a judgment of the Court of Appeal of Antwerp (9 June 2022), the court found that lodging appeal against the acquittal of two journalists of Apache the plaintiff/civil party “*in the present case is not aimed at a final settlement of a limited (legal) dispute between the parties, as may be expected from a cautious and careful person, but rather that instituting the legal remedy must be seen as yet another procedure against essentially Apache and its chief editor Karl Van den Broeck, with the intention of (financially) appeasing both the news site and its*

194 Latvian Civil Procedure Law, Article 73.1(1).

195 Ibid.

196 Danish Administration of Justice Act, Article 318.

197 Ibid., Article 367 a).

198 Belgian Constitution, Article 25.

199 *RSC Anderlecht v Jan Hauspie*, Brussels Civil Court of First Instance, 15 April 2024.

chief editor to such an extent that further reporting that Erik Van der Paal considers unpleasant would be stopped". Therefore the plaintiff/civil party was ordered to pay 10.000 EUR damages to the defendant journalists.²⁰⁰ Sanctioning the claimant for reckless and vexatious litigation is based on Article 780bis of the Judicial Code, in terms of damages to the defendant, eventually combined with an additional fine of maximum 2500 Euro. In addition to Article 780bis of the Judicial Code which is only applicable in civil procedures, criminal courts can also assess the abusive character of claims by the plaintiff or civil party and, under Articles 159, 191 or 212 of the Code of Criminal Procedure, order the plaintiff or civil party to pay damages to the defendant.

In **Romania**, the Constitutional Court has expressly confirmed that judicial fines for abusive litigation are compatible with constitutional guarantees of access to justice. It upheld Article 187(1)(1)(a) of the Code of Civil Procedure, which allows fines for introducing claims "in bad faith" or that are "manifestly unfounded." The Court clarified that "manifestly unfounded" refers to claims that lack any legal or factual basis and whose baselessness is known. It further stressed that such sanctions are consistent

with the principle of good faith in civil proceedings and with the constitutional requirement of fair process, since abusive litigation undermines both judicial efficiency and the rights of other parties.²⁰¹

4.2.1.3. Admissibility barriers

In **Norway**, courts have several tools to address abusive lawsuits. Plaintiffs must demonstrate a genuine claim; if they cannot, the court may dismiss the case.²⁰² Completely unfounded claims may be handled through a simplified judgment procedure, provided the defendant requests it and the court agrees.²⁰³ In extreme cases, the court may reject actions that "undoubtedly cannot have a reasonable purpose and has been brought by a person who abuses the legal system by repeatedly bringing such cases",²⁰⁴ though this sanction has a higher threshold of application.

In **Ireland**, courts are increasingly applying measures against abusive litigation. In *Atlas GP Ltd. v Kelly & Ors* [2022] IEHC 443, Egan J. held that the court's existing strike out powers are flexible enough to address SLAPPs. Similarly, in *Glenveagh Homes Limited v Pat Lynch and Denise Leavy* [2024] IEHC 157, the High

200 Dirk Voorhoof, Belgian news site acquitted for stalking and breach of privacy in SLAPP-case, Leuven Public Law Blog, 22 juni 2022, available at: <https://www.leuvenpubliclaw.com/news-site-acquitted-for-stalking-and-breach-of-privacy-in-belgian-slapp-case/>

201 Romanian Constitutional Court, Decision no. 29 of 16 February 2023, Official Gazette of Romania, Part I, no. 358 of 27 April 2023, available at: <https://legislatie.just.ro/public/DetaliiDocument/267420>.

202 Norwegian Dispute Act, §§ 1-3

203 Ibid., § 9-8

204 Ibid., § 2-2(5)

Court examined the characteristics of SLAPPs and shifted the burden of proof to the plaintiffs to demonstrate the bona fides of their actions. The decision confirms that courts are actively engaging with anti-SLAPP principles. While emphasising that strike-out powers should be used sparingly, the judgement also reaffirmed the courts' broad discretion to curb abusive litigation and prevent misuse of the legal process.

4.2.1.4. Narrow or residual tools

In **Luxembourg**, respondents pointed out that the only sanction available to the court is a fine in the cases of abusive recusal. In other situations, it is up to the defendant to bring a civil action for damages on grounds of abusive or vexatious litigation (*“procédure abusive et vexatoire”*).

4.2.2. Procedural tools and sanctions against abusive litigation

Question 7: What procedural tools or sanctions are available to the court in the event that abusive litigation (lawsuits and/or legal tactics) is brought to light in civil procedures?

Question 8: What procedural tools or sanctions are available to the court in the event that abusive litigation (lawsuits and/or legal tactics) is brought to light in private prosecutions, if that concept exists in your jurisdiction?

Question 9: Can abusive litigation serve as the basis of a complaint in a court proceeding in both types of procedures?

Overall pattern. Most jurisdictions formally provide procedural mechanisms to address abusive litigation, though their scope, strength, and practical application vary considerably. In many of the systems surveyed, courts can impose disciplinary sanctions, fines, or liability for damages, either directly against litigants or against their counsel. However, these measures are often underutilised in practice due to high evidentiary thresholds, judicial reluctance, or narrow statutory definitions. In jurisdictions where private prosecutions exist, available remedies largely mirror those in civil proceedings, though in many countries such procedures do not exist at all (e.g. Estonia, Romania, the Netherlands, France, Lithuania, Latvia, Slovakia, Switzerland).

The survey responses cluster around three main categories:

- **Disciplinary action**, where courts may warn or refer lawyers to the bar for misconduct (4.2.2.1.);
- **Sanctions and fines imposed by courts**, targeting both parties and their representatives for abusive conduct (4.2.2.2.);
- **Civil liability and damages**, where abusive litigation may ground a claim for compensation or damages in subsequent proceedings (4.2.2.3.).

Best practice spotlight. Portugal and Serbia stand out as strong models. Portugal combines judicial sanctions with professional disciplinary referrals, ensuring that both litigants and lawyers face consequences for abuse. Serbia offers a broad toolkit, including fines, damages, exclusion of counsel, and even imprisonment for non-payment of sanctions, representing one of the most comprehensive procedural responses to abusive litigation (4.2.2.4.).

4.2.2.1. Disciplinary action

In **Greece**, judges may report lawyers acting unprofessionally to the Bar Association's Disciplinary Board,²⁰⁵ though respondents were unaware of cases where this has occurred.

In **Italy**, the Civil Procedure Code provides a similar mechanism under Article 88.²⁰⁶

In the **Czech Republic**, judges may report lawyers under the Legal Profession Act, while also imposing fines themselves. For example, the court may impose a disciplinary fine up to CZK 50,000 (approx. €2,100) on a person who “*grossly complicates the proceedings.*” This may include intentional delays caused, for example by a lawyer's speeches or by proposing irrelevant evidence.²⁰⁷

In the context of private prosecutions, **Hungary** and **Ireland** also allow warnings or referrals, though the latter are rarely used given the infrequency of private prosecutions.

In **Romania**, courts and prosecutor's offices are mandated to inform the Bar of potential misconduct or criminal proceedings against a lawyer, but the actual investigation and disciplinary action are handled by the Bar's internal disciplinary bodies.²⁰⁸ Lawyers involved in such conduct are subject to professional disciplinary sanctions, including fines between 500 and 5,000 lei (€20 to 1000), suspension from practice for one month to one year, or exclusion from the profession.²⁰⁹

4.2.2.2. Sanctions/fines

In **Croatia**, the Civil Procedure Act obliges courts to prevent abuse, with fines ranging from HRK 500 to 10,000 (approx. €66 to 1,327) for natural persons and HRK 2,500 to 50,000 (approx. €332 to 6,636) for legal persons. The fine may be applied both to the party and to their representative if the latter is responsible for the abuse.

In **Finland**, only limited tools are available: the court may ban an attorney from acting before it or impose a fine on the attorney, but not on the litigating party.

205 Greek Lawyers' Code, Article 155.

206 Italian Civil Procedure Code, Article 88.

207 Czech Republic's Act No. 99/1963, Civil Procedure Code, § 53.

208 Romanian Law No. 51 of 7 June 1995 on the Organisation and Practice of the Legal Profession, Articles 85(3), 86.

209 *Idem.*, Article 88(1)c.

In **Italy**, the Civil Procedure Code provides for both disciplinary actions and economic sanctions in cases of abusive litigation.

In **Poland**, the Code of Civil Procedure provides for sanctions, including fines and other financial consequences, where procedural rights are exercised contrary to their purpose.²¹⁰

In **Slovenia**, the Civil Procedure Act provides that if parties, interveners, their statutory representatives, or attorneys, abuse procedural rights, whether with the intent to harm another person or to pursue objectives contrary to custom, good faith, and fairness, the court may impose a fine or other measures provided by the Act.²¹¹ The court may also order a statutory representative or attorney to reimburse the opposing party for expenses caused by their fault.

In **Switzerland**, courts may impose an administrative fine for malicious or frivolous conduct during proceedings.²¹²

In **Spain**, a lawyer who brings an abusive private prosecution may face several consequences, including the imposition of costs,

exposure to professional and civil liability, and even a criminal complaint for false accusation.

In **Romania**, courts may impose judicial fines ranging from 100 to 1,000 lei (€10 to 200) for misconduct such as filing claims and appeals in bad-faith, submitting unfounded requests for recusal or transfer, or abusively seeking summons by public notice.²¹³ Higher fines apply in specific situations: 500 to 2,000 lei (€20 to 400) for bad-faith challenges to procedural delays,²¹⁴ and 1,000 to 7,000 lei (€200 to 1,400) for bad-faith challenges to enforcement.²¹⁵ If the plaintiff's non-compliance obstructs the proceedings, the court may suspend the case. Additionally, courts can enforce "to do" or "not to do" obligations by imposing daily penalties.²¹⁶

4.2.2.3. Civil liability and damages

In **Austria**, an affected party may claim damages under the clause on wilful damage in the APGB.²¹⁷

In **Belgium**, the concept of abusive litigation through reckless and vexatious proceedings under Article 780bis of the Judicial Code, applies in civil proceedings, which can lead to

210 Polish Code of Civil Procedure, Article 226(2).

211 Slovenian Civil Procedure Act, Article 11/2.

212 Swiss CCP, Article 128.

213 Romanian Civil Procedure Code, Articles 187 – 190.

214 Romanian Civil Procedure Code, Article 526.

215 Romanian Civil Procedure Code, Article 720(3).

216 Romanian Civil Code, Article 1.528; Romanian Civil Procedure Code, Articles 904-906.

217 APGB, § 1295(2)

damages for the defendant eventually in combination with a fine imposed on the claimant. The Code of Criminal Procedure provides in the Articles 159, 191 and 112 for the possibility by the tribunal or court to order the plaintiff/civil party to pay damages to the accused defendant because of abuse of process.

In **Finland**, abusive litigation can serve as the basis of a complaint in both civil and criminal procedure.

In **France**, abusive litigation can ground a claim for damages under Article 1,240 of the Civil Code governing personal liability.

In **Germany**, where a court finds that rights have been exercised in an inadmissible or abusive manner, the defendant may bring a tort claim for damages against the abusive plaintiff. Such claims may arise under §§ 826, 823(2), and 226 BGB,²¹⁸ but only where the right has been exercised solely to cause (immoral) harm. This standard is interpreted restrictively and depends on the specific circumstances of the case. Generally, the plaintiff must have known that their claim was unfounded, and their conduct in bringing and pursuing the action must reveal a particularly immoral character.²¹⁹ In certain cases, attorneys have also been held directly liable for bringing unfounded claims on behalf of clients.²²⁰

In **Greece**, the party targeted by a SLAPP may bring a special claim against the opposing lawyer as well as damages against the claimant to recover court costs, expenses, and pecuniary or non-pecuniary damages. For such action to succeed, it must be established that both the lawyer and the claimant knew, or were reckless as to whether, their claims were false, yet pursued the proceedings. A mistaken belief in the validity of their claims is insufficient. This evidentiary burden is therefore very high. Criminal proceedings for fraud may also be brought against a lawyer or party knowingly relying on forged or false documents, but here too the evidentiary burden is considerable, and the limitation period for filing such a complaint is short (three months).

In **Ireland**, abusive litigation may form the basis of a complaint in both civil proceedings and private prosecutions.

In **Lithuania**, abusive litigation can ground a complaint in court proceedings. The opposing party may seek damages within the same case or initiate a new action.²²¹

In **Poland**, abusive litigation may serve as the basis of a complaint in both civil and criminal proceedings.

In **Portugal**, a party who suffers losses from abusive litigation may bring a civil liability

218 Schubert, in: Münchener Kommentar, BGB, 9th ed. 2022, § 242 Para. 89.

219 BGH, judgment of 11.1.2018 – I ZR 187/16, GRUR 2018, 832, Para. 77.

220 BGH, judgment of 1.12.2015 – X ZR 170/12, GRUR 2016, 630.

221 Lithuanian Code of Civil Procedure, Articles 95 and 95(1).

action against either the opposing party or their lawyer.

In **Romania**, beyond judicial fines, parties who abusively exercise procedural rights or fail to fulfil obligations in good faith may, in principle, incur tort liability and be required to compensate material or moral damages. Since good faith is presumed, however, such liability typically depends on dismantling that presumption by presenting convincing evidence of intentional abuse.²²²

In **Spain**, abusive litigation may also ground an action, with the earlier proceedings being treated as evidence in subsequent claims.

In **Switzerland**, abusive litigation may serve as the basis for a claim for violation of personality rights.

In the **United Kingdom**, abusive litigation may ground a complaint in a court proceedings, but the applicable tests are narrow and there is currently no specific route addressing SLAPPs or public interest cases.

4.2.2.4. Best practices spotlight: Portugal and Spain

In **Portugal**, courts can impose sanctions or take measures against parties or lawyers who engage in abusive litigation. Such measures may include treating the conduct as prejudicial to the case, thereby undermining the

credibility of that party's allegations, or, where the lawyer is responsible, referring the matter to the professional supervisory body for disciplinary action, which may extend to suspension or even expulsion from the Bar Association.

In **Serbia**, courts can sanction abusive litigation through fines, damages, exclusion of counsel, and other measures. Parties or participants, including lawyers, may be fined RSD 10,000–150,000 (€85–1,282) for natural persons or RSD 30,000–1,000,000 (€256–8,547) for legal persons, with damages awarded to the injured party where appropriate. Obstructing service of documents can also lead to fines and compensation orders, and non-payment of fines may result in imprisonment. Counsel may first receive a warning and then be fined up to RSD 150,000 (approx. €1,282) for breaching the presiding judge's orders. Such sanctions must be reported to the bar association, and fines are appealable. Counsel may also be excluded from proceedings, with the party obliged to appoint a replacement unless the chamber finds the absence non-prejudicial. Exclusion decisions can only be appealed with the merits. Finally, counsel who deliberately delay proceedings may be warned by the chamber, with mandatory notification to the bar association; such warnings are not subject to appeal.

222 Romanian Civil Procedure Code, Article 12, 189, 247(3); Romanian Civil Code, Articles 14 – 15, 1349(1) – (2), 1353.

4.3. Effective management of future SLAPP lawsuits

Approaches to managing future SLAPPs reflect views on the role of ethics, legislation, and judicial practice.

Section 4.3.1 considers guidance for lawyers and other actors, highlighting calls for stronger Bar rules (4.3.1.1), education and awareness among judges, prosecutors, and ethics boards (4.3.1.2), and the need to align national measures with European-level safeguards (4.3.1.3).

Section 4.3.2 examines what courts require to handle SLAPPs effectively, emphasising awareness and training (4.3.2.1), early dismissal powers (4.3.2.2), sanctions and deterrent measures (4.3.2.3), and transparency or ADR mechanisms (4.3.2.4).

Section 4.3.3 addresses whether reforms should be pursued at national or European level, distinguishing between domestic approaches in non-EU jurisdictions (4.3.3.1), an EU-level framework for Member States (4.3.3.2), and the role of the EU Anti-SLAPP Directive alongside Council of Europe and Commission recommendations (4.3.3.3).

Finally, **Section 4.3.4** turns to the choice between ethics and legislation, contrasting self-regulatory models (4.3.4.1) and statutory reforms (4.3.4.2) with integrated solutions that combine both (4.3.4.3).

Best practice examples, notably from Portugal, illustrate how hybrid approaches can balance professional independence with enforceable safeguards and ensure effective protection against abusive litigation (4.3.4.4).

4.3.1. Guidance needed for lawyers and other actors

Question 10: What guidance or regulation do you think lawyers would need in order to reduce the number of SLAPPs in the future in this jurisdiction?

Question 13: What kind of guidance do you think other actors, such as prosecutors or ethics boards, would need in the future to effectively regulate SLAPPs?

Overall pattern. Respondents consistently called for clearer, enforceable guidance to translate general ethical principles into SLAPP-specific rules, backed by credible sanctions. Across jurisdictions, three broad approaches emerged. First, many stressed the need for stronger Bar-issued rules and practical guidance clarifying what lawyers should and should not do in SLAPP contexts, alongside continuous training and enforceable disciplinary tools. Second, respondents highlighted the role of legal education and wider professional actors, including judges, prosecutors, and ethics boards, in recognising and addressing abusive litigation. Third, several emphasised the importance of European-level action, particularly the transposition of Directive (EU) 2024/1069, complemented by national measures tailored to domestic contexts. A minority warned against requiring

lawyers to act as pre-filing “filters,” stressing that procedural safeguards, rather than ethical rules, should carry the main responsibility for addressing SLAPPs.²²³

The survey responses cluster around three main needs:

- **Stronger and clearer Bar guidance and ethical rules**, including explicit anti-SLAPP provisions, robust enforcement, and consistent application across the profession (4.3.1.1.);
- **Education, awareness, and engagement of broader system actors**, ensuring that judges, prosecutors, and ethics boards, as well as future lawyers, are trained to identify and respond to SLAPPs (4.3.1.2.);
- **European-level adoption and national tailoring**, combining EU-wide safeguards with national legislation, practical resources, and awareness-raising initiatives (4.3.1.3.).

4.3.1.1. Stronger and clearer Bar guidance and ethical rules

In **Ireland**, solicitors and barristers would benefit from explicit ethical provisions, continuous legal education, and robust enforcement of anti-SLAPP rules.

In **Finland**, the Bar’s code already contains relevant provisions, but further guidance is needed to help courts identify SLAPPs.

In **Denmark**, respondents recommended Bar-issued guidelines on SLAPP-related ethical standards.

In **Croatia**, respondents noted that the Bar Association could adopt clear and direct provisions limiting or discouraging lawyers from pursuing SLAPP cases.

In **Lithuania** and **Latvia**, respondents emphasised that guidelines should extend to all courtroom representatives, not just attorneys. They also noted that ethics boards should adopt clear positions on SLAPPs and communicate them to the profession, since attorneys are often reluctant to report colleagues without

223 Three respondents noted that lawyers should not be the focus of SLAPP regulation. One explained: “Barring extreme cases, we are not of the opinion that lawyers should be enjoined with acting as a filter for claims presenting SLAPP characteristics. This is because it might not be possible, before proceedings are instituted, to ascertain whether a claim genuinely constitutes a SLAPP or is merely not well reasoned. For example, requesting a very high amount in damages might be an indication of a SLAPP lawsuit but it might also rest on an erroneous assessment on the part of the expert who drafted it. It would be rather excessive to demand from the lawyer to review the expert report with the view to ascertaining whether it is groundless. It should also be noted that in an opinion published by the CoE’s Commissioner for Human Rights (<https://www.coe.int/en/web/commissioner/-/time-to-take-action-against-slapps>) no reference is made to the need to oblige or instruct lawyers to refrain from litigating cases presenting SLAPP characteristics.”

unambiguous standards distinguishing lawful litigation from bad faith conduct.

In **Germany**, respondents considered that ethical rules are not the right mechanism; they argued the matter should instead be handled through procedural safeguards (see Section 4.3.2).

4.3.1.2. Education, awareness, and broader system actors

In **Estonia**, the respondents noted that since not all courtroom representatives are attorneys, avoiding abusive litigation should be taught in general legal education. Judges should also be encouraged to take a more critical approach to potentially abusive cases.

Respondents in **Lithuania** and **Latvia** also noted that avoiding abusive litigation should be addressed in both legal education and in training for ethics boards, judges, and prosecutors.

4.3.1.3. European-level adoption and national tailoring

In **Ireland**, respondents noted that the Defamation (Amendment) Bill 2024, published in August 2024, introduces protective measures against unfounded defamation proceedings intended to silence public debate. The Bill provides remedies such as early dismissal and declaratory orders recognising proceedings as SLAPPs. Respondents stressed that, alongside this Bill, Ireland must transpose Directive (EU) 2024/1069 by 2026, which provides

safeguards against abusive cross-border proceedings. They also recommended adopting a domestic anti-SLAPP law to cover purely national cases.

In **Germany**, respondents highlighted recent steps to support journalists through the No-SLAPP Alliance, which has established a contact point offering newsletters, handbooks, and training to strengthen the public sphere against SLAPPs.

In **Croatia**, respondents favoured a combination of clear bar guidelines and legislation. They also noted that a common EU Directive standard would be useful.

In **Belgium**, respondents considered the best solution to be the adoption of an EU law or directive, rather than amending Article 780bis of the Judicial Code, which has broader relevance. Instead, they proposed a specific national law on SLAPPs targeting wealthy and influential claimants, with fines and damages sufficient to deter vexatious actions. Current fines under Article 780bis (€15–€2,500) are too low to be effective. Respondents further stressed that judicial backlogs prevent courts from addressing SLAPPs without additional resources. In their view, awareness raising should remain a priority, despite the fact that awareness of SLAPPs has increased in recent years through significant media coverage, growing familiarity within the judiciary, and the work of the Belgian anti-SLAPP Working Group, which since 2022 has documented the issue extensively, produced a model law that led to a parliamentary proposal, and engaged

with Parliament, the judiciary, the bar and law society, and the Minister of Justice.²²⁴

In **Poland**, respondents suggested introducing either an EU Regulation, directly applicable in the Polish legal system, or a national act prohibiting SLAPPs with sanctions. They further recommended that courts be obliged to assess lawsuits for SLAPP characteristics before allowing proceedings to continue.

In **Austria**, respondents supported a uniform EU regulation or case law on SLAPPs, complemented by systematic review mechanisms, to raise awareness among lawyers, clients, prosecutors, and ethics boards.

4.3.2. Guidance and tools needed for courts

Question 11: What guidance or regulation would courts need in order to effectively manage SLAPPs in the future in this jurisdiction?

Overall pattern. Respondents highlighted that courts need both *procedural authority* (early dismissal, sanctions, cost rules) and *institutional support* (training, guidance, transparency, awareness) in order to handle SLAPPs effectively. Many underlined the importance of aligning judicial practice with freedom of expression standards under Article 10 ECHR and relevant ECtHR case law.

The survey responses cluster around four main needs:

- **Awareness, training, and guidance**, ensuring that courts, prosecutors, and ethics boards are equipped to recognise SLAPPs and respond consistently (4.3.2.1.);
- **Procedural authority and early dismissal**, giving judges explicit tools to reject abusive cases at an early stage, supported by clear statutory definitions and evidentiary rules (4.3.2.2.);
- **Sanctions and deterrent measures**, making abusive litigation costly and unattractive through strong fines, cost recovery, and damages (4.3.2.3.);
- **Transparency and alternative dispute resolution**, promoting openness about litigation practices and encouraging ADR to reduce chilling effects (4.3.2.4.).

4.3.2.1. Awareness, training, and guidance

Respondents consistently underlined the need to raise awareness and provide clear instructions for courts and prosecutors.

- Courts, bar associations, regulators, and legal professionals should receive training on SLAPPs, including their history and the importance of public participation.

²²⁴ For more information, see www.slapp.be.

- Practical guidance tools should help judges identify SLAPP cases and understand their proper handling.
- Ethics boards should issue clear stances on SLAPPs, and communicate them to attorneys and judges, while also providing training to prevent abusive litigation.
- Guidance for prosecutors and judges should include criteria to identify and fast-track cases with SLAPP characteristics.
- Courts and prosecutors should be trained in freedom of expression standards under Article 10 ECHR, with reference to ECtHR case law such as *OOO Memo v. Russia* (2022), which illustrates how Article 10 can be used to protect against SLAPP lawsuits.

4.3.2.2. Procedural authority and early dismissal

Many respondents stressed that courts must have the authority to intervene at an early stage.

- Courts should be expressly empowered to rule on SLAPPs, supported by a clear statutory definition and characteristics. Where SLAPPs are detected, courts should be able to notify the public prosecutor or other relevant authorities for sanctions.
- Early dismissal mechanisms should be introduced or thresholds broadened where already available, allowing judges to strike out cases that are manifestly unfounded, frivolous, or intimidatory. Respondents also

noted that courts should retain the possibility to dismiss a case at a later stage if it becomes apparent during proceedings that the action is a SLAPP. This should extend to both civil and criminal proceedings.

- In **Germany**, respondents pointed to § 280 ZPO as a procedural mechanism that could be adapted to counter SLAPPs. Under this provision, courts may hold a separate hearing on the admissibility of a claim; if a procedural requirement is lacking or an impediment confirmed, the case may be dismissed as inadmissible by final judgment. Respondents suggested that this could be linked to the requirement of a need for legal protection, enabling dismissal of abusive claims at an early stage. They further proposed that courts should receive clear statutory definitions of SLAPPs and illustrative case examples to guide their practice. Rules of evidence could also be adjusted so that the burden falls on plaintiffs to demonstrate the legitimate purpose of their claim. Together, these measures would give courts a workable procedural tool to test whether a case serves lawful aims or merely seeks to intimidate.

4.3.2.3. Sanctions and deterrent measures

Respondents overwhelmingly agreed that effective sanctions are essential. They highlighted that:

- Sanctions must be serious and dissuasive, covering full compensation of damages, reimbursement of reasonable costs, and substantial fines.

- Special pre-trial cost rules could discourage abusive filings.
- Courts should adopt lists of sanctions, linking each type of abusive conduct to appropriate consequences, and clarifying the type of proceedings required.

4.3.2.4. *Transparency and alternative dispute resolution*

Additional tools were suggested to reduce the chilling effect of SLAPPs:

Transparency in judicial proceedings should be enhanced, including public access to information on lawsuit funding to identify patterns of abuse.

Courts should be encouraged to promote alternative dispute resolution (ADR) methods such as mediation and arbitration, which are often quicker and less costly.

4.3.3. *National or European level?*

Question 13: Would this guidance or regulation best be elaborated at national level or European level (EU or Council of Europe)?

Overall pattern. Respondents diverged on whether SLAPP regulation should be elaborated nationally or at European level. Non-EU jurisdictions tended to favour national approaches tailored to their systems, while EU Member States largely preferred a European framework first, followed by national transposition. Experts also stressed the importance of

implementing not only the EU Anti-SLAPP Directive (2024/1069) by 2026, but also complementary soft-law instruments from the Council of Europe and European Commission.

The survey responses cluster around three main positions:

- **National approaches outside the EU**, where respondents in the UK, Serbia, and Switzerland emphasised that guidance should remain domestic, reflecting legal specificities and the non-applicability of EU law (4.3.3.1.);
- **European-level framework for EU Member States**, where most EU respondents argued for a binding EU framework first, to prevent fragmentation, forum shopping, and governmental inaction, with national implementation to follow (4.3.3.2.);
- **Role of the EU Directive and other instruments**, where respondents underlined the need to transpose Directive (EU) 2024/1069 by May 2026, but also to complement it with the Council of Europe 2024 Recommendation and the European Commission 2022 Recommendation, ensuring safeguards extend to domestic, administrative, and criminal proceedings as well (4.3.3.3.).

4.3.3.1. *National approaches outside the EU*

In the **United Kingdom, Serbia, and Switzerland**, respondents considered that regulation should be elaborated at the national level. They pointed to differences in legal systems

and the limited applicability of EU law in their jurisdictions.

4.3.3.2. *European-level framework for EU Member States*

Most respondents from **EU countries** (except Finland, Spain, Slovenia, Slovakia, Hungary, Germany, France, the Czech Republic, Latvia, and Lithuania) favoured European-level elaboration first, followed by national implementation. They gave two main reasons: (i) some governments would be unlikely to adopt effective measures unless required by the EU, and (ii) a European framework would prevent fragmentation and forum shopping and enhance legal certainty.

4.3.3.3. *Role of the EU Directive and other instruments*

Respondents also underlined that Member States must transpose the [EU Anti-SLAPP Directive \(2024/1069\) by 7 May 2026](#), which establishes minimum safeguards in cross-border civil proceedings. However, they argued that implementation should go further by incorporating the [Council of Europe Recommendation of 5 April 2024](#); and the [European Commission Recommendation of 27 April 2022](#).

This would ensure that anti-SLAPP guarantees extend beyond civil and cross-border cases to cover criminal, administrative, and purely domestic proceedings.

Respondents agreed that **Council of Europe guidance** would be valuable, particularly in

framing SLAPPs as a human rights issue. However, they noted that CoE instruments are **non-binding** and typically take longer to influence national practice. As such, they should be viewed as complementary to the EU framework, not a substitute for binding national implementation.

4.3.4. *National approaches: ethics or legislation?*

Question 14: Staying at the national level, what is the best way to approach the problem in this jurisdiction? Through codes of ethics for lawyers, or through legislation?

Overall pattern. Respondents converged on three main approaches: relying primarily on codes of ethics and self-regulation, adopting specific legislation, or pursuing an integrated model combining both. Most respondents agreed that any model must go beyond formal rules to include training, effective implementation in practice, credible deterrents, and measures to ensure equality of arms. They also stressed that sanctions should target abusive claimants directly, while ensuring access to justice is not unduly restricted.

The survey responses cluster around three main approaches:

- **Codes of ethics for lawyers**, with respondents favouring professional self-regulation, training, and implementation within existing ethical frameworks, though often noting that enforcement is weak (4.1.1.1.);

- **Legislation**, with calls for targeted statutory reform, stronger fines, and early dismissal powers, particularly where ethical rules have proven insufficient (4.1.1.2.);
- **Integrated or mixed solutions**, which combine ethical rules with legislative safeguards, backed by training, effective case management, and equality of arms for defendants (4.1.1.3.).

Best practice spotlight. Portugal illustrates a balanced model, where codes of ethics promote self-regulation and awareness, but robust legislation ensures deterrence and enforceable remedies. Respondents there stressed the importance of designing measures collaboratively, engaging Bars, government, academics, and civil society, to uphold free expression while preventing abuse (4.1.1.4.).

4.3.4.1. Codes of ethics for lawyers

In **Luxembourg**, respondents also favoured ethical rules, stressing that self-regulation preserves lawyer independence.

In **Hungary**, experts suggested that the National Bar Association should open a discussion and adjust the 2018 Ethical Standards for Attorneys, while legislative amendments were considered politically unrealistic.

In the **Czech Republic**, respondents recommended amendments to lawyers' codes of conduct, which are binding on all practitioners.

In **Finland**, respondents considered ethical standards sufficient but stressed that courts need stronger tools to react to SLAPPs.

In **Denmark**, respondents suggested reinforcing ethical guidance but also equipping courts with additional tools.

In **France**, experts pointed out that lawyers are already under a duty to advise clients against abusive proceedings, and may withdraw if clients insist. The priority, in their view, is to strengthen dissuasive measures so that lawyers can more effectively discourage SLAPPs.

In **Lithuania** and **Latvia**, respondents argued that training lawyers and judges would be more effective than new regulation, though they noted that Latvian fines remain too low to deter abuse.

In **Estonia**, experts said that rules already exist in theory but require better implementation in practice.

4.3.4.2. Legislation

In **Spain**, respondents favoured amending procedural legislation and introducing new regulation through parliament, aligned with EU standards.

In **Slovenia**, respondents argued that ethical rules had proven inadequate and that reform of procedural law is necessary.

In **Germany**, lawyers also supported legislative reform, specifically to empower courts to

determine early in proceedings whether an action is purely intimidatory.

In **Belgium**, experts rejected amending Article 780bis of the Judicial Code, recommending instead a specific anti-SLAPP law targeting wealthy and influential claimants. Such a law should provide deterrent fines and compensation for victims, since current sanctions (€15–2,500) are ineffective. They added that Belgian Bars are unlikely to introduce explicit anti-SLAPP provisions, relying on general duties instead. In their view, sanctions should be directed at clients, as the issue only indirectly affects the Bar.

In **Greece**, experts recommended legislative amendments to impose deterrent fines and high non-pecuniary damages on abusive claimants. They further suggested enabling NGOs and experts to intervene through *amicus curiae* briefs or testimony, helping courts and prosecutors identify SLAPPs. They also proposed a circular from the Supreme Court Prosecutor's Office, similar to past guidance on environmental law, to assist in recognising SLAPP-like criminal cases.

In **Poland**, respondents called for a national act prohibiting SLAPPs, combined with clearer disciplinary sanctions in codes of ethics.

In **Austria**, respondents suggested sanctioning abusive claimants directly, while warning against measures that would unduly restrict access to legal advice and representation.

4.3.4.3. Integrated or mixed solutions

In **Ireland**, respondents also supported a mixed model: clear anti-SLAPP legislation with penalties, reinforced by ethical codes and professional guidance. They added that effective case management is crucial to counter abusive tactics, as delays can themselves be used to burden defendants.

In **Switzerland**, respondents doubted courts would dismiss SLAPPs swiftly even with interlocutory tools, and instead emphasised ensuring equality of arms so that both parties can litigate fairly.

In **Romania**, respondents favoured a mixed model, combining stronger ethical rules with legislative safeguards, credible sanctions, and effective case management to ensure that both parties and lawyers are held to the duty of good faith without restricting legitimate access to justice.

In **Norway**, respondents recommended strengthening legal aid services to reduce the chilling effect of SLAPPs on weaker parties.

4.3.4.4. Best practice spotlight: Portugal

In **Portugal**, respondents provided a detailed comparative assessment of different options: (i) codes of ethics were seen as positive for promoting self-regulation and professional awareness, but limited by weak enforcement; (ii) specific legislation was valued for deterrence and victim protection, though it must be carefully drafted to safeguard freedom of expression.

The preferred integrated solution was to combine strong ethical standards with robust legislation, backed by safeguards for free expression. Respondents stressed the need for collaboration between Bars, government, academics, and civil society in designing and implementing such measures.

The Portuguese contribution illustrates how weighing pros and cons of each model can lead to a balanced, hybrid approach that sets professional standards while ensuring enforceable remedies and protection of rights.

APPENDIX 1: Recommended Standards for Legal Professional Ethics

The following standards draw on best practices in legal ethics across Europe, including both codes of conduct and enforcement approaches, as applied in the context of SLAPPs. Developed by the **Legal Working Group of the Coalition Against SLAPPs in Europe (CASE)**, they aim to guide:

- **lawyers** in understanding their ethical obligations when confronted with SLAPPs or SLAPP tactics; and
- **bar associations and regulators** in promoting accountability where legal professionals facilitate or engage in such tactics.

Although the underlying principles appear in different formulations across European jurisdictions, these standards are not a mere compilation of the strongest provisions. Rather, they seek to articulate how conflicting professional duties can be reconciled in practice. Importantly, they are designed specifically for the context of SLAPPs and are not intended to apply more broadly.

For Lawyers

Core Ethical Duties

1. Lawyers, as agents of the rule of law with a central position in the administration of justice, have a duty to uphold the integrity of their profession and must not allow themselves to

become instruments of abuse. In the coming months CASE will be publishing a pledge for lawyers to publicly and explicitly commit not to initiate or facilitate SLAPPs. Our primary recommendation is for lawyers to add their name to this pledge and work proactively to change the culture around SLAPPs.

2. Where conflicts arise, lawyers' duties to the public interest in the proper administration of justice, including the promotion of the rule of law, should prevail over the interests of any individual client.
3. SLAPPs constitute an abuse of process. As playing a key role in the administration of justice and guardians of the rule of law, lawyers should not participate in such abuse and, where appropriate, should take active steps to prevent or discourage it.
4. Despite differences in wording, ethical principles across Europe converge on three core obligations, each of which is incompatible with facilitating SLAPPs or employing SLAPP tactics:

a.) Uphold the dignity and integrity of the profession: maintaining public trust in lawyers and the justice system.

b.) Uphold the rule of law: facilitating justice, not contributing to abuses such as SLAPPs.

c.) Act honestly, fairly, and in good faith: dealing openly with courts and parties, refraining from misrepresentation, exploitation of vulnerabilities, or advancing abusive claims. This expressly prohibits many intimidation tactics, such as exaggerated damages claims or threatening with unfounded lawsuits .

5. The application of these duties cannot be reduced to simple rules. Lawyers owe overlapping ethical obligations to various actors, which may at times conflict. A nuanced approach is therefore required, but where obligations collide, priority should be given to the wider public interest in the proper administration of justice.

Preventing the Facilitation of SLAPPs

6. While lawyers should not be identified with their clients, it is a well-established principle that they must not enable law-breaking, as this would undermine the rule of law. For the same reason, lawyers must not facilitate abuse of the legal process, whether through specific SLAPP tactics or by supporting the use of SLAPPs.
7. In practice, this means that lawyers have due diligence obligations both regarding the potential facilitation of law-breaking and the improper purpose of the claimant. To this end, they should take into account the SLAPP indicators set out in Paragraph 8 of the Appendix to [Recommendation CM/Rec\(2024\)2](#) of the Committee of Ministers of the Council of Europe.

8. Lawyers should decline to accept instructions if they have reason to believe that they are being brought in order to harass, intimidate, or improperly force the target into retracting, modifying, or refraining from speech on matters of public interest, and decline to pursue any actions on behalf of their clients that would involve such intimidation or harassment.
9. When a client's proposed course of action is abusive, lawyers should actively discourage them from proceeding. If the client nevertheless insists, lawyers should be both entitled—and obliged—to withdraw from the instructions.

Prohibited SLAPP Tactics

10. While lawyers may distinguish themselves from their clients' interests, they cannot disassociate from the tactics they employ on their clients' behalf. Responsibility for those tactics lies squarely with the lawyer. The following practices should therefore be explicitly prohibited in codes of conduct or accompanying guidance:
 - a.) Deliberately prolonging proceedings to increase costs or harass the opposing party, including through unnecessary or onerous disclosure requests or procedural applications.
 - b.) Exploiting the vulnerability of the opposing party, whether due to limited resources or lack of legal knowledge, particularly in the case of self-represented parties, such as by misrepresenting the law, exaggerating

available remedies or penalties, or advancing vague and unsubstantiated claims.

c.) Sending correspondence that is unduly belligerent or threatening, or otherwise intended to intimidate recipients into abandoning their defence.

d.) Misleading recipients by misusing labels such as “not for publication,” “strictly private and confidential,” or “without prejudice” when the conditions for their use are not met.

e.) Employing any other tactics designed to harass or intimidate defendants and prevent them from exercising their rights to public participation.

Protecting Public Interest Litigation

11. Lawyers must not threaten or advance meritless or abusive arguments, but they should remain free to test novel legal issues and contribute to the development of the law. Public interest litigation, in particular, should be recognised as a legitimate form of public participation. Lawyers also have a strict duty not to mislead the court.

For Bar Associations and Regulators

Strengthening Codes and Enforcement

1. Bar associations and regulators should review their codes of conduct and enforcement practices to ensure they fully address the obligations outlined above, with a view to discouraging or

prohibiting legal professionals from facilitating SLAPPs or engaging in SLAPP tactics (as per Paragraph 26 of the [European Commission Recommendation \(EU\) 2022/758](#)).

Ensuring Accountability While Safeguarding Independence

2. In applying these standards, bar associations and regulators should avoid oversimplification. The principle of independence, and the need to avoid identifying lawyers with their clients or their clients’ causes, must not be used as a shield against accountability for those who facilitate or engage in abuse of process.

Training and Awareness

3. In line with Paragraphs 57 and 58 of [Recommendation CM/Rec\(2024\)](#) of the Council of Europe, bar associations and regulators should provide training to the judiciary and legal professionals, along with other resources, to ensure full awareness of and compliance with these standards. This should include training on the fundamental principles of freedom of expression (and its limits), with a particular emphasis on the relevant case law developed by the ECtHR in relation to Article 10 and 11 of the ECHR.
4. They should also ensure that the obligations of the legal profession in relation to SLAPPs are given due prominence in educational materials on legal ethics.
5. Training should target both new and established lawyers, recognising that senior practitioners who advance abusive practices can

be particularly influential in legitimising and spreading unethical conduct.

6. Bar associations, in turn, should acknowledge that public interest litigation constitutes a form of public participation. They should therefore take care to distinguish between SLAPPs and cases pursued in good faith to advance the public interest, even when these involve novel legal theories or are ultimately unsuccessful.

Sanctions and Deterrence

7. Lawyers who violate the professional ethical principles and engage in SLAPPs should face meaningful consequences, including financial penalties, disciplinary sanctions, or disbarment in cases of serious misconduct, sufficient to deter the facilitation of SLAPPs or the use of SLAPP tactics.

Further Reading

Council of Europe Recommendation: <https://rm.coe.int/0900001680af2805>

What Does it Mean for Lawyers to Uphold the Rule of Law? A report for the Legal Services Board <https://legalservicesboard.org.uk/wp-content/uploads/2023/11/FINAL-LSB-Lawyers-and-ROL-Report-2023.pdf>

APPENDIX 2: CASE Legal Ethics Questionnaire

This section includes questions on ethical standards that bind lawyers in your jurisdiction.

1. Are there any ethical standards prohibiting the filing of improper lawsuits? If so, please describe.
2. Are there any ethical standards regulating legal **tactics** intended to harass, intimidate, or drain resources?
3. To what extent do rules on non-discrimination oblige a lawyer to represent an abusive litigant?
4. To what extent does the obligation to pursue or promote the best interests of the client permit a lawyer to use the litigation process as a means of forcing the defendant to concede a lawsuit? How is this balanced with a lawyer's duty to the court - and obligation not to abuse the judicial process?
5. Is good faith litigation included either in procedural laws or in a code of ethics? Is there any other equivalent general principle enshrined in law that is supposed to guide litigation and the behaviour of litigants?

To what extent have the standards mentioned in the previous questions been applied in practice, whether by a regulation authority or other relevant body, against lawyers facilitating SLAPPs or using SLAPP tactics in the past?

This section includes questions on national procedural law codes regarding abusive litigation in your jurisdiction.

6. What procedural tools or sanctions are available to the court in the event that abusive litigation (lawsuits and/or legal tactics) is brought to light in *civil procedures*?
7. What procedural tools or sanctions are available to the court in the event that abusive litigation (lawsuits and/or legal tactics) is brought to light in private prosecutions, if that concept exists in your jurisdiction?
8. Can abusive litigation serve as the basis of a complaint in a court proceeding in both types of procedures?
9. Have you ever come across a case where the court or relevant disciplinary body has used these procedural tools or sanctions to prevent or punish the use of SLAPPs? If so, please describe. What is the level of the court's discretion in applying measures against abusive litigants? (*question modified in July 2023*)

This section includes questions related to the effective management of future SLAPP lawsuits.

10. What guidance or regulation do you think *lawyers* would need in order to reduce the

number of SLAPPs in the future in this jurisdiction? Please describe.

11. What guidance or regulation do you think *courts* would need in order to effectively manage SLAPPs in the future in this jurisdiction? Please describe.
12. What kind of guidance do you think other actors, such as prosecutors or ethics boards, would need in the future to effectively regulate SLAPPs?
13. Would this guidance or regulation best be elaborated at national level or European level (EU or Council of Europe)?
14. Staying at the national level, what do you think is the best way to approach the problem in this jurisdiction? Would it be through codes of ethics for lawyers, or perhaps through legislation? Please describe.