

Notification about the European Commission's Rule of Law Report 2025 on Belgium (p. 14) containing a factual error and confusing an announced Government initiative and a law proposal already introduced in Parliament for the transposition of the EU anti-SLAPP Directive 2024/1069

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**COMMISSION STAFF WORKING DOCUMENT
2025 Rule of Law Report**

Country Chapter on the rule of law situation in Belgium
Accompanying the document

**Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions
2025 Rule of Law Report**

The rule of law situation in the European Union

(..)

The Government took steps to strengthen legal protections for journalists.

It notably **decriminalised defamation**¹³³ and introduced harsher penalties for crimes committed against journalists, recognising their public interest role¹³⁴. Progress was also made on strategic lawsuits against public participation (SLAPPs), with Belgium actively working on transposing the EU anti-SLAPP Directive. **The Minister of Justice is planning to submit a legislative proposal transposing the EU SLAPP Directive** for discussion within the Government and, subsequently, for adoption in Parliament. **The draft law proposes broad protections, covering civil and criminal procedures**, and includes support mechanisms¹³⁵. It has been developed with input from journalist associations, using the national SLAPP working group as a source of inspiration¹³⁶. Meanwhile, journalist associations and public broadcasters report growing legal intimidation and political interference¹³⁷.

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¹³³ Belgian Government (2025a), written contribution, p. 17.

¹³⁴ The Law of 18 January 2024 officially recognizes journalists as holding a "societal role", meaning that crimes like violence or threats committed against them can now trigger aggravated penalties, similar to those protecting police officers or healthcare workers. This legal recognition strengthens protection for journalists facing intimidation or attacks, Belgian authorities, written contribution, second batch, p. 17.

¹³⁵ The anti-SLAPP working group has a website where notes and the draft law can be consulted.

¹³⁶ The Government indicated that the working group will be once again consulted during the upcoming processes.

¹³⁷ Conseil de déontologie journalistique (CDJ)(2025), written input, p. 5; BRF (2025), written input, p.3; FIRM-IFDH (2025), written input, pp. 23-24.

This part of the Rule of Law Report on Belgium (p. 14) contains a factual error and needs clarification on the issue of SLAPPs in order to prevent a misunderstanding

1. Defamation is NOT decriminalized by the Government.

A new criminal code has been adopted by the Belgian Parliament and published in the Official Gazette on 6 April 2024:

https://justitie.belgium.be/nl/themas/veiligheid_en_criminaliteit/hervorming_strafwetboek

The articles 240-248 of the new Criminal Code formulate the criminal offences of *inter alia* defamation, insult and slander. These offences in the actual Criminal Code (art. 443-452) are not decriminalized, as they are still enlisted as criminal offences in the new Criminal Code that will be in force from 6 April 2026 onwards.

The new version in the articles 240-248 only contains a somewhat different formulation of the respective criminal offences of *inter alia* defamation, insult and slander, while the most important novelty is that this category of criminal offences will be punished with sanctions of level 1, which means that these criminal offences in the future can no longer be punished with imprisonment. The sanctions of level 1 are indeed restricted to fines (from a minimum of 200 EUR up to maximum 20.000 EUR), alternative (working) sanctions with a maximum of 120 hours or other (probation) measures for a period between 6 to 12 months.

This observation is of particular relevance in relation to the references in the EU Rule of Law Report 2025 about the actual anti-SLAPP policy in Belgium (*cf. infra*).

Conclusion: the formulation in the Rule of Law Report 2025 that the Belgian Government has decriminalized defamation is not correct.

2. There is a confusion between the announced law proposal by the Government for transposition of the EU anti-SLAPP Directive 2024/1069 and a law proposal already introduced in Belgian Parliament. The Rule of Law Report 2025 about Belgium might give the wrong impression that the proposal of the Belgian Government that the Minister of Justice is planning to submit for adoption by Parliament “proposes broad protection, covering civil and criminal procedures”.

Actually, there is no proposal from the Belgian Government or the Minister of Justice available (yet). Instead, the EU Report seems to refer to the approach in the law proposal introduced in Parliament already on 18 February 2025 by the Green Party and Ecolo (<https://www.dekamer.be/FLWB/PDF/56/0728/56K0728001.pdf>). This law proposal is based indeed on a proposal as model law elaborated by the Belgian anti-SLAPP working group (both the model law and the law proposal are published on the website of the Belgian anti-SLAPP working Group www.slapp.be). It is this law proposal introduced in Parliament on 18 February 2025 (DOC 56 0728 /001) that opts for a broad protection, covering civil and criminal procedures and other support mechanisms. In an advisory opinion of 24 March 2024 about this law proposal the Minister of Justice has expressed her support to extend the scope of application of the Belgian anti-SLAPP law transposing EU Directive 2024/1069 so that the anti-SLAPP measures could also be applicable in criminal cases. But the advisory opinion disagreed with the manner the law proposal provides in the broadening of the scope of application to make the anti-SLAPP measures of the EU Directive 2024/1069 applicable in criminal procedures.

In their advisory opinion to the Parliamentary Commission of Justice the Federal Institute for

the protection and promotion of Human Rights (FIRM-IFDH: <https://federaalinstituutmensenrechten.be/nl/advies-over-de-bescherming-van-slachtoffers-van-gerechtelijke-intimidatie-slapp>) emphasized the importance and the need to include in the transposition of the EU anti-SLAPP Directive (and the EU anti-SLAPP Recommendation of April 2024) also criminal procedures.

Also the Belgian anti-SLAPP working Group and the professional organisations of journalists (AJP/VVJ/AVBB) are strongly advocating for including criminal procedures in the anti-SLAPP law, referring to the practices of criminal (SLAPP) procedures in recent years for defamation, breach of personal data protection and harassment against persons involved in public participation, in particular journalists and academics.

The fact that defamation (- and insult and slander -) is not decriminalized in the new Belgian Criminal Code (*cfr. supra*) is an additional argument to guarantee effective protection against SLAPPs also in criminal procedures.

If the anti-SLAPP measures would only be applicable in civil cases, claimants or plaintiffs will be stimulated to initiate rather criminal procedures against public participation, while criminal prosecution against media, journalists and other persons taking part in public debate on matters of public interests have even a more chilling effect on the right to freedom of expression and the right of the public to be properly informed, according to the Article 10 case-law of the ECtHR (see Dirk Voorhoof, The chilling effect of prosecution of defamation on the right to freedom of expression : an urgent call to decriminalize defamation, in Michiel Luchtman, Ferry de Jong, François Kristen, Katalin Ligeti, Joep Lindeman, Stanisław Tosza, Rob Widdershoven and Damián Zaitch (Eds.), *Of swords and shields: due process and crime control in times of globalization - Liber amicorum prof. dr. J.A.E. Vervaele*, The Hague: Eleven 2023, ISBN 978-94-6236-343-4 en ISBN 978-94-0011-224-7 (e-book), pp. 159-167, see <https://biblio.ugent.be/publication/01H2K5E5CBW61EMY35332A8JJS>).

The expectation (and hope) is that the anti-SLAPP law proposal the Minister of Justice/the Government is planning to submit for adoption in parliament will indeed include anti-SLAPP measures in criminal procedures.

Conclusion: In contrast with what the EU Rule of Law report 2025 is suggesting, the Belgian Government has not (yet) proposed to include criminal procedures as part of the law transposing the EU anti-SLAPP directive 2024/1069. Therefore this aspect as reported in the EU Rule of Law report 2025 demands for an adequate follow up.

Dirk Voorhoof, representing the Belgian anti-SLAPP working group (www.slapp.be)