EL VEINTE
JUSTICIA · LIBERTAD DE EXPRESIÓN

Bill No. 481 of 2026 House – Anti-CEPO Law (English translation)

Translator's note

This is an unofficial English translation of the bill as filed, with no changes to its content, including the points flagged in the prior technical review.

- **Note on the term CEPO.** CEPO stands for *Casos de Enmudecimiento de la Prensa y la Opinión pública* (Cases of Silencing of the Press and Public Opinion). It refers to judicial proceedings brought not to obtain a genuine remedy but to intimidate, wear down and silence journalists and others who report on matters of public interest. In this bill, the conduct is defined legally as "litigation harassment" (*acoso litigioso*), and it corresponds to what international literature calls SLAPPs (strategic lawsuits against public participation). The acronym is kept in Spanish because the English expansion does not reproduce it. In Spanish, *cepo* also means a clamp or trap.
- **Key terms.** *Acoso litigioso* is rendered as litigation harassment; *temeridad o mala fe* as recklessness or bad faith; *sentencia anticipada* as early judgment; *cambio de radicación* as change of venue; *archivo de las diligencias* as closure of the investigation; *acción de tutela* is kept as tutela action (Colombia's constitutional action for the protection of fundamental rights); *injuria* and *calumnia* (the criminal offenses of insult and false accusation of a crime) are kept in Spanish; SMLMV is rendered as monthly statutory minimum wages.
- **Institutions.** Names are translated with the Spanish name in parentheses on first use; party names and the short title Ley Anti-Cepo (rendered Anti-CEPO Law) are kept.
- **Quotations.** Passages the original already quotes in English (United States, Canadian and NGO sources) are reproduced as they appear in the bill. Passages quoted in Spanish are our translation. Where an official English version exists (for example, Directive (EU) 2024/1069, Inter-American Court judgments and UN or Commission statements), our wording has not been checked against it and should be replaced with the official text before formal use.
- **Format.** Numbers use English separators (43,849). Footnotes keep their original numbering and appear as [n] in the text, with the notes listed at the end of each section. The original repeats the full signature block three times; here it appears once, in the cover letter.

Cover letter

Bogotá D.C., November 4, 2026

Dear Sir,

MIGUEL ANGEL SANCHEZ VASQUEZ
Secretary General of the House of Representatives
City

Re: Bill No. 481 of 2026 House, "Whereby measures are adopted to prevent and sanction litigation harassment against those who exercise freedom of expression on matters of public interest, the General Code of Procedure and Law 906 of 2004 are amended, and other provisions are enacted – Anti-CEPO Law".

As members of the Congress of the Republic, and exercising the right enshrined in Articles 150 and 154 of the Political Constitution of Colombia and in Article 140 of Law 5 of 1992, we hereby submit, through your good offices, for the consideration of the Honorable House of Representatives, Bill No. 481 of 2026 House, "Whereby measures are adopted to prevent and sanction litigation harassment against those who exercise freedom of expression on matters of public interest, the General Code of Procedure and Law 906 of 2004 are amended, and other provisions are enacted – Anti-CEPO Law".

Since it concerns rights, guarantees and duties, and amends provisions of the procedural codes, its consideration falls to the First Constitutional Standing Committee, pursuant to Article 2 of Law 3 of 1992.

Accordingly, this Bill is submitted for consideration in order to begin the corresponding procedure and to comply with the requirements set by the Law and the Constitution.

Respectfully, the Honorable Representatives and Senators:

Name	Office	Party
Jennifer Pedraza Sandoval	Senator of the Republic	Partido Dignidad y Compromiso
Gabriel Becerra Yañez	Member of the House of Representatives	Pacto Histórico
David Alejandro Toro Ramírez	Member of the House of Representatives for Antioquia	Pacto Histórico
Ana Leidy Erazo Ruiz	Member of the House of Representatives	Pacto Histórico
Daniel Mauricio Monroy Hernández	Member of the House of Representatives for Bogotá	Pacto Histórico
Erick Adrián Velasco Burbano	Second Vice President [of the House]	Pacto Histórico
Renso Alexander García Parra	Member of the House of Representatives for Tolima	Pacto Histórico
Heiner de Jesús Gaitán Parra	Member of the House of Representatives for Cundinamarca	Pacto Histórico

Name	Office	Party
Santiago Osorio Marín	Member of the House of Representatives for Caldas	Alianza Verde – Coalición Pacto Histórico
Natalia Moreno Puín	Member of the House of Representatives for Cundinamarca	[party not stated in the original]
José Luís Bohórquez López	Member of the House of Representatives for Boyacá	Pacto Histórico
Luz Miryan Moncayo	Member of the House of Representatives for Cauca	Pacto Histórico
Carlos Alberto Benavides Mora	Senator of the Republic	Pacto Histórico
Johana Osorio Márquez	Senator of the Republic	Pacto Histórico
Catherine Juvinao Clavijo	Member of the House of Representatives for Bogotá	Partido Alianza Verde
Laura Daniela Beltrán Palomares	Member of the House of Representatives for Bogotá	Pacto Histórico

The first signature block lists Ana Leidy Erazo Ruiz, who does not appear in the two later signature blocks of the original.

Bill No. 481 of 2026 House

"WHEREBY MEASURES ARE ADOPTED TO PREVENT AND SANCTION LITIGATION HARASSMENT AGAINST THOSE WHO EXERCISE FREEDOM OF EXPRESSION ON MATTERS OF PUBLIC INTEREST, THE GENERAL CODE OF PROCEDURE AND LAW 906 OF 2004 ARE AMENDED, AND OTHER PROVISIONS ARE ENACTED – ANTI-CEPO LAW"

THE CONGRESS OF COLOMBIA

DECREES:

CHAPTER I – PURPOSE

Article 1. Purpose. The purpose of this law is to prevent and sanction litigation harassment against those who exercise freedom of expression on matters of public interest, and to improve journalists' access to justice in the face of such proceedings, by amending the General Code of Procedure and Law 906 of 2004, providing access to public legal defense for those who suffer it, training justice operators, producing official information on the phenomenon and integrating it with the prevention and protection policy, in order to guarantee freedom of expression and the right to inform and be informed, without restricting the right of access to justice in general.

CHAPTER II – AMENDMENTS TO THE GENERAL CODE OF PROCEDURE

Article 2. Litigation harassment as a ground of recklessness or bad faith. The following numeral and paragraphs are added to Article 79 of the General Code of Procedure:

> 7. When the phenomenon of litigation harassment is present.
>
> Paragraph 1. Definition of litigation harassment. Litigation harassment means any activity brought before the Judicial Branch aimed at censoring matters of public interest, without due evidentiary support and/or acting recklessly, using the judicial system for purposes of intimidating or silencing expression.
>
> Paragraph 2. Victims of litigation harassment. Litigation harassment is a form of abuse of the right to litigate specifically aimed at intimidating journalists, media outlets, human rights defenders, and other civil society actors with the capacity to disseminate information and influence public opinion, with the intention of silencing issues of public interest to citizens. Litigation harassment shall be considered aggravated when, in connection with it, repeated petitions denied by the judges have been filed.
>
> Paragraph 3. Scope of application. The definition in paragraph 1 constitutes an integration criterion for assessing recklessness or bad faith in any jurisdiction or specialty, under the terms of Article 1 of this code, including constitutional actions. Litigation harassment also includes the successive or simultaneous filing of tutela actions, civil lawsuits, criminal complaints or disciplinary complaints, by the same person or by persons linked to one another, against whoever disseminates information or opinions on matters of public interest,

> even when the facts, the rights invoked or the persons bringing them vary, when the purpose of silencing or wearing that person down can be inferred from the proceedings as a whole.
>
> The application of this paragraph does not modify the special procedures established for each action, does not permit the inadmission or rejection of constitutional actions on grounds other than those provided by law, and does not exempt the judge from the duty to decide the matter submitted to it on the merits.

Article 3. Early judgment for litigation harassment. The following numeral is added to Article 278 of the General Code of Procedure:

> 4. When it is possible to verify, prima facie, that the case corresponds to litigation harassment. For the processing of this incidental proceeding, the judge may reverse the burden of proof, in accordance with Article 167 of this Code.

Article 4. Award of costs and fine for litigation harassment. The following paragraph is added to Article 278 of the General Code of Procedure:

> Paragraph. If the fourth ground for early judgment is upheld, the claimant party shall be ordered to pay costs and a fine of 30 SMLMV [monthly statutory minimum wages] shall be imposed on it, which money shall be allocated to the budget of the Superior Council of the Judiciary, Executive Directorate of Judicial Administration, or whichever body takes its place.

Article 5. Change of venue for litigation harassment. Numeral 8 of Article 30 of the General Code of Procedure is amended to read as follows:

> 8. Of petitions for a change of venue of a civil, commercial, agrarian or family proceeding or action that entails its transfer from one judicial district to another.
>
> A change of venue may be ordered exceptionally when, in the place where the proceeding is being conducted, there are circumstances that may affect public order, the impartiality or independence of the administration of justice, procedural guarantees, or the safety or integrity of the participants. **A change of venue may also be requested when it is associated with arguments of litigation harassment, as established in Article 79 of the General Code of Procedure.** The evidence to be relied on shall be attached to the request for a change of venue, and it shall be decided summarily by an order that admits no appeal. The request for a change of venue does not suspend the proceeding.
>
> Additionally, a change of venue may be ordered when deficiencies in the management and speed of proceedings are noted, subject to the prior opinion of the Administrative Chamber of the Superior Council of the Judiciary.
>
> PARAGRAPH. The Inspector General of the Nation or the Director of the National Agency for the Legal Defense of the State are also entitled to request the change of venue provided for in numeral 8.

CHAPTER III – AMENDMENT TO LAW 906 OF 2004

Article 6. Closure of the investigation for litigation harassment. Article 79 of Law 906 of 2004 is amended to read as follows:

> Article 79. Closure of the investigation. When the Office of the Attorney General becomes aware of an act with respect to which it establishes that there are no grounds or factual circumstances that allow it to be characterized as a crime, or that indicate its possible existence as such, it shall order the closure of the proceeding.
>
> However, if new evidence emerges, the inquiry shall be resumed as long as the criminal action has not been extinguished.
>
> By virtue of numerals 5, 6 and 7 of Article 32 of Law 599 of 2000, the criminal proceeding may also be closed when the Office of the Attorney General becomes aware that the case corresponds to a legitimate exercise of freedom of expression or association by the active subject of the action, or constitutes a case of litigation harassment under the terms of Article 79 of the General Code of Procedure.

CHAPTER IV – PUBLIC LEGAL DEFENSE, JUDICIAL TRAINING AND OFFICIAL INFORMATION

Article 7. Public legal defense against litigation harassment. The following subparagraph is added to Article 21 of Law 24 of 1992:

> The public legal defense service shall also be provided, through the National Public Defense System, to journalists, communicators and media workers, to community and non-profit media, to human rights defenders and to any other persons who are defendants, reported parties, persons under investigation or respondents in a proceeding in which litigation harassment is invoked under the terms of Article 79 of the General Code of Procedure. For these purposes, the social impossibility of providing for one's own defense shall be assessed against the economic capacity and legal resources of whoever brings the proceeding, and not only against the assets of the applicant.
>
> The Ombudsman shall establish by resolution the criteria for eligibility, prioritization, verification and termination of the service provided for in this subparagraph, as well as the form of summary accreditation of the applicant's status and of the nature of the proceeding. Those criteria shall take into account, at a minimum, the existence of an expression on a matter of public interest, the asymmetry of resources between the parties, the plurality or repetition of proceedings brought against the applicant, and the reluctance of private lawyers to take on their representation.

Paragraph 1. The Office of the Ombudsman shall have six months from the promulgation of this law to issue the resolution referred to in this article and to adapt the structure of its public defense programs.

Paragraph 2. The Office of the Ombudsman may enter into agreements with legal aid clinics, universities and civil society organizations specializing in freedom of expression to provide the service set forth in this article, without this relieving the entity of its responsibility for the quality of the defense.

Paragraph 3. The service set forth in this article shall be funded from the budget of the Office of the Ombudsman, within the framework of the Medium-Term Fiscal Framework and the Medium-Term Expenditure Framework of the sector, and subject to the corresponding budget programming and availability.

Article 8. Judicial training on litigation harassment. The Rodrigo Lara Bonilla Judicial School shall provide a module on the concept and application of judicial or litigation harassment to judges in training, for all jurisdictions.

Paragraph 1. The module shall cover, at a minimum: the constitutional presumption in favor of freedom of expression and the inter-American standard on indirect censorship; the elements that make up litigation harassment; the application of Articles 79, 80, 81 and 278 of the General Code of Procedure and of Article 79 of Law 906 of 2004 to these cases; and the assessment of the asymmetry of resources between the parties. It shall be provided in initial training programs and in the refresher courses referred to in Article 176 of Law 270 of 1996.

Paragraph 2. The Office of the Attorney General and the Office of the Ombudsman shall incorporate equivalent content into their training and refresher programs for prosecutors and public defenders.

Article 9. Official information on litigation harassment. Within the year following the promulgation of this law, the Superior Council of the Judiciary, the Office of the Attorney General and the National Administrative Department of Statistics (DANE) shall adopt, within the framework of the National Statistical System and the Judicial Branch Statistics System, a unified register of judicial proceedings in which litigation harassment has been invoked or declared.

The register shall contain, at a minimum: the jurisdiction, the type of proceeding and the dates of commencement and termination; the status of whoever brings the proceeding, indicating whether it is a public servant, a legal person or a private individual; the status of the passive subject, indicating whether it is a journalist, media outlet, human rights defender or user of digital platforms, and its distribution by sex and by department; the matter of public interest to which the expression subject to the proceeding refers; the amount of the claims and of the awards imposed; the manner in which the proceeding was terminated; and the number of proceedings brought against the same person for the same facts or for related facts.

Paragraph 1. The information shall be public and shall be published annually in open data format, removing data that would allow the parties to be identified, without prejudice to the publicity of judicial decisions.

Paragraph 2. The Office of the Attorney General shall publish annually the number of criminal reports for the offenses of injuria and calumnia, broken down into investigations opened, closed and dismissed (precluded), those terminated by withdrawal, conciliation or full compensation, and the convictions handed down.

Paragraph 3. The National Protection Unit and the Office of the Ombudsman shall report annually the number of persons who have requested protection measures or public legal defense invoking proceedings of litigation harassment, and the outcome of those requests.

Paragraph 4. On the basis of this information, the Office of the Ombudsman shall submit annually to the Congress of the Republic a report on litigation harassment in Colombia and its effects on freedom of expression and the right to inform and be informed.

CHAPTER V – INTEGRATION WITH THE PREVENTION AND PROTECTION POLICY

Article 10. Integration with the prevention and protection policy. Litigation harassment shall be assessed as a risk factor in the risk assessment and measure-adoption processes of the Prevention and Protection Program run by the National Protection Unit, with respect to the program's target populations, without that assessment replacing or displacing the assessment of risks to life, liberty, integrity and personal security.

The Intersectoral Commission for the development of the Timely Action Plan, or the body that takes its place, and the governing bodies of the public policy on guarantees for the defense of human rights shall include a component on litigation harassment in their work plans, with the participation of organizations of journalists and of human rights defenders.

Paragraph. Public entities and public servants shall refrain from bringing judicial proceedings that constitute litigation harassment. The Office of the Inspector General of the Nation shall monitor compliance with this duty, within the framework of its powers and of the guidelines already adopted on the matter.

CHAPTER VI – FINAL PROVISIONS

Article 11. Entry into force and repeals. This law enters into force upon its promulgation and repeals any provisions contrary to it.

[Signature block: the sponsors listed in the cover letter, except Ana Leidy Erazo Ruiz.]

Explanatory memorandum

EXPLANATORY MEMORANDUM, BILL No. 481 OF 2026 HOUSE – "WHEREBY MEASURES ARE ADOPTED TO PREVENT AND SANCTION LITIGATION HARASSMENT AGAINST THOSE WHO EXERCISE FREEDOM OF EXPRESSION ON MATTERS OF PUBLIC INTEREST, THE GENERAL CODE OF PROCEDURE AND LAW 906 OF 2004 ARE AMENDED, AND OTHER PROVISIONS ARE ENACTED – ANTI-CEPO LAW"

I. PURPOSE OF THE BILL

The purpose of this bill is to prevent and sanction litigation harassment, that is, the use of the judicial system for purposes of intimidating or silencing those who exercise freedom of expression on matters of public interest, and to improve access to justice for the journalists, human rights defenders and other civil society actors who suffer it. To that end, it introduces provisions against litigation harassment into the Colombian legal system by amending the General Code of Procedure and Law 906 of 2004; enables access to public legal defense for those subjected to such proceedings; orders the training of justice operators; provides for the production of official information on the phenomenon; and integrates it with the prevention and protection policy.

Note on the term CEPO. CEPO stands for *Casos de Enmudecimiento de la Prensa y la Opinión pública* (Cases of Silencing of the Press and Public Opinion), that is, proceedings brought to intimidate and silence those who report on matters of public interest. In this memorandum and in the articles, the phenomenon is referred to as litigation harassment (*acoso litigioso*), the equivalent of what is known internationally as SLAPPs.

The initiative does not restrict the right of access to the administration of justice enshrined in Article 229 of the Political Constitution. Its purpose is to sanction the abuse of the right of action and to encourage the fair use of the judicial system, in order to guarantee freedom of expression and the right to inform and to receive truthful and impartial information.

II. BACKGROUND

This bill has a direct legislative precedent. Bill 090 of 2021 Senate, authored by Senator Rodrigo Lara Restrepo, introduced anti-SLAPP provisions by amending the General Code of Procedure and Law 906 of 2004, with a structure very close to the one proposed here: a legal definition of the phenomenon, early termination, an award of costs and a fine, rules on territorial jurisdiction, a power of closure for the Office of the Attorney General, and training of judges through the Judicial School. It was approved in first debate by the First Committee of the Senate on November 16, 2021, with ten votes in favor and two against, and was archived upon the end of the legislative term on June 19, 2023.[1] Its archiving was not due to a rejection on the merits, but to the expiry of the constitutional time limits for its passage. The favorable vote in the First Committee and the broad support it received indicate that a legislative consensus is available, and that what has been lacking is time for its passage, not substantive agreement.

Concern about addressing litigation harassment in the country is ongoing. The Constitutional Court, in an order of October 17, 2023, rejected a claim alleging a legislative omission regarding provisions against judicial harassment in Colombian legislation. However, the reporting justice, José Fernando Reyes Cuartas, stated in his reasoning that he does not disregard "the importance of legislating on the phenomenon of judicial harassment, but clearly notes that this power, given the terms set out in the claim, belongs to the legislator, as was attempted through the bill that introduced anti-SLAPP provisions (090 of 2021), which was ultimately archived".[2] Along the same lines, he stated that the "alleged partial silence of the legislator regarding measures to prevent and address judicial harassment does not constitute a relative omission but rather the absolute absence of legislative mention in the legal system of this special subject matter. And that circumstance, as this court has understood it, cannot be understood as unequal treatment given by the challenged provisions, but rather translates into an omission of an absolute nature."[3] That pronouncement, and its direct attribution of the matter to the functions of the legislator, show the urgency of addressing the issue by this means.

The Court has not said that the problem does not exist: it has said that its solution is not for it to provide.

This bill takes up that pending task. It keeps the basic structure of Bill 090 of 2021, updates it to the international standards adopted after its archiving, in particular Directive (EU) 2024/1069 and Recommendation CM/Rec(2024)2 of the Council of Europe, and incorporates measures that the earlier initiative did not contemplate: the extension of the concept of litigation harassment to constitutional actions, access to public legal defense, the production of official information on the phenomenon, and its integration with the prevention and protection policy.

III. GROUNDS AND PROBLEM

1. Litigation harassment as a form of censorship

Both in Colombia and in Latin America there has been an alarming increase in litigation harassment of human rights defenders, civil society activists, journalists, media outlets and social media users. The judicialization of debates over the freedom to express oneself and to inform reveals a growing intolerance of criticism and dissent, which the judicial system must be able to confront without limiting the right of access to justice, while encouraging its fair use.

The persecution of human rights defenders, journalists, media outlets or even social media users for disseminating information of public interest is a mechanism that seeks to structurally limit the scope of public discussion with respect to the needs of the community. The threat of judicial proceedings for covering certain topics becomes a generator of censorship and self-censorship. As regards the full exercise of fundamental rights, litigation harassment leads to the limitation of the right to freedom of expression and of citizens' right to truthful and objective information, and it also has structural effects on access to justice and on the proper functioning of the judicial system. As the latest report of the Foundation for Press Freedom in Colombia (FLIP) points out, litigation harassment against journalists has been increasing steadily in recent years. In 2017 there were 14 recorded cases, in 2018 there were 38, and by 2019 there were 66.[4] For its part, the organization Front Line Defenders stated in its 2022 global report that criminalization was the most common form of attack in 2022,

accounting for 34% of all attacks recorded by that organization, and that such persecution particularly affected those working on environmental and land rights and freedom of expression.[5]

2. Litigation harassment in figures: Colombia, the region and the world

The available figures confirm that litigation harassment is neither a marginal nor an episodic problem. In Colombia, the Foundation for Press Freedom recorded 469 attacks against the press during 2025, affecting 305 journalists, and identified threats, stigmatization and judicial harassment as the three main forms of attack that year. In the same period, 192 of those attacks were threats, 14 journalists were forcibly displaced within the country and 7 went into exile.[6] The record for the four most recent years shows 2,003 attacks against 870 journalists in all 32 departments of the country, 226 episodes of stigmatization and 10 journalists murdered.[7]

The most telling figure on the instrumental use of the criminal system comes not from press organizations but from the Office of the Attorney General itself. In 2022, 25,584 proceedings for injuria and 18,265 for calumnia were opened in Colombia, for a total of 43,849 criminal proceedings, and that year there were two convictions for injuria and none for calumnia. In 2021 the figures had been 19,242 proceedings for injuria with 13 convictions, and 15,537 for calumnia with no convictions. About 90% of those proceedings ended through withdrawal, conciliation or because they were offenses requiring a private complaint.[8] Thus, the criminal offense almost never produces a conviction, but the proceeding is itself the punishment. A complainant who knows they will not obtain a conviction is not pursuing a crime, but rather the imposition of the burdens of facing a reckless judicial proceeding.

The concentration of litigation in a few actors reinforces that reading. The Foundation for Press Freedom documented that a single lawyer appeared as complainant in 109 proceedings for injuria and calumnia between 2008 and 2019.[9] A pattern of that magnitude is not explained by the occasional defense of one's good name, but by the systematic use of the judicial apparatus as a tool of intimidation.

At the regional level, the 2025 Shadow Report of the Voces del Sur Network recorded 2,484 alerts affecting 3,230 victims in 17 Latin American countries, and 190 alerts for judicial harassment. Colombia topped the regional list with 468 alerts, followed by Mexico with 400 and Argentina with 278.[10] For its part, the Business & Human Rights Resource Centre identified 149 cases with features of strategic lawsuits against public participation in Latin America between January 2015 and December 2021; of these, 139 were criminal proceedings and only 10 civil lawsuits, and the economic sectors most associated with them were mining, with 62 cases, and agriculture and livestock, with 26.[11] That figure has a direct consequence for regulatory design, since in Latin America litigation harassment travels predominantly through the criminal route, and not only the civil one, so that a law limited to civil proceedings would leave out 93% of the phenomenon documented in the region. This is why this bill simultaneously amends the General Code of Procedure and Law 906 of 2004.

The same organization documented more than 6,400 attacks against human rights defenders protecting communities and territories from corporate abuses during the decade from 2015 to 2024, and concluded that judicial harassment was the most frequent type of attack, with 3,310 cases, that is,

more than half of the total. Latin America and the Caribbean, together with Asia-Pacific, accounted for about three-quarters of those attacks.[12] That the most widespread form of attack against those who defend rights in the world is the use of the judicial system, and not physical violence, requires rethinking the instruments of protection.

In Europe, the Coalition Against SLAPPs in Europe (CASE) has documented 1,303 lawsuits of this kind between 2010 and 2024 in 43 countries, with 167 cases initiated in 2024 alone and 166 in 2023. 65% of those proceedings were civil and 20% criminal; 45.2% were brought by companies or businesspeople and 35.5% by politicians or public officials; and the subjects most frequently silenced were corruption, with 283 cases, and the environment, with 126. The highest claim made in a single proceeding amounted to 45,756,750 euros. The coalition itself warns that these figures are the tip of the iceberg.[13] In Italy, 9,479 criminal defamation complaints were filed in 2017 alone, two-thirds of which were dismissed at the preliminary stage.[14]

The global dimension of the phenomenon is completed by two contextual data points. On the one hand, UNESCO has established that 160 States retain defamation as a crime, and that in Latin America and the Caribbean 29 of the 33 States keep it in their criminal codes; it has also documented that the impunity rate for killings of journalists stands at 85% of the cases recorded since 2006, and that self-censorship increased by 63% between 2012 and 2024.[15] On the other hand, a survey of 63 investigative journalists from 41 countries found that 73% had received communications threatening legal action, and that legal threats were the factor with the greatest impact on the continuity of their work, ahead of physical violence and digital harassment.[16]

The Special Rapporteurship for Freedom of Expression of the Inter-American Commission on Human Rights already documents judicial harassment in Colombia by name. In its annual report for 2025 it listed, among others, the three criminal proceedings brought against journalist José Manuel Vega and the closure of his outlet, the four tutela actions brought against journalist Lorena Beltrán, and the criminal complaint filed against the outlet Vorágine, and it described those practices as a form of indirect censorship.[17]

3. Constituent elements of litigation harassment

The phenomenon of litigation harassment comprises the following elements: the judicialization of freedom of expression conflicts; a prima facie review points to an unfounded case; inequality of burdens between the parties to the conflict; and the silencing of a matter of public interest is sought.

- **Judicialization of freedom of expression conflicts:** The first element of judicial harassment is that it involves the judicialization of a debate that belongs to freedom of expression. In other words, the conflict over the truthfulness or scope of an expression (whether in the form of information or opinion) against the rights of the persons or organizations mentioned is brought before the courts to be decided by judges. Instead of the disagreement over what was said being resolved before public opinion, so that public opinion itself can decide what is true and what is not, and which opinion is well-founded and which is not, the debate is taken to jurisdictional bodies.
- **A prima facie review points to an unfounded case:** Based on the first criterion, it cannot be said that every litigation pursuit of an expression constitutes judicial harassment. For judicial

harassment to exist, it is important that the use of judicial avenues be reckless or unjustified. This means that, based on a prima facie review, the case is aimed more at generating fear and pressure on whoever made the expression than at correcting false or harmful information or opinion.

- **Inequality of burdens between the parties to the conflict:** Another constituent element of the phenomenon of judicial harassment is that there is a substantial inequality between the parties to the conflict in terms of access to political, economic and/or social power. Judicial harassment is usually a strategy undertaken by powerful persons or organizations that have access to legal professionals or keep them on their regular payroll, so that using judicial avenues is not an exorbitant or hard-to-cover expense.
- **The silencing of a matter of public interest is sought:** Finally, for a case of judicial harassment to be evident, it is important that the expression being challenged refer to a matter of public interest, because of the social, political or economic consequences of the public accessing that information.

4. Why the phenomenon calls for a legislative and not merely a case-law response

The diagnoses agree on a point worth stressing, because it explains why the response to litigation harassment cannot be left to case law: the harm is done before the judgment. A claimant acting with a silencing purpose does not need to win; it is enough that the proceeding exists, lasts and costs. The study commissioned by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs put it precisely: given the lack of merit of the claims, these actions are usually dismissed, but the proceedings are long, involve costs for the defendant and bring reputational damage and the risk of insolvency.[18] The Colombian figures on injuria and calumnia — 43,849 proceedings opened in 2022 against two convictions — are the empirical demonstration of that asymmetry.

It follows that a well-built defense on the merits, however solid, always arrives too late. Acquitting a journalist three years later does not repair the silence of those three years, nor that of the colleagues who decided not to publish after seeing the proceeding. That is why all international standards converge on the same instrument: an early termination mechanism that operates at the earliest possible stage of the proceeding. This is recommended by Directive (EU) 2024/1069, Recommendation CM/Rec(2024)2 of the Council of Europe, Recommendation (EU) 2022/758 of the European Commission, and the joint declarations of the special rapporteurs of the UN, the OSCE, the OAS and the ACHPR cited above. And this is what the Inter-American Court of Human Rights ordered the Ecuadorian State to do in the Palacio Urrutia case, by requiring the adoption of legislative measures to prevent the use of judicial bodies for the purpose of silencing criticism.[19] The obligation imposed by the Court is one of prevention, and prevention means acting before the silencing effect occurs.

A second cross-cutting finding of the diagnoses is underreporting. The European coalition that documents these cases expressly warns that its figures are the tip of the iceberg and cannot represent the real scale of the problem.[20] The Foundation for Press Freedom makes the same warning regarding Colombia. The reason is structural: no judicial system has a marker that allows these proceedings to be identified, so that knowledge of the phenomenon depends on the victim turning to a civil society organization. That gap explains why this bill includes a specific article on the

production of official information. Without data there is no possible public policy, and today the Colombian State does not know how many of the proceedings it handles are litigation harassment.

The third point of convergence is institutional. In 2025 UNESCO launched a global initiative on strategic lawsuits against freedom of expression, aimed specifically at judicial operators,[21] starting from the recognition that judges today lack the conceptual tools to name the phenomenon before them. A judge who receives the fourth tutela action against the same journalist over the same investigation has no legal category that allows the whole to be assessed: each case file reaches the judge in isolation. Naming the phenomenon in the law, defining it and giving it procedural consequences is, before being a sanction, an act of providing tools.

Notes

[1] Bill 090 of 2021 Senate, "whereby anti-SLAPP provisions are introduced into the Colombian legal system and the General Code of Procedure and Law 906 of 2004 are amended in order to eradicate judicial or litigation harassment aimed at curtailing the rights to freedom of expression, information and association", authored by Senator Rodrigo Lara Restrepo. It was approved in first debate by the First Committee of the Senate on November 16, 2021, with ten votes in favor and two against, and archived upon the end of the legislative term on June 19, 2023.

[2] Constitutional Court. Order of October 17, 2023. Proceeding D-15484. Reporting justice: José Fernando Reyes Cuartas.

[3] Ibid.

[4] "Although the figures on judicial harassment recorded by FLIP underreport all the cases that occur in the country, it is possible to speak of a trend that has been increasing since 2017, the year in which FLIP began to record this attack as an independent category". FLIP Annual Report, 2019, "Callar y Fingir: La censura de siempre". At: https://www.flip.org.co/images/Documentos/Informe_Anual_FLIP_2019_Callar_y_fingir.pdf, consulted February 15, 2021.

[5] Front Line Defenders. Global Analysis 2022. https://www.frontlinedefenders.org/sites/default/files/1535_fld_ga23_web.pdf

[6] Foundation for Press Freedom, ¿Cuánto periodismo puede perder una democracia?, Revista Páginas, February 9, 2026. Available at: https://flip.org.co/publicaciones/informes/cuanto-periodismo-puede-perder-una-democracia

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[8] Figures from the Oral Accusatory Criminal System of the Office of the Attorney General, released in the context of the discussion of the Criminal Code reform submitted by the Ministry of Justice and Law in February 2023. Reported in: El Colombiano, Injuria y calumnia: ¿servirá eliminarlos como delitos?, February 8, 2023, available at: https://www.elcolombiano.com/colombia/injuria-y-calumnia-servira-eliminarlos-como-delitos-LA20314609. The Superior Council on Criminal Policy noted in the same debate that, despite the high number of cases initiated, convictions are practically non-existent because of withdrawal, conciliation or full reparation.

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[13] Coalition Against SLAPPs in Europe and The Daphne Caruana Galizia Foundation, A 2025 Report on SLAPPs in Europe: Democracy in the Dock, fourth edition, January 2026, pp. 5, 14, 15, 17, 18 and 23. Available at: https://www.the-case.eu/wp-content/uploads/2026/01/CASE-2025-Report-layoutted-vf.pdf. The percentages of claimants correspond to the third edition of the same report: CASE, A 2024 Report on SLAPPs in Europe: Mapping Trends and Cases, November 2024, p. 20.

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[17] Inter-American Commission on Human Rights, Annual Report 2025, Annex: Report of the Special Rapporteurship for Freedom of Expression, April 2026. Available at: https://www.oas.org/es/cidh/docs/anual/2025/Anexos/IA2025_RELE_ES.pdf

[18] European Parliament, study requested by the Committee on Civil Liberties, Justice and Home Affairs, Safety of journalists and the fighting of corruption in the EU, 2020, p. 75.

[19] Inter-American Court of Human Rights, Case of Palacio Urrutia et al. v. Ecuador, judgment of November 24, 2021, Series C No. 446, para. 182.

[20] Coalition Against SLAPPs in Europe, A 2025 Report on SLAPPs in Europe: Democracy in the Dock, January 2026, p. 30.

[21] In 2025 UNESCO launched the Global Initiative on Strategic Lawsuits against Freedom of Expression. See: https://www.unesco.org/en/articles/strategic-lawsuits-against-freedom-expression-how-justice-can-respond

IV. CONSTITUTIONAL, LEGAL AND CASE-LAW GROUNDS

1. The constitutional presumption in favor of freedom of expression

This bill does not introduce a new principle into the Colombian legal system; rather, it develops in the procedural field a rule that the Constitutional Court formulated almost two decades ago and that to date has not been translated into legislation: the constitutional presumption in favor of freedom of expression.

In Judgment T-391 of 2007 the Court established that freedom of expression is protected by a presumption whose legal effects are threefold: "Presumption that an expression is covered by the scope of protection of the constitutional right; presumption of the primacy of freedom of expression over other constitutional rights, values and principles in cases of conflict; suspicion of unconstitutionality of limitations on freedom of expression and application of strict constitutional review".[22]

The scope of the third consequence is decisive for this bill, since the Court did not limit the suspicion of unconstitutionality to limitations of legislative or administrative origin. Instead it held that "[a]ny state limitation on freedom of expression, through the acts of any public authority –in the exercise of legislative, administrative, judicial, police, military or other functions–, is to be understood as a constitutionally suspect intervention".[23] The judicial function is expressly included, since a judge who for years processes a manifestly unfounded lawsuit against someone who reported on a matter of public interest is exercising public power over expression, and that intervention is, in the Court's terms, constitutionally suspect, even if the final ruling is an acquittal.

The same presumption gives rise to a distribution of burdens, because whoever seeks to limit freedom of expression must define precisely the aim pursued, argue why the limitation is constitutionally admissible and prove the factual premises on which it rests.[24] The bill transfers that distribution to the proceeding by providing that, when it appears prima facie that the proceeding corresponds to litigation harassment, it is for whoever brought it to substantiate the merit of the claim, and not for the defendant to endure years of litigation to show that the claim lacked

foundation. The early judgment of Article 278 of the General Code of Procedure is the vehicle that the Colombian legal system already offers for that purpose. In addition, in keeping with Article 167 of the same code, the bill provides that the judge may make the burden of proof dynamic.

In Judgment C-487 of 2023 the Constitutional Court upheld the prison sentences for the offenses of injuria and calumnia, but it did so using the vocabulary of the international debate on this phenomenon and warned that the prison sentence is "excessively intimidating", referred to the "'chilling' effect on expression and public debate", recalled that journalistic activity "shall enjoy protection to guarantee its freedom and independence" and reiterated that criminal law is a last resort.[25] Above all, the majority upheld the constitutionality of those criminal offenses on the premise that the legal system offers suitable alternative mechanisms, since the criminal provisions "would only apply in the case of especially serious violations of fundamental rights as compared with other mechanisms such as the right of rectification, the fine or the tutela action".[26] The figures set out in this explanatory memorandum show that this premise does not hold in practice, since out of 43,849 proceedings for injuria and calumnia opened in a single year, only two ended in conviction. Correcting that gap between the premise of constitutional review and the reality of the system is precisely a task for the legislator.

Judgment SU-420 of 2019 adds a further element: in setting the rules for freedom of expression in digital environments, the Court reiterated that the degree of tolerance of criticism "must be high" in the case of public servants and persons with wide social recognition, that they "must be willing to submit to scrutiny of their public life", and it extended that duty of tolerance to legal persons that take part in commercial activity. It also set burdens prior to judicial intervention, including a request for removal or correction addressed to whoever made the publication and verification of the constitutional relevance of the matter.[27] Whoever goes directly to the judge without meeting those burdens, and does so repeatedly, is not seeking to correct information: they are seeking the proceeding.

There is also a Colombian legislative precedent of differentiated treatment in favor of those who inform. Article 30 of Law 1480 of 2011 limited the joint and several liability of media outlets to cases of intent or gross negligence, and the Constitutional Court upheld that provision, recalling that "[f]reedom of expression occupies a preferred place in the constitutional order".[28] The legislator has therefore already adjusted the ordinary liability rules when the dissemination of information is at stake. This bill does the same in the procedural field.

In sum, Articles 20, 73 and 93 of the Constitution operate here in a chain: Article 20 guarantees the freedom to inform and prohibits censorship; Article 73 orders the protection of journalistic activity to guarantee its freedom and professional independence; and Article 93 incorporates into the domestic order Article 13 of the American Convention on Human Rights and the prohibition of indirect censorship. Litigation harassment is indirect censorship by judicial means: although it does not necessarily prohibit publishing, it makes the cost of doing so unsustainable.

2. Litigation harassment in the criminal jurisdiction

Regarding the criminal jurisdiction, the Constitutional Court has addressed at various times the constitutionality of criminal offenses that may have some impact on the exercise of public

participation. For the Court, criminal law must be the last resort to guarantee the peaceful coexistence of citizens, since "the State may only resort to it when all other controls have failed" and, finally, by virtue of the principle of fragmentariness, "Criminal law may only be applied to the most serious attacks on legal interests".[29]

Despite that guarantee, there are reports by civil society organizations and international bodies referring to the abusive use of criminal law by various actors against public participation. However, a technical clarification is needed: as the International Center for Not-for-Profit Law (ICNL) explains, extending the concept of SLAPPs to cover the use of criminal law broadly, including actions by government actors, carries the risk of conflating many types of repressive activity. For this reason, ICNL recommends framing the concept of SLAPP around cases originated by private interests.[30] The concept of "private interests" is not limited to private individuals, but may include politicians and public officials acting in their private capacity.[31] In addition, another relevant distinction is that of cases in which private interests work closely with government actors to repress freedoms through criminal law, which would be a third category of repressive activity, distinct from government repression and from SLAPPs.[32]

Judicial guarantees —which allow a defense at trial against the criminal offenses used to persecute opinions— have not, according to FLIP's documentation, been sufficient to prevent criminal complaints for injuria or calumnia filed in order to silence information or opinions on matters of public interest.[33] According to FLIP, many of these cases are usually not aimed at redressing the honor or reputation of the affected person and, moreover, have little chance of producing a conviction. Nevertheless, the filing of the complaints and the conduct of some of the preliminary stages of the proceedings are enough to generate intimidation and attrition on the person reported, thus achieving a censoring effect. In addition, FLIP has documented that, on several occasions, complainants or claimants do not limit themselves to initiating a single proceeding in the civil, criminal or constitutional route, but may turn to actions in more than one, if not all, of the possible jurisdictions.

Apart from the various defenses that may arise from the specific grounds of exemption of each criminal offense or from the interpretation given to them by the Supreme Court or the Constitutional Court, there are the following grounds of exemption from liability in Article 32 of the Criminal Code that could have an anti-PLAGA protective effect:

> "There shall be no criminal liability when: (…) 5. One acts in the legitimate exercise of a right, a lawful activity or a public office. 6. One acts out of the need to defend one's own or another's right against an unjust, current or imminent aggression, provided that the defense is proportionate to the aggression. (…) 7. One acts out of the need to protect one's own or another's right from a current or imminent danger, unavoidable otherwise, that the agent has not caused intentionally or through negligence and that the agent has no legal duty to face. (…)"

3. Litigation harassment through constitutional litigation

There is a Colombian particularity that no comparative legislation contemplates and that this bill does not ignore: in this country, the most frequent route of litigation harassment against journalists is neither civil nor criminal, but constitutional. As documented by the Foundation for Press Freedom,

the tutela action is the most recurrent form of judicial harassment against the press in the country.[34] This is explained by virtues of the design of the tutela itself which, inverted, make it a particularly effective instrument of pressure, since it does not require a lawyer, generates no costs for whoever files it, is resolved in ten days and obliges the respondent to answer immediately, regardless of where they are and of their workload. Filing a tutela is practically free for whoever files it; answering it is not for whoever receives it.

A journalist may receive four tutela actions in one week for the same investigation, win them all, and still have spent defending themselves the time they should have spent informing. The case of journalists Catalina Ruiz-Navarro and Matilde de los Milagros Londoño, who for a single publication simultaneously faced a criminal complaint, a civil lawsuit and two tutela actions, illustrates the logic of multiplying fronts that characterizes the phenomenon.[35] The case, litigated by El Veinte, ended with a ruling favorable to the journalists in Judgment T-452 of 2022, which confirms the central conclusion of this explanatory memorandum: the favorable outcome does not prevent the harm, because the harm lies in the proceeding. It is a Kafkaesque punishment that fulfills its consequences regardless of the procedural outcomes.

It should also be noted that the legal system already has tools that, properly applied, would filter out a good part of these proceedings. Numeral 7 of Article 42 of Decree 2591 of 1991 requires that whoever brings a tutela action against a media outlet over inaccurate or erroneous information attach the transcript or copy of the publication and a copy of the requested rectification that was not published.[36] It is a precise and verifiable documentary burden at admission, and the Constitutional Court has confirmed, a contrario sensu, that with respect to media outlets the prior request for rectification is indeed a requirement for admissibility.[37] Article 25 of the same decree, for its part, mandatorily orders that the applicant be ordered to pay costs when the tutela is rejected or denied and the judge reasonably considers that the applicant acted recklessly.[38] These are not provisions that require reform but proper application in litigation practice.

Where there is a structural gap is in the concept of reckless action under Article 38 of Decree 2591 of 1991. That provision requires identity of parties, of cause and of object.[39] Litigation harassment operates precisely outside that triple identity: the harasser files tutela actions over slightly different facts, invokes different rights, or uses people close to them to appear as applicants. Each case file, considered in isolation, is impeccable; the pattern only appears when they are viewed together, and today no judge has the mandate or the information to do so. With 952,251 tutela actions received by the Judicial Branch in 2024,[40] that overall view does not arise spontaneously.

For that reason it is proposed to add a paragraph 3 to Article 79 of the General Code of Procedure. Its function is twofold. On the one hand, it specifies that the definition of litigation harassment operates as an integration criterion for assessing recklessness or bad faith in any jurisdiction, as permitted by Article 1 of the same code with respect to matters not expressly regulated in other laws.[41] On the other, it describes the characteristic pattern of the phenomenon —the successive or simultaneous filing of proceedings by persons linked to one another, even when the facts, the rights or the claimants vary— so that the judge can assess it as a whole and not as a series of unconnected case files.

The paragraph includes two express safeguards, and it is worth explaining why. The first responds to a consideration of constitutional technique: under literal a) of Article 152 of the Constitution, the regulation of the procedures and remedies for the protection of fundamental rights is subject to the requirement of a statutory law.[42] The proposed provision does not modify the procedure of the tutela action, does not alter its grounds of admissibility and does not create admission requirements: it merely provides a criterion for assessing a concept —recklessness— that Decree 2591 of 1991 itself already contemplates without defining it. The second safeguard is one of guarantee: it is expressly established that the provision does not permit the inadmission or rejection of constitutional actions on grounds other than the legal ones, and that it does not exempt the judge from the duty to decide on the merits. The purpose of the bill is to sanction the abuse of the right of action, never to restrict access to justice for those who turn to it in good faith.

It should be noted, nonetheless, that a more ambitious regulation of litigation harassment through tutela —for example, the introduction of a special costs regime, a specific ground of inadmissibility or a procedure for joinder ex officio— would require a statutory law and, therefore, a separate bill. This is a deliberate limitation of the scope of the articles, adopted so as not to compromise the constitutionality of the law as a whole.

4. Legislative initiative and procedure

The initiative is submitted in exercise of the power that Article 154 of the Political Constitution and Article 140 of Law 5 of 1992 grant to the members of the Congress of the Republic. Its content corresponds to the function of Congress to issue codes in all branches of legislation and to amend their provisions,[43] and it does not concern any of the matters reserved to the initiative of the National Government by the second subparagraph of Article 154 of the Constitution: it does not modify the structure of the national administration, does not decree tax exemptions and does not order expenditure, since the responsibilities it assigns to the entities are expressly subject to the corresponding budget programming and availability (Article 7, paragraph 3).

It is an ordinary law. As explained in the previous section, the articles do not regulate the procedures and remedies for the protection of fundamental rights, a matter subject to the requirement of a statutory law by literal a) of Article 152 of the Constitution, but merely set a criterion for assessing recklessness, with express safeguards. Likewise, Articles 8 and 9 rely on the Rodrigo Lara Bonilla Judicial School and on the Judicial Branch Statistics System, regulated by Law 270 of 1996, the Statutory Law on the Administration of Justice, without modifying that regulation: they specify content and variables within obligations that that law already imposes.

Since it concerns rights, guarantees and duties, and amends provisions of the procedural codes, the bill falls to the First Constitutional Standing Committee,[44] the same committee that in the Senate approved Bill 090 of 2021 in first debate.

5. Legal framework

The legal framework of the initiative includes, among others, the following provisions:

- Political Constitution: Articles 20, 29, 73, 93, 150, 152, 154, 229 and 282, numeral 4.
- American Convention on Human Rights, approved by Law 16 of 1972: Article 13.

- Law 1564 of 2012, General Code of Procedure: Articles 1, 30, 79, 80, 81, 167 and 278.
- Law 906 of 2004, Code of Criminal Procedure: Article 79; and Law 599 of 2000, Criminal Code: Articles 32, 220 and 221.
- Decree 2591 of 1991: Articles 25, 38 and 42.
- Law 24 of 1992: Article 21; and Law 941 of 2005: Article 43.
- Law 270 of 1996, Statutory Law on the Administration of Justice: Articles 104, 106, 176 and 177.
- Law 2335 of 2023, on official statistics; and Law 1712 of 2014, on transparency and the right of access to public information.
- Law 1480 of 2011: Article 30.
- Decree 1066 of 2015, regarding the Prevention and Protection Program, and Decree 2137 of 2018.
- Law 819 of 2003: Article 7.

Notes

[22] Constitutional Court, Judgment T-391 of 2007, reporting justice Manuel José Cepeda Espinosa.

[23] Ibid. The Court specifies that the suspect intervention may come from "the acts of any public authority in the exercise of legislative, administrative, judicial, police, military or other functions".

[24] Ibid. The Court calls these three requirements the definitional burden, the argumentative burden and the evidentiary burden.

[25] Constitutional Court, Judgment C-487 of 2023, reporting justice Jorge Enrique Ibáñez Najar, file D-15.176, by which the prison sentences provided for in Articles 220 and 221 of Law 599 of 2000 were upheld. Four justices dissented.

[26] Ibid.

[27] Constitutional Court, Judgment SU-420 of 2019, reporting justice José Fernando Reyes Cuartas.

[28] Constitutional Court, Judgment C-592 of 2012, reporting justice Jorge Iván Palacio Palacio, by which the expression "The media outlet shall be jointly and severally liable only if intent or gross negligence is proven", contained in Article 30 of Law 1480 of 2011, was upheld.

[29] Constitutional Court, Judgment C-742 of 2012, reporting justice María Victoria Calle Correa. See also Constitutional Court, Judgment C-442 of 2011, reporting justice Humberto Antonio Sierra Porto.

[30] ICNL, Protecting Activists from Abusive Litigation, SLAPPs in the global south and how to respond, 2020, p. 17. Available at: https://www.icnl.org/post/report/slapps-in-the-global-south-report

[31] Greenpeace, Sued into Silence, How the rich and powerful use legal tactics to shut critics up, 2020, p. 15. Available at: https://www.greenpeace.org/static/planet4-eu-unit-stateless/2020/07/20200722-SLAPPs-Sued-into-Silence.pdf

[32] ICNL, Protecting Activists from Abusive Litigation, SLAPPs in the global south and how to respond, 2020, p. 17. Available at: https://www.icnl.org/post/report/slapps-in-the-global-south-report

[33] See, among others, Foundation for Press Freedom, Páginas para la Libertad de Expresión, 2021, available at: https://flip.org.co/images/Documentos/FLIP_paginas_Informe_anual_2020.pdf and Foundation for Press Freedom, Callar y Fingir, 2020, available at: https://www.flip.org.co/images/Documentos/Informe_Anual_FLIP_2019_Callar_y_fingir.pdf

[34] Fundación Internacional Baltasar Garzón, Desafíos a la libertad de expresión, estado de derecho y democracia en Latinoamérica: un estudio regional en tema de SLAPPs. Informe Colombia, 2025. Available at: https://fibgar.es/wp-content/uploads/2025/04/Colombia-Informe-Desafios-a-la-libertad-de-expresion-estado-de-derecho-y-democracia-en-latinoamerica-un-estudio-regional-en-tema-de-SLAPPs.pdf

[35] Constitutional Court, Judgment T-452 of 2022. Journalists Catalina Ruiz-Navarro and Matilde de los Milagros Londoño faced, for the same publication on allegations of sexual harassment, a criminal complaint, a civil lawsuit and two tutela actions.

[36] Numeral 7 of Article 42 of Decree 2591 of 1991: the tutela action lies against private parties "[w]hen rectification of inaccurate or erroneous information is requested. In this case, the transcript of the information or the copy of the publication and of the requested rectification that was not published under conditions ensuring its effectiveness must be attached".

[37] Constitutional Court, Judgment T-244 of 2018, reporting justice José Fernando Reyes Cuartas: "when the information considered inaccurate or erroneous is disseminated not by the media but by another private party, a prior request for rectification addressed to the private party responsible for the dissemination is not required as a condition for the admissibility of the tutela action".

[38] Final subparagraph of Article 25 of Decree 2591 of 1991: "If the tutela is rejected or denied by the judge, the judge shall order the applicant to pay the costs when the judge reasonably considers that the applicant acted recklessly".

[39] Article 38 of Decree 2591 of 1991. The Constitutional Court has required, for reckless action to exist, the concurrence of identity of parties, of cause and of object, in addition to the absence of an expressly justified reason. See, among others, Judgment T-730 of 2015, reporting justice Luis Guillermo Guerrero Pérez.

[40] Superior Council of the Judiciary, communication of April 1, 2025: the Judicial Branch received 952,251 tutela actions during 2024, an increase of 13.2% over 2023. Available at: https://www.ramajudicial.gov.co/web/consejo-superior-de-la-judicatura

[41] Article 1 of the General Code of Procedure: "This code regulates procedural activity in civil, commercial, family and agrarian matters. It also applies to all matters of any jurisdiction or specialty and to the actions of private parties and administrative authorities when they exercise jurisdictional functions, insofar as they are not expressly regulated in other laws".

[42] Literal a) of Article 152 of the Political Constitution, according to which Congress shall regulate by means of statutory laws "[f]undamental rights and duties of persons and the procedures and remedies for their protection". For that reason the proposed paragraph 3 is limited to setting an integration criterion for the assessment of recklessness, without modifying the procedure of the tutela action or its grounds of admissibility, and with an express safeguard to that effect.

[43] Numeral 2 of Article 150 of the Political Constitution: it is for Congress "[t]o issue codes in all branches of legislation and to amend their provisions".

[44] Article 2 of Law 3 of 1992, which assigns to the First Constitutional Standing Committee, among other matters, those relating to "rights, guarantees and duties".

V. COMPARATIVE AND INTERNATIONAL LAW

Internationally, this type of legislation has been called anti-SLAPP (strategic lawsuit against public participation). There are various examples of how procedural and substantive rules are structured to stop the use of the judicial system to persecute freedom of expression and silence matters of public interest.

A. United States and Canada

In the United States of America, in California, for example, the Code of Civil Procedure (CCP § 425.16) provides that actions seeking to limit the right to freedom of expression in connection with matters of public interest shall be subject to a special motion that may terminate the proceeding early: "(b)(1) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim. (f) The special motion may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms it deems proper. The motion shall be scheduled by the clerk of the court for a hearing not more than 30 days after the service of the motion unless the docket conditions of the court require a later hearing. (g) All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this section. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion. The court, on noticed motion and for good cause shown, may order that specified discovery be conducted notwithstanding this subdivision".

The Louisiana Code of Civil Procedure (Tit. I, Art. 971) contains an equivalent provision: "A. (1) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States or Louisiana Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established a probability of success on the claim. (2) In making its determination, the court shall consider the pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based. (3) If the court determines that the plaintiff has established a probability of success on the claim, that determination shall be admissible in evidence at any later stage of the proceeding. B. In any action subject to Paragraph A of this Article, a prevailing party on a special motion to strike shall be awarded reasonable attorney fees and costs. C. (1) The special motion may be filed within ninety days of service of the petition, or in the court's discretion, at any later time upon terms the court deems proper. (2) If the plaintiff voluntarily dismisses the action prior to the running of the delays for filing an answer, the defendant shall retain the right to file a special motion to strike within the delays provided by Subparagraph (1) of this Paragraph, and the motion shall be heard pursuant to the provisions of this Article. (3) The motion shall be noticed for hearing not more than thirty days after service unless the docket conditions of the court require a later hearing. D. All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this Article. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion. Notwithstanding the provisions of this Paragraph, the court, on noticed motion and for good cause shown, may order that specified discovery be conducted. E. This Article shall not apply to any enforcement action brought on behalf of the state of Louisiana by the attorney general, district attorney, or city attorney acting as a public prosecutor. F. As used in this Article, the following terms shall have the meanings ascribed to them below, unless the context clearly indicates otherwise: (1) “Act in furtherance of a person's right of petition or free speech under the United States or Louisiana Constitution in connection with a public issue” includes but is not limited to: (a) Any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law. (b) Any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official body authorized by law. (c) Any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest. (d) Any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest. (2) “Petition” includes either a petition or a reconventional demand. (3) “Plaintiff” includes either a plaintiff or petitioner in a principal action or a plaintiff or petitioner in reconvention. (4) “Defendant” includes either a defendant or respondent in a principal action or a defendant or respondent in reconvention".

The anti-SLAPP rules in the state of Texas are even broader, allowing a motion for early termination of the proceeding when it concerns responses to the legitimate exercise of the right to freedom of expression, petition or association, or arises from the desire to limit the defendant's communications: "Sec. 27.003. MOTION TO DISMISS. (a) If a legal action is based on or is in response to a party's exercise of the right of free speech, right to petition, or right of association or arises from any act of that party in furtherance of the party's communication or conduct described by Section 27.010(b), that party may file a motion to dismiss the legal action. A party under this section does not include a

government entity, agency, or an official or employee acting in an official capacity. (b) A motion to dismiss a legal action under this section must be filed not later than the 60th day after the date of service of the legal action. The parties, upon mutual agreement, may extend the time to file a motion under this section or the court may extend the time to file a motion under this section on a showing of good cause. (c) Except as provided by Section 27.006(b), on the filing of a motion under this section, all discovery in the legal action is suspended until the court has ruled on the motion to dismiss. (d) The moving party shall provide written notice of the date and time of the hearing under Section 27.004 not later than 21 days before the date of the hearing unless otherwise provided by agreement of the parties or an order of the court. (e) A party responding to the motion to dismiss shall file the response, if any, not later than seven days before the date of the hearing on the motion to dismiss unless otherwise provided by an agreement of the parties or an order of the court.

Sec. 27.004. HEARING. (a) A hearing on a motion under Section 27.003 must be set not later than the 60th day after the date of service of the motion unless the docket conditions of the court require a later hearing, upon a showing of good cause, or by agreement of the parties, but in no event shall the hearing occur more than 90 days after service of the motion under Section 27.003, except as provided by Subsection (c). (b) In the event that the court cannot hold a hearing in the time required by Subsection (a), the court may take judicial notice that the court's docket conditions required a hearing at a later date, but in no event shall the hearing occur more than 90 days after service of the motion under Section 27.003, except as provided by Subsection (c). (c) If the court allows discovery under Section 27.006(b), the court may extend the hearing date to allow discovery under that subsection, but in no event shall the hearing occur more than 120 days after the service of the motion under Section 27.003".

The Texas civil procedure statute regulates the processing of early anti-SLAPP defenses as an incidental proceeding, setting a 30-day period for its resolution and the evidentiary standards to be observed in order to declare it proven: "Sec. 27.005. RULING. (a) The court must rule on a motion under Section 27.003 not later than the 30th day following the date the hearing on the motion concludes. (b) Except as provided by Subsection (c), on the motion of a party under Section 27.003, a court shall dismiss a legal action against the moving party if the moving party demonstrates that the legal action is based on or is in response to: (1) the party's exercise of: (A) the right of free speech; (B) the right to petition; or (C) the right of association; or (2) the act of a party described by Section 27.010(b). (c) The court may not dismiss a legal action under this section if the party bringing the legal action establishes by clear and specific evidence a prima facie case for each essential element of the claim in question. (d) Notwithstanding the provisions of Subsection (c), the court shall dismiss a legal action against the moving party if the moving party establishes an affirmative defense or other grounds on which the moving party is entitled to judgment as a matter of law. Sec. 27.006. PROOF. (a) In determining whether a legal action is subject to or should be dismissed under this chapter, the court shall consider the pleadings, evidence a court could consider under Rule 166a, Texas Rules of Civil Procedure, and supporting and opposing affidavits stating the facts on which the liability or defense is based. (b) On a motion by a party or on the court's own motion and on a showing of good cause, the court may allow specified and limited discovery relevant to the motion".

Canada also has anti-SLAPP procedural legislation, under which the proceeding may be terminated early if the applicant shows that the expressions made relate to matters of public interest: "3. Canadá - s. 137.1 of the Courts of Justice Act “Order to dismiss

(3) On motion by a person against whom a proceeding is brought, a judge shall, subject to subsection (4), dismiss the proceeding against the person if the person satisfies the judge that the proceeding arises from an expression made by the person that relates to a matter of public interest. No further steps in proceeding (5) Once a motion under this section is made, no further steps may be taken in the proceeding by any party until the motion, including any appeal of the motion, has been finally disposed of. Damages (9) If, in dismissing a proceeding under this section, the judge finds that the responding party brought the proceeding in bad faith or for an improper purpose, the judge may award the moving party such damages as the judge considers appropriate. Procedural matters. Commencement 137.2 (1) A motion to dismiss a proceeding under section 137.1 shall be made in accordance with the rules of court, subject to the rules set out in this section, and may be made at any time after the proceeding has commenced. Motion to be heard within 60 days (2) A motion under section 137.1 shall be heard no later than 60 days after notice of the motion is filed with the court. Under Ontario’s Protection of Public Participation Act, 2015, the defendant may bring a motion to dismiss a proceeding at any time after the proceeding is commenced. This could be done after receiving the Statement of Claim (and before filing a Statement of Defence) or after filing a Statement of Defence".

B. European Union and Council of Europe

For years no European country had specific anti-SLAPP legislation, and civil society organizations called on the authorities to issue a directive on the matter, since SLAPPs have been on the rise and having legal tools to stop them is a pressing need. In this regard, the organizations Article 19, Reporters Without Borders, Greenpeace, Free Press Unlimited, among others, have stated: "Currently, no EU country has enacted targeted rules that specifically shield against SLAPP suits. EU-wide rules providing for strong and consistent protection against SLAPP suits would mark a crucial step forward towards ending this abusive practice in EU Member States and serve as a benchmark for countries in the rest of Europe and beyond. Together with other legislative and non-legislative measures, it would contribute to secure a safer environment for public watchdogs and public participation in the EU".

That landscape changed completely on April 11, 2024, when the European Parliament and the Council adopted Directive (EU) 2024/1069 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings, whose transposition deadline expired on May 7, 2026.[45] The Directive is today the most complete regulatory standard on the matter, and its architecture coincides, in essence, with that proposed by this bill as regards accelerated treatment (Article 7), intervention in support of the defendant (Article 9), security for costs to be provided by the claimant (Article 10), early dismissal of manifestly unfounded claims "at the earliest possible stage in the proceedings" (Article 11), shifting to the claimant the burden of substantiating the claim when the defendant applies for early dismissal (Article 12), an award of all costs, including the full costs of legal representation (Article 14), and effective, proportionate and dissuasive penalties (Article 15).

Two provisions of the Directive are especially relevant to the measures this bill adds to the articles. Article 19 requires States to ensure that persons who take part in public debate have access to information on "existing support measures, such as legal aid and financial and psychological support", and to provide legal aid in cross-border civil proceedings. Article 20, for its part, requires States to report data annually on the number of abusive court proceedings brought, classified by type of claimant and of defendant. The European standard is not limited to procedural design: it expressly incorporates legal aid and the production of statistics as components of protection.

That same design was anticipated in Recommendation (EU) 2022/758 of the European Commission, which asked States to ensure that persons targeted by these lawsuits "can access legal aid easily and at an affordable cost", to support specific training for judges and other justice professionals, and to collect data on the phenomenon annually.[46] Days before the Directive, on April 5, 2024, the Committee of Ministers of the Council of Europe adopted Recommendation CM/Rec(2024)2, addressed to its 46 member States, which likewise recommends early dismissal, an award of all costs, access to free legal aid, specialized training for the judiciary and a public register of cases identified as strategic lawsuits.[47]

Transposition has been slow: when the deadline expired, only seven Member States had completed it. In July 2026 the European Commission opened infringement proceedings against fourteen,[48] but the legislative movement is already having effects. In February 2026 Ireland approved its anti-SLAPP regime, with early dismissal, reversal of the burden of substantiation, a judicial declaration of abusive proceedings and security for costs.[49] In the United States, most states already have legislation of this kind and seventeen have adopted some version of the Uniform Public Expression Protection Act.[50] Colombia, by contrast, has no provision on the matter, and as far as it has been possible to verify, there is no anti-SLAPP legislation in force in any Latin American country either, even though the region accounts for a majority share of the cases documented worldwide.

C. Universal and inter-American human rights protection systems

International human rights bodies have had to address the subject because of the cases submitted to them and because the issue is now prominent in public debate. Among the most recent pronouncements at the United Nations are resolutions of both the General Assembly and the Human Rights Council urging States to "ensure that defamation laws are not misused, in particular by imposing excessive criminal sanctions, to illegitimately or arbitrarily censor".[51] This is also tied to a call for the review and repeal of such laws where necessary.

At the inter-American level, both the Inter-American Court of Human Rights (IACtHR) and the Inter-American Commission on Human Rights (IACHR) have considered that the protection of freedom of expression does not deny the possibility of resorting to judicial proceedings when there is in fact an abuse of that right. In some cases this may involve the application of criminal law or of civil or administrative sanctions. However, the possibility of resorting to these bodies is subject to a series of requirements, among which it stands out that the inhibition of debate on matters of public interest may not occur or be sought. In the words of the IACHR, "[i]t is not easy to participate uninhibitedly in an open and vigorous debate on public affairs when the consequence may be criminal prosecution, the loss of all one's assets or social stigmatization".[52]

That consideration is reflected in principle 10 of the IACHR Declaration of Principles on Freedom of Expression, according to which "Privacy laws should not inhibit or restrict investigation and dissemination of information of public interest". This is developed more explicitly in the case law of the IACtHR, which has established that "criminal prosecution will only be appropriate in those exceptional cases where it is strictly necessary to protect a pressing social need"[53] and that, in the case of the exercise of freedom of expression on matters of public interest, especially through journalistic activity, "criminal typicity is excluded and, therefore, so is the possibility that it be considered a crime and subject to penalties".[54]

The IACtHR considers that this prohibition on the use of criminal law does not limit the application of liability "in another legal sphere, such as the civil one, or rectification or public apologies, for example, in cases of possible abuses or excesses in bad faith".[55] However, the Court has also been careful to point out that "the fear of a disproportionate civil sanction may clearly be as intimidating and inhibiting for the exercise of freedom of expression as a criminal sanction, or more so, since it has the potential to compromise the personal and family life" of the person subject to the sanction or of third parties.[56]

These legal actions aimed at censorship are usually characterized by a factor of inequality between the person who makes a publication and the person who turns to the judicial system. A study commissioned by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs concluded that a fundamental aspect of judicial harassment is the inequality of resources between claimant and target. The former tend to take advantage of the ambiguity of some legal provisions and, given the lack of merit of their claims, their legal actions are usually dismissed. However, the proceedings are long, involve costs for the defendant or the reported person, and involve reputational damage and a risk of bankruptcy.[57]

Judicial harassment, as discussed above, is a tool of powerful persons who can turn to expensive law firms and exert intimidation over the reported person or defendant who does not have the same capacity to face a long and costly proceeding.[58] Intimidation can start from tools as simple as merely sending letters signed by the claimant's legal representatives.[59]

This inequality of arms in proceedings related to conflicts in the exercise of freedom of expression has been addressed by the ECtHR. According to that court, inequality of arms and difficulties for the defense may play a fundamental part in assessing the proportionality of interferences with freedom of expression, and the lack of procedural fairness and equality may lead to a violation of that right.[60] Along the same lines, the Committee of Ministers of the Council of Europe has considered that the seriousness of judicial harassment may be accentuated when it is directed against civil society actors who do not have the same legal, financial or institutional support as large media companies.[61] On that basis, the Committee of Ministers states that it is essential that, in both civil and criminal proceedings, the defendant or reported person have the possibility to present their defense effectively and with equality of arms.[62] This may entail the need to create state legal support schemes.[63]

These considerations are consistent with the case law of the IACtHR, which has established that restrictions on freedom of expression may not constitute an abuse of the State's punitive power.[64] In addition, the Court has referred at various times to equality of arms as an essential aspect of due process of law, for which "it is necessary that a litigant be able to assert their rights and defend their

interests effectively and on an equal procedural footing with other litigants".[65] According to the Court, the existence of conditions of real inequality "requires the adoption of compensatory measures that help to reduce or eliminate the obstacles and deficiencies that impair or reduce the effective defense of one's own interests".[66]

In cases in which intimidating actions manage to reach trial, the harmful effects on freedom of expression are greater, and therefore preventing those consequences requires a mechanism that allows early review and early termination of the matter.[67] That is why the Inter-American Court of Human Rights (IACtHR), in the case of Palacio Urrutia v. Ecuador, established that:

> "the State must adopt legislative measures to achieve the full effectiveness of the exercise of freedom of expression, in order to make it compatible with the State's obligation to prevent public officials from turning to judicial bodies to file complaints for calumny and insult with the aim of silencing criticism of their actions in the public sphere, in accordance with the parameters established in this Judgment"[68] (bold and emphasis added).

In the same decision, the court states that:

> "the recourse of public officials to judicial bodies to file complaints for the crimes of calumny or insult, not with the aim of obtaining a rectification but of silencing criticism made regarding their actions in the public sphere, constitutes a threat to freedom of expression. This type of proceeding, known as “SLAPP” (strategic lawsuit against public participation), constitutes an abusive use of judicial mechanisms that must be regulated and controlled by States, with the aim of allowing the effective exercise of freedom of expression"[69] (emphasis added).

From the pronouncement set out above, it should be stressed that the obligation established by the IACtHR concerns the prevention of judicial harassment, from which it can be inferred that its consummation must be avoided. This can only be achieved if measures are developed that allow action early in the proceedings, since the silencing effects are consummated long before a judgment is obtained.

In turn, this duty of prevention has been developed in other instruments of international law that have shaped the way in which that obligation must be fulfilled. These documents provide that States must ensure that the authorities are empowered to dismiss these lawsuits at an early stage. Thus, the special rapporteurs on freedom of expression have referred to the duty to adopt this type of measure in two joint declarations:

1. In the Joint Declaration on Politicians and Public Officials and Freedom of Expression, the special mandates propose that "[…] to ensure the highest possible level of protection for political expression and other matters of public interest […] States should: […] Ensure that courts are empowered, either at the request of the defendant or on their own initiative, to dismiss, summarily and at an early stage of the proceedings, defamation claims involving statements on matters of public interest that have no realistic prospect of success (strategic lawsuits against public participation or SLAPPs)"[70] (bold and emphasis added).
2. In the Joint Declaration on Freedom of Expression and Gender Justice, the special mandates stated that "[s]tates should […] enact comprehensive legislation to discourage vexatious or

frivolous defamation cases and strategic lawsuits against public participation (SLAPPs) that seek to intimidate and silence women and keep them out of public participation"[71] (bold and emphasis added).

As can be seen, the special mandates on freedom of expression of the UN, the OSCE, the OAS and the ACHPR have jointly and repeatedly expressed, in terms of a duty of States, the need to have legislation to protect freedom of expression from SLAPPs and that such legislation must empower the authorities to terminate such lawsuits early.

Notes

[45] Directive (EU) 2024/1069 of the European Parliament and of the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings ("Strategic lawsuits against public participation"), OJ L of 16 April 2024. Available at: https://eur-lex.europa.eu/eli/dir/2024/1069/oj?locale=es

[46] Commission Recommendation (EU) 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings, OJ L 138 of 17 May 2022, p. 30. Its points 10 and 12 refer to the training of justice professionals; points 24, 25 and 27 to access to legal aid; and points 29 and 31 to the annual collection of data.

[47] Council of Europe, Committee of Ministers, Recommendation CM/Rec(2024)2 on countering the use of strategic lawsuits against public participation (SLAPPs), adopted on April 5, 2024 at the 1494th meeting of the Ministers' Deputies. Available at: https://rm.coe.int/0900001680af2805

[48] Birgit van Houtert and Marco Pasqua, Status of the Anti-SLAPP Directive Transpositions at the 7 May 2026 Deadline, EAPIL Blog, May 7, 2026, available at: https://eapil.org/2026/05/07/status-of-the-anti-slapp-directive-transpositions-at-the-7-may-2026-deadline/. On the infringement proceedings opened by the European Commission on July 15, 2026, see decision INF/26/1380, available at: https://ec.europa.eu/commission/presscorner/api/files/document/print/en/inf_26_1380/INF_26_1380_EN.pdf

[49] Ireland's Defamation (Amendment) Act 2026, signed into law on February 19, 2026, whose Part 7 introduces a new Part 4A into the Defamation Act 2009, with early dismissal of manifestly unfounded claims, shifting to the claimant the burden of substantiating the claim, a judicial declaration of abusive proceedings and security for costs.

[50] Institute for Free Speech, Anti-SLAPP Statutes: 2025 Report Card, August 25, 2025, available at: https://www.ifs.org/anti-slapp-report/. On the Uniform Public Expression Protection Act, see Reporters Committee for Freedom of the Press, Anti-SLAPP Guide: Latest Developments, updated to July 20, 2026, available at: https://www.rcfp.org/anti-slapp-guide/latest-developments/. The various sources use different counting methodologies, so the figures vary.

[51] United Nations Human Rights Council, Resolution adopted by the Human Rights Council on September 27, 2018, A/HRC/RES/39/6, and United Nations General Assembly, Resolution adopted by the General Assembly on December 18, 2019, A/RES/74/157.

[52] IACHR, An Hemispheric Agenda for the Defense of Freedom of Expression, OEA/Ser.L/V/II CIDH/RELE/INF. 4/09, February 25, 2009, para. 73.

[53] Inter-American Court of Human Rights, Case of Álvarez Ramos v. Venezuela, judgment of August 30, 2019, para. 120.

[54] Ibid., para. 124.

[55] Ibid.

[56] Inter-American Court of Human Rights, Case of Fontevecchia and D'Amico v. Argentina, Judgment of November 29, 2011, para. 74.

[57] European Parliament, study requested by the Committee on Civil Liberties, Justice and Home Affairs, Safety of journalists and the fighting of corruption in the EU, 2020, p. 75. Available at: https://www.europarl.europa.eu/RegData/etudes/STUD/2020/655187/IPOL_STU(2020)655187_EN.pdf

[58] Council of Europe, Hands off press freedom: attacks on media in Europe must not become a new normal, 2020 Annual Report by the partner organisations to the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists, 2020. Available at: https://rm.coe.int/annual-report-en-final-23-april-2020/16809e39dd

[59] Ibid.

[60] ECtHR, Steel and Morris v. The United Kingdom, No. 68416/01, Judgment of 15 May 2005, para. 95.

[61] Recommendation CM/Rec(2016)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors (adopted by the Committee of Ministers on 13 April 2016 at the 1253rd meeting of the Ministers' Deputies).

[62] Ibid.

[63] Ibid.

[64] Inter-American Court of Human Rights, Case of Kimel v. Argentina, Judgment of May 2, 2009, para. 76.

[65] Inter-American Court of Human Rights, Advisory Opinion OC-16/99 of October 1, 1999, "The right to information on consular assistance in the framework of the guarantees of the due process of law", para. 117.

[66] Ibid., para. 119.

[67] Hugh Wilkins, Ramani Nadarajah, Breaking the Silence: The urgent need for anti-SLAPP legislation in Ontario, Canadian Environmental Law Association, November 2010.

[68] IACtHR. Case of Palacio Urrutia et al. v. Ecuador. Merits, reparations and costs. Judgment of November 24, 2021, Series C 446, para. 182.

[69] Ibid., para. 95.

[70] United Nations (UN) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, Organization of American States (OAS) Special Rapporteur for Freedom of Expression and African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. Joint Declaration on Politicians and Public Officials and Freedom of Expression. 2021. Available at: https://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1214&lID=2

[71] United Nations (UN) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, Organization of American States (OAS) Special Rapporteur for Freedom of Expression and African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. Joint Declaration on Freedom of Expression and Gender Justice. 2022. Available at: https://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1233&lID=2

VI. LITIGATION HARASSMENT AND THE OTHER GUARANTEES FOR THE EXERCISE OF JOURNALISM AND THE DEFENSE OF HUMAN RIGHTS

It would be a mistake to read litigation harassment as a problem of procedural technique separate from the other threats faced by the press and human rights defenders in Colombia. It is, of course, one more piece of a single system of silencing, and public policy must treat it as such.

Between 1977 and 2026, 171 journalists were murdered in Colombia for reasons associated with their work.[72] Of the 161 cases that occurred between 1977 and 2020, 78.8% remain in total impunity, 92 were closed due to the statute of limitations, and in the entire series only one case has led to the conviction of the complete criminal chain.[73] In the same period, the Office of the United Nations High Commissioner for Human Rights verified 972 killings of human rights defenders in Colombia between 2016 and 2025, and 2,018 cases of threats and attacks between 2022 and 2025.[74] The Somos Defensores Program recorded 874 attacks against defenders during 2025, equivalent to more than two per day, and documents that of the 1,840 killings recorded between 2002 and 2025 only 12% led to a conviction.[75]

In the face of this violence, the Colombian State has built a considerable protection apparatus. The National Protection Unit reported 8,067 protected persons, including 1,310 human rights defenders and 165 journalists and communicators.[76] That apparatus, however, is designed for a specific risk: physical risk. 93% of the budget for protection schemes goes to individual protection, and the average time for risk assessment is 203 days.[77] A journalist who receives four tutela actions and

two criminal complaints in a month finds no response in that system, because the instrument the State has to protect them is a bulletproof vest or an armored vehicle.

That is exactly the gap this bill seeks to close. Journalists and social communicators, on the one hand, and leaders and activists of human rights organizations, on the other, have been target populations of the Prevention and Protection Program since 2011.[78] The Colombian legal system thus already recognizes that they are subjects at special risk. What it does not recognize is that a growing part of that risk materializes today in courtrooms and not on the roads. Incorporating litigation harassment as a risk factor in the assessment carried out by the National Protection Unit does not mean diverting resources from physical protection —the proposed article expressly prohibits it— but rather completing the diagnosis with which the State decides how to protect.

There is also a direct relationship between stigmatization and litigation. The 226 episodes of stigmatization documented in the four most recent years are not a phenomenon isolated from judicial harassment: they often precede and prepare it, by building the public narrative that is later carried over into the lawsuit or the complaint. Presidential Directive 07 of 2024 disciplined the stigmatizing discourse of public servants toward the press, and Directive 002 of 2017 of the Office of the Inspector General did the same with respect to human rights defenders.[79] Neither of them, however, touches the official's capacity to sue. The paragraph of Article 10 of this bill closes that link, by establishing the duty of public entities and servants to refrain from bringing proceedings that constitute litigation harassment and by entrusting its monitoring to the Office of the Inspector General.

VII. PUBLIC LEGAL DEFENSE AS A MEASURE OF EQUALITY OF ARMS

The inequality of resources between the parties is not an incidental feature of litigation harassment: it is one of its four constituent elements, as set out above. The harasser has law firms on the payroll; the harassed person often does not even have a lawyer. An early termination mechanism is of little use if the defendant lacks someone to invoke it on their behalf. A procedural remedy that can only be triggered by someone with legal representation is, for most victims of this phenomenon, a non-existent remedy.

This is not a new argument. The Committee of Ministers of the Council of Europe had already warned that the seriousness of judicial harassment is accentuated when it is directed against civil society actors who lack the legal, financial and institutional backing of large media companies, and that guaranteeing equality of arms may require the creation of state legal support schemes. The Inter-American Court of Human Rights has held, in the same vein, that the existence of conditions of real inequality "requires the adoption of compensatory measures that help to reduce or eliminate the obstacles and deficiencies that impair or reduce the effective defense of one's own interests".[80] And Recommendation (EU) 2022/758, Recommendation CM/Rec(2024)2 of the Council of Europe and Article 19 of Directive (EU) 2024/1069 all expressly include access to free legal aid among the protective measures against these lawsuits.

The proposed Article 7 meets that requirement with the instrument the Colombian legal system already has, and not with a new one. It does not create an entity, a fund or a program: it adds a subparagraph to Article 21 of Law 24 of 1992,[81] which is the provision governing public legal

defense in matters other than criminal ones. That provision already provides that the service is rendered to those who are in economic or social impossibility of providing for the defense of their rights by themselves —a disjunctive formula, not a cumulative one—[82] and already expressly enables its provision in civil, labor and contentious-administrative matters. The addition consists, essentially, of specifying how that social impossibility should be assessed when litigation harassment is involved: against the economic capacity and legal resources of whoever brings the proceeding, and not only against the applicant's assets. It is the normative translation of the inequality of arms.

The technique of referral to regulations is also the one the legal system itself uses. Article 21 of Law 24 of 1992 orders the National Director of Public Defense to abide by the criteria established by the Ombudsman by regulation, and the second subparagraph of Article 43 of Law 941 of 2005 already provides for an exception of access to the service that takes into account "the social connotations of the persons who may request the defense", "the significance of the facts of the criminal trial for society" and "the reluctance of private lawyers to represent those involved",[83] criteria that describe with remarkable precision the situation of a journalist subjected to litigation harassment. The proposed article replicates that structure: legal authorization and referral to a resolution of the Ombudsman for the setting of operational criteria, pursuant to numeral 4 of Article 282 of the Constitution.[84]

That this design is feasible is shown by the administrative practice of the entity itself. Through Resolution 1008 of 2018 the Ombudsman created by administrative act an Area of Public and Private Law with civil, labor and administrative programs, and a victims sub-area with a specific line on human rights violations, relying precisely on Article 21 of Law 24 of 1992.[85] The Office of the Ombudsman already knows how to do this; what this bill contributes is the express legal mandate. There is also a direct legislative precedent: paragraph 2 of Article 43 of Law 1448 of 2011 assigned to the Office of the Ombudsman the legal representation of victims of the armed conflict and ordered it to be channeled through the National Public Defense System, without creating any entity.[86]

Finally, paragraph 2 of Article 7 enables the Office of the Ombudsman to enter into agreements with legal aid clinics, universities and organizations specializing in freedom of expression. The reason is practical: specialized litigation capacity in freedom of expression is scarce in the country and concentrated in a small number of organizations and legal clinics. Taking advantage of that installed capacity allows the service to be effective from its launch, without transferring to the Office of the Ombudsman the cost of training a specialized body from scratch. The paragraph specifies, in any case, that entering into agreements does not relieve the entity of its responsibility for the quality of the defense.

VIII. THE OBLIGATION TO PRODUCE OFFICIAL INFORMATION ON THE PHENOMENON

Everything known today about litigation harassment in Colombia comes from the work of civil society organizations. The series of the Foundation for Press Freedom are the only systematic record available, and the organization itself warns that they underreport, because they only cover the cases that come to its knowledge. The Colombian State, which handles each of those proceedings, produces no figures on them. There is no marker in the Judicial Branch Statistics System that makes

it possible to know how many of the 952,251 tutela actions received in a year were brought against journalists, or how many of the tens of thousands of complaints for injuria and calumnia were directed against someone reporting on a matter of public interest.

That absence is not neutral, since it prevents the phenomenon from being measured, prevents assessing whether the measures introduced by this law work, and prevents identifying the litigants who concentrate the activity. And it has a concrete political effect by forcing Congress to legislate —as happens with this very bill— on the basis of data produced by third parties. Article 20 of Directive (EU) 2024/1069 and points 29 and 31 of Recommendation (EU) 2022/758 impose on States, precisely for this reason, the duty to collect and report this information annually.

The proposed Article 9 does not create a new information system. It relies on three structures that already exist and are already mandatory. First, the National Statistical System, whose current framework law is Law 2335 of 2023 —which repealed Law 79 of 1993— and which empowers DANE, as the technical statistical authority, to require those responsible for administrative records to deliver their databases free of charge.[87] Second, the Judicial Branch Statistics System of Article 106 of Law 270 of 1996, which must already allow "the individualization of proceedings from their commencement until their termination" and which already imposes on all bodies of the Branch the duty to provide the necessary information;[88] Article 104 of the same law extends that duty to the Office of the Attorney General.[89] And third, the obligation to publish open data under literal k) of Article 11 of Law 1712 of 2014.[90] What the bill adds is the variable: it specifies what must be recorded, it does not create the register.

The design of the article closely follows two Colombian legislative precedents that worked. Article 12 of Law 1761 of 2015 ordered DANE, in coordination with the Ministry of Justice and Legal Medicine, to adopt within one year a data collection system on gender violence that would specify, among other variables, the status of the judicial proceeding.[91] And Article 31 of Law 1719 of 2014 ordered the unification within one year of the records of the Office of the Attorney General, the Judicial Branch, Legal Medicine, the Office of the Inspector General and the Office of the Ombudsman on sexual violence, with online publication and protection of the victims' identity.[92] The proposed article replicates that architecture —a one-year deadline, responsible entities, an exhaustive list of variables, publication with anonymization— applied to litigation harassment.

Two variables deserve particular mention. The first is the number of proceedings brought against the same person for the same facts or for related facts: it is the data point that allows the pattern that is lost today among isolated case files to be seen, and without which the concept of aggravated litigation harassment that the bill already contemplates lacks systematic evidentiary support. The second is the breakdown of criminal reports for injuria and calumnia according to how they were terminated, provided for in paragraph 2. It was precisely that data point —43,849 proceedings and two convictions in one year— that made it possible to understand the nature of the phenomenon, and today it depends on a journalist requesting it. It should be produced ex officio and published every year.

IX. RELATIONSHIP WITH OTHER PUBLIC POLICY AND LEGISLATIVE TECHNIQUE EFFORTS

The bill also fits within an already established public policy line. The Timely Action Plan created by Decree 2137 of 2018 coordinates the protection programs for human rights defenders, social leaders and journalists; CONPES document 4063 of 2021 set the public policy on guarantees for the work of defending human rights and included among its objectives the strengthening of investigation and prosecution; and Decree-Law 895 of 2017 includes, among the purposes of the Comprehensive Security System for the Exercise of Politics, guarantees against the persecution of leaders for their activities of free opinion or opposition.[93] In August 2026, in addition, the Comprehensive Public Policy on Guarantees for Leadership and the Defense of Human Rights was adopted, which identifies stigmatization as a persistent risk scenario and seeks to move beyond an exclusively reactive approach to protection.[94] Litigation harassment is precisely a risk that the reactive approach does not capture, because it produces not a victim to protect but a proceeding to address. Article 10 of this bill connects the articles with that framework.

Finally, the bill is consistent with the line of legislative technique that Congress has used in other matters of reinforced protection. Law 1761 of 2015 combined, for gender violence, a mandate of compulsory training for servants of the Judicial Branch (Article 11)[95] with a mandate of statistical production subject to a deadline (Article 12); Law 1719 of 2014 ordered the unification of records among the Office of the Attorney General, the Judicial Branch and the oversight bodies; and Law 1448 of 2011 assigned to the Office of the Ombudsman the legal representation of a defined group through the National Public Defense System. Articles 7, 8 and 9 of this bill follow, respectively, those three models. This is not a matter of importing institutions foreign to the Colombian legal system, but of applying to a new phenomenon tools that Congress has already used and that have worked.

Notes

[72] Foundation for Press Freedom, historical record of journalists murdered in Colombia for reasons associated with their work, updated to June 2026. Available at: https://flip.org.co/pronunciamientos/estos-son-los-periodistas-asesinados-en-colombia-por-causas-asociadas-a-su-oficio

[73] Figures of the Foundation for Press Freedom on 161 cases of murders of journalists that occurred between 1977 and 2020, reported in: El Espectador, 78,8% de impunidad en asesinatos de periodistas en Colombia, según la FLIP, August 17, 2021. Available at: https://www.elespectador.com/judicial/788-de-impunidad-en-asesinatos-de-periodistas-en-colombia-segun-la-flip/

[74] Office of the United Nations High Commissioner for Human Rights, report on the situation of human rights defenders in Colombia, March 19, 2026. See: https://news.un.org/es/story/2026/03/1541259

[75] Programa Somos Defensores, Promesas Rotas. Informe anual 2025. Available at: https://somosdefensores.org/informe-anual-2025-i-promesas-rotas/

[76] National Protection Unit, Protected persons and active protection measures by population, as of August 10, 2023. Available at: https://www.unp.gov.co/protegidos-y-medidas-de-proteccion-activas-por-poblacion-de-la-unp/

[77] Office of the Comptroller General of the Republic, findings reported in: El Tiempo, La UNP destinó el 93% de su presupuesto de esquemas a protección individual, May 29, 2025. Available at: https://www.eltiempo.com/justicia/investigacion/unp-destino-93-de-su-presupuesto-de-esquemas-a-proteccion-individual-el-de-congresistas-fue-el-que-mas-crecio-3458679

[78] Journalists and social communicators, on the one hand, and leaders, representatives or activists of human rights organizations, on the other, have been target populations of the Prevention and Protection Program since Article 6 of Decree 4912 of 2011, now compiled in Chapter 2 of Title 1 of Part 4 of Book 2 of Decree 1066 of 2015.

[79] Directive 002 of June 14, 2017 of the Office of the Inspector General of the Nation, on guidelines for the effective protection of the rights of human rights defenders, and Presidential Directive 07 of September 9, 2024, on the duties of public officials in the exercise of freedom of expression and respect for press freedom.

[80] Inter-American Court of Human Rights, Advisory Opinion OC-16/99 of October 1, 1999, paras. 117 and 119.

[81] Article 21 of Law 24 of 1992: "Public Defense shall be provided in favor of persons with respect to whom it is shown that they are in economic or social impossibility of providing for the defense of their rights by themselves […]. In fulfilling this function, the National Director of Public Defense shall abide by the criteria established by the Ombudsman by regulation. […] It may likewise be provided in labor, civil and contentious-administrative matters". Available at: https://www.cancilleria.gov.co/sites/default/files/Normograma/docs/pdf/ley_0024_1992.pdf

[82] Article 21 of Law 24 of 1992, cited above. The legal formula is disjunctive: "economic or social impossibility".

[83] Second subparagraph of Article 43 of Law 941 of 2005: "Exceptionally, public defense may be provided to persons who, having economic solvency, cannot hire a private lawyer for reasons of force majeure. These cases shall be regulated by the Ombudsman, taking into account factors such as the social connotations of the persons who may request the defense, the significance of the facts of the criminal trial for society, the reluctance of private lawyers to represent those involved, and the other needs of the proceeding".

[84] Numeral 4 of Article 282 of the Political Constitution: it is for the Ombudsman "[t]o organize and direct public defense under the terms established by law".

[85] Resolution 1008 of September 12, 2018 of the Office of the Ombudsman, "whereby the areas in which the Public Defense service is provided are determined", created by administrative act the Area of Public and Private Law and specific programs within the criminal area, on the basis of Articles 21 and 22 of Law 24 of 1992. It was amended by Resolutions 1165 of 2020 and 945 of 2021. Available at: https://forseti.defensoria.gov.co/gestor/compilacion/docs/resolucion_defensoria_1008_2018.htm

[86] Direct normative precedent: Article 43, paragraph 2, of Law 1448 of 2011 provides that "[t]he Office of the Ombudsman shall provide legal representation services to victims who request them through the National Public Defense System". Along the same lines, literal b) of Article 8 of Law 1257 of 2008 guarantees free technical legal assistance to women victims of violence "through public defense".

[87] Law 2335 of October 3, 2023, "whereby provisions on official statistics in the country are issued". Its Article 6 designates DANE as the technical statistical authority; Article 13, numeral 1, requires the members of the National Statistical System to make the databases of administrative records available to DANE, and Article 22 reiterates that obligation for those responsible for administrative records. This law repealed Law 79 of 1993, except for its Article 5.

[88] Article 106 of Law 270 of 1996: the Superior Council of the Judiciary "shall be in charge of a Judicial Branch Statistics System that includes the management of those who are part of the Judicial Branch and allows the individualization of proceedings from their commencement until their termination […]. All bodies that are part of the Judicial Branch have the duty to provide the information necessary to keep the data incorporated into the system up to date". Article 104 extends that duty of information to the Office of the Attorney General.

[89] Article 104 of Law 270 of 1996, which expressly binds the Office of the Attorney General to the duty to submit to the Superior Council of the Judiciary the reports it requests, including "the list of proceedings initiated, those pending decision and those that have been resolved".

[90] Literal k) of Article 11 of Law 1712 of 2014, which requires obligated parties to publish their "open data" in accordance with the technical requirements set by the National Government.

[91] Article 12 of Law 1761 of 2015: "Within the year following the promulgation of this law, the National Department of Statistics (DANE), in coordination with the Ministry of Justice and Law and the National Institute of Legal Medicine and Forensic Sciences (INMLCF), shall adopt a National Data Collection System on acts related to gender violence in the country, in order to establish the types, spheres, modalities, frequency, means used to carry out the violence, levels of personal and social impact, measures granted, services provided and status of the judicial proceeding, for the definition of public policies (…)".

[92] Article 31 of Law 1719 of 2014, which ordered DANE to unify, within one year, the records of the Office of the Attorney General, the Judicial Branch, the National Institute of Legal Medicine, the Office of the Inspector General and the Office of the Ombudsman on sexual violence, with online publication and protection of the victims' identity.

[93] Decree 2137 of November 19, 2018 (Timely Action Plan); CONPES document 4063 of December 10, 2021, Public Policy on Guarantees and Respect for the Work of Defending Human Rights and Social Leadership; Decree-Law 154 of 2017 (National Commission on Security Guarantees); and Decree-Law 895 of 2017 (Comprehensive Security System for the Exercise of Politics), whose purpose expressly includes guarantees against "the stigmatization and persecution of leaders because of their political, free opinion or opposition activities".

[94] Decree 1028 of 2026, whereby the Comprehensive Public Policy on Guarantees for Leadership and the Defense of Human Rights in Colombia is adopted, and Decree 0980 of 2026. Both were issued in August 2026. See: https://www.defensoria.gov.co/web/guest/-/nuevos-decretos-fortalecen-las-garantias-para-quienes-defienden-los-derechos-humanos-inicia-el-camino-de-su-implementacion

[95] Precedent of a legal training mandate: Article 11 of Law 1761 of 2015 provides that public servants of the Executive or Judicial Branch with functions in the prevention, investigation, prosecution, punishment and reparation of violence against women "must receive training in gender, Human Rights and International Humanitarian Law, in the induction and re-induction processes in which they must participate".

X. DIFFERENCES BETWEEN THE CURRENT REGIME AND THE PROPOSAL

In order to facilitate the debate, a comparative table between the current regime and the proposed amendments is presented below:

Topic	Current regime	Bill's proposal
Definition of litigation harassment	None. In 2023 the Constitutional Court noted the "absolute absence of legislative mention" on the matter.	Litigation harassment is defined, its typical victims are identified and an aggravated form for repetition is provided (Art. 2, paragraphs 1 and 2).
Recklessness or bad faith (Art. 79 CGP)	Six presumptions. The silencing of a matter of public interest does not fit clearly into any of them.	New presumption: when litigation harassment is present (Art. 2, numeral 7).
Multiple actions against whoever informs	Recklessness in tutela requires identity of parties, cause and object (Art. 38 of Decree 2591 of 1991). Each case file is assessed in isolation.	The definition operates as an integration criterion in any jurisdiction, and the successive or simultaneous filing of proceedings by linked persons constitutes litigation harassment, without altering the tutela procedure (Art. 2, paragraph 3).
Early judgment (Art. 278 CGP)	Available at the request of the parties, when there is no evidence to be taken, or for res judicata, settlement, expiry, extinctive prescription or lack of standing.	New ground: prima facie verification that the case corresponds to litigation harassment, with the possibility of making the burden of proof dynamic (Art. 3).
Consequences for whoever brings the proceeding	General rules on award of costs and on financial liability for reckless or bad-faith conduct (Arts. 80 and 81 CGP).	Award of costs and a fine of 30 SMLMV allocated to the Executive Directorate of Judicial Administration (Art. 4).
Change of venue (Art. 30, num. 8, CGP)	Available for circumstances affecting public order, impartiality, independence, procedural guarantees or the safety of participants, or for management deficiencies.	Also available on the basis of arguments of litigation harassment (Art. 5).
Closure of the investigation (Art. 79, Law 906 of 2004)	Available when there are no grounds or factual circumstances allowing the act to be characterized as a crime.	Also available when the case corresponds to a legitimate exercise of freedom of expression or association, or to a case of litigation harassment (Art. 6).
Public legal defense (Art. 21, Law 24 of 1992)	Provided to those in economic or social impossibility of providing for their defense.	Extended to those facing proceedings in which litigation harassment is invoked, and social impossibility is assessed against the resources of whoever brings the proceeding (Art. 7).
Training of justice operators	No specific content on litigation harassment.	Module at the Rodrigo Lara Bonilla Judicial School and equivalent content for prosecutors and public defenders (Art. 8).

Topic	Current regime	Bill's proposal
Official information	No state register or marker exists. Available information comes from civil society organizations.	Unified register with minimum variables, annual publication in open data and disaggregated figures on injuria and calumnia (Art. 9).
Prevention and protection	The National Protection Unit's risk assessment focuses on physical risk.	Litigation harassment is assessed as a risk factor, without displacing the assessment of physical risk, and the duty of public servants to refrain from engaging in it is established (Art. 10).

XI. EXPLANATION OF THE ARTICLES

The bill consists of eleven (11) articles, organized into six chapters: Chapter I (Article 1) sets out the purpose; Chapter II (Articles 2 to 5) contains the amendments to the General Code of Procedure; Chapter III (Article 6) amends Law 906 of 2004; Chapter IV (Articles 7 to 9) regulates public legal defense, judicial training and official information; Chapter V (Article 10) integrates the bill with the prevention and protection policy; and Chapter VI (Article 11) contains the entry-into-force clause.

In order to facilitate the debate, the content and justification of each provision of the articles are summarized below.

Article 1. Sets out the purpose of the law: to prevent and sanction litigation harassment affecting those who exercise freedom of expression on matters of public interest, and to improve journalists' access to justice in the face of such proceedings, and identifies the instruments to achieve it (the civil and criminal procedural reform, public legal defense, judicial training, official information and integration with the protection policy), with the express safeguard that none of them restricts the right of access to justice in general.

Article 2. Adds to Article 79 of the General Code of Procedure a numeral 7 and three paragraphs. Numeral 7 incorporates litigation harassment into the catalog of presumptions of recklessness or bad faith. Paragraph 1 defines it; paragraph 2 identifies its typical victims and provides for an aggravated form for repetition; and paragraph 3 —newly included— specifies that the definition operates as an integration criterion in any jurisdiction, describes the pattern of multiplication of proceedings that characterizes the phenomenon, and incorporates the safeguards needed so that the provision does not restrict access to justice or encroach on the requirement of a statutory law. The need for this paragraph is explained in the section on litigation harassment through constitutional litigation. It should be noted that the new numeral 7 must be read in harmony with the current numeral 3, which already covers the use of the proceeding "for clearly illegal purposes or with fraudulent or deceitful intent": the contribution of numeral 7 is to classify the silencing of a matter of public interest as an autonomous spurious purpose, which today does not fit clearly into either of those two categories.

Articles 3 and 4. Add a numeral 4 and a paragraph to Article 278 of the General Code of Procedure, to enable early judgment when it is verified prima facie that the case corresponds to litigation harassment, and to attach to that decision an award of costs and a fine of 30 SMLMV allocated to the budget of the Executive Directorate of Judicial Administration. This vehicle was chosen deliberately. Article 278 does not establish a power but a duty; the judge "shall issue an early judgment", it operates "at any stage of the proceeding" and it already works as an early merits filter. It is the closest

functional equivalent, within Colombian procedural law, to the early dismissal of Article 11 of Directive (EU) 2024/1069. The bill does not, therefore, import a foreign institution: it activates a national one.

Article 5. Amends numeral 8 of Article 30 of the General Code of Procedure to allow a change of venue to be requested on the basis of arguments of litigation harassment. It addresses a recurrent tactic of the phenomenon: the deliberate choice of a judicial district remote from the defendant's domicile, whose only useful effect is to multiply the cost and attrition of the defense.

Article 6. Amends Article 79 of Law 906 of 2004 to enable the closure of the criminal proceeding when the Office of the Attorney General establishes that the case corresponds to a legitimate exercise of freedom of expression or association, or to a case of litigation harassment. This provision is the most relevant in quantitative terms: as set out above, 93% of the cases documented in Latin America go through the criminal route, and in Colombia tens of thousands of proceedings for injuria and calumnia are opened every year that practically never end in a conviction. Early closure by the Office of the Attorney General is the point in the system where the greatest volume of harm can be avoided.

Article 7. Enables the provision of the public legal defense service to victims of litigation harassment, by adding a subparagraph to Article 21 of Law 24 of 1992, and refers to the Ombudsman the setting of the operational criteria. Its justification is developed in the section on public legal defense as a measure of equality of arms. It should be stressed that the provision does not create entities, units or programs, and that it expressly makes its implementation subject to budget availability.

Article 8. Orders the Rodrigo Lara Bonilla Judicial School to provide a module on litigation harassment[96] and adds two paragraphs that specify its minimum content and extend the obligation to the Office of the Attorney General and the Office of the Ombudsman. Training is an express component of all international standards on the matter, and it responds to the finding set out above: the judge who receives an isolated case file today has no categories to assess the whole. Paragraph 1 links the module to the refresher courses that Article 176 of Law 270 of 1996 already requires every two years,[97] so that no additional training burden is created but rather content within an existing obligation. Paragraph 2 extends the content to prosecutors and public defenders, for reasons of consistency: if the closure under Article 6 and the public legal defense under Article 7 depend on prosecutors and defenders identifying the phenomenon, training cannot be limited to judges.

Article 9. Orders the creation of a unified register of proceedings in which litigation harassment is invoked or declared, specifies the minimum variables and establishes specific publication obligations for the Office of the Attorney General, the National Protection Unit and the Office of the Ombudsman. Its justification is developed in the section on the obligation to produce official information.

Article 10. Integrates the fight against litigation harassment with the existing prevention and protection policy, incorporating it as a risk factor in the assessment carried out by the National Protection Unit, without it being able to replace the assessment of physical risk, and ordering its inclusion in the work plans of the coordinating bodies. Its paragraph establishes the duty of public entities and servants to refrain from bringing proceedings that constitute litigation harassment, and

entrusts its monitoring to the Office of the Inspector General of the Nation. Its justification is developed in the section on litigation harassment and the other guarantees for the exercise of journalism.

Article 11. Contains the entry-into-force and repeal clause.

XII. FISCAL IMPACT

In compliance with Article 7 of Law 819 of 2003, the following is recorded. Most of the articles do not order expenditure: the amendments to the General Code of Procedure and to Law 906 of 2004 are procedural provisions that operate with existing institutions and that, by allowing the early termination of manifestly unfounded proceedings, tend to free up judicial capacity rather than consume it. The fine provided for in Article 4 is, moreover, revenue allocated to the budget of the Executive Directorate of Judicial Administration.

The provisions that may give rise to fiscal responsibilities —the public legal defense service of Article 7, the judicial training of Article 8 and the information register of Article 9— are carried out with the institutions, information systems and training programs that the entities already have. None of them creates entities, units, posts or staff establishments, or modifies the organizational structure of the administration. For that reason, Article 7 expressly includes a clause that makes its implementation subject to the Medium-Term Fiscal Framework, the Medium-Term Expenditure Framework of the sector and the corresponding budget programming and availability, in the terms the Constitutional Court has considered sufficient for a provision not to constitute an order of expenditure.[98] Finally, it should be recalled that constitutional case law has specified that Article 7 of Law 819 of 2003 is an instrument for rationalizing legislative activity and not a requirement for the validity of the procedure; that the main burden of providing the fiscal impact analysis falls on the Ministry of Finance and Public Credit, which has the data and the expertise;[99] and that the absence of that ministry's concurrence does not affect the constitutionality of the law approved.[100]

In any case, in keeping with the principle of harmonious collaboration between the branches of public power, the opinion of the Ministry of Finance and Public Credit will be requested so that, in the course of the legislative procedure, it may comment on the fiscal implications of the bill and on the budget feasibility of the proposed measures.

XIII. CONFLICT OF INTEREST

On the basis of Article 3 of Law 2003 of 2019,[101] according to which the author of the bill and the rapporteurs shall include in the body of the explanatory memorandum a section describing the circumstances or events that could give rise to a conflict of interest for the discussion and vote on the bill, in accordance with Article 286 of Law 5 of 1992, the applicable criteria are set out below. These will be guiding criteria for the other members of Congress to decide whether they fall within a ground of disqualification, without prejudice to other grounds that the member of Congress may find.

The criteria provided by Law 2003 of 2019 for analyzing possible disqualifications that may arise from a conflict of interest in the exercise of the congressional function, including the legislative function, are set out below:

> "Article 1. Article 286 of Law 5 of 1992 shall read as follows: (...) a) Particular benefit: one that grants a privilege or generates gains or creates economic compensation or eliminates obligations in favor of the member of Congress that the rest of the citizens do not enjoy. Amends rules affecting criminal, disciplinary, fiscal or administrative investigations to which the member is formally linked. b) Current benefit: one that actually arises in the present circumstances existing at the time the member of Congress takes part in the decision. c) Direct benefit: one that occurs specifically with respect to the member of Congress, their spouse or permanent partner, or relatives within the second degree of consanguinity, second degree of affinity or first civil degree. For all purposes it is understood that there is no conflict of interest in the following circumstances: a. When the member of Congress takes part in, discusses or votes on a bill or legislative act that grants benefits or positions of a general nature, that is, when the interest of the member coincides or merges with the interests of the voters. b. When the benefit may or may not arise for the member of Congress in the future. c. When the member of Congress takes part in, discusses or votes on articles of bills or legislative acts of a particular nature that establish sanctions or reduce benefits, in which the member has a particular, current and direct interest. A negative vote shall not constitute a conflict of interest when it maintains the regulations in force. d. When the member of Congress takes part in, discusses or votes on articles of bills or legislative acts of a particular nature that regulate an economic sector in which the member has a particular, current and direct interest, provided it does not generate a particular, direct and current benefit. e. When the member of Congress takes part in, discusses or votes on articles of bills or legislative acts dealing with the economic sectors of those who financed their campaign, provided it does not generate a particular, direct and current benefit for the member. The member of Congress shall state in writing that the article or bill benefits financiers of their campaign. Such statement shall not require discussion or vote. f. When the member of Congress takes part in the election of other public servants by secret ballot. Cases in which disqualifications related to kinship with the candidates arise are excepted (...)".

Accordingly, pursuant to Article 3 of Law 2003 of 2019, which amends Article 291 of Law 5 of 1992, it is noted that this bill could give rise to a conflict of interest for a member of Congress, their spouse or permanent partner, or relatives within the second degree of consanguinity, second degree of affinity or first civil degree, who are parties, as claimants, complainants, applicants, defendants, reported persons or respondents, in civil, criminal or constitutional proceedings related to expressions on matters of public interest, in particular in proceedings for injuria or calumnia, insofar as the provisions of the bill may affect the course or outcome of those proceedings.

Otherwise, given that the bill establishes rules of a general nature, it is not considered to give rise to conflicts of interest. In any case, this does not prevent any member of Congress who so considers from stating other reasons why they may have conflicts of interest.

[Signature block: the sponsors listed in the cover letter, except Ana Leidy Erazo Ruiz.]

Notes

[96] Articles 176 and 177 of Law 270 of 1996, Statutory Law on the Administration of Justice. Article 177 establishes the Rodrigo Lara Bonilla Judicial School as "the center for initial and continuing training of officials and employees serving the Administration of Justice", and Article 176 requires judicial officials to take a refresher course every two years with a duration of no less than 50 hours.

[97] Article 176 of Law 270 of 1996: judicial officials who have not taken specialization, master's or doctoral courses "must, at least every two years, take a judicial refresher course whose duration is not less than 50 hours and submit the relevant evidence to the Judicial School".

[98] Constitutional Court, Judgment C-490 of 2011, reporting justice Luis Ernesto Vargas Silva: the provisions of a bill that give rise to fiscal responsibilities for the State "shall in any case be subject to the corresponding budget programming and availability".

[99] Constitutional Court, Judgment C-502 of 2007: the requirements of Article 7 of Law 819 of 2003 "constitute an important instrument for rationalizing legislative activity" and "the main burden lies with the Ministry of Finance, which is the one that has the data, the teams of officials and the expertise".

[100] Constitutional Court, Judgment C-315 of 2008: "Article 7 of Law 819/03 cannot be interpreted in such a way that the lack of concurrence of the Ministry (…) affects the constitutional validity of the procedure".

[101] Law 2003 of 2019, "whereby Law 5 of 1992 is partially amended and other provisions are enacted". Its Article 1 amended Article 286 of Law 5 of 1992 and its Article 3 amended Article 291 of the same law.