



Testing Europe's Anti-SLAPP Shield: Greenpeace v. Energy Transfer

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Abstract

Strategic litigation, the practice where cases are carefully provided to the court for broader purposes such as policy or social change, has recently become an increasingly prominent phenomenon in activism, particularly in cases relating to climate and human rights. A type of strategic litigation known as "Strategic Litigation Against Public Participation" employs abusive litigation techniques to stifle public participation and critical reporting on issues of public interest. In response to these concerns, the European Union (EU) introduced the Anti-SLAPP Directive 2024/1069 on 11 April 2024. The EU adopted this Directive to protect journalists, activists, and human rights defenders from abusive cross-border litigation. This article examines the Directive and its potential impact as EU Member States enter the transposition phase, where member states have the freedom to add the legislation in their own way to national law. One of the first cases invoking the Directive is *Greenpeace v. Energy Transfer* (2025), currently progressing before the Dutch courts and awaiting judgment.

Keywords: EU Anti-SLAPP Directive, Strategic litigation, *Greenpeace v Energy Transfer* case, Daphne Caruana Galizia, SLAPPs, legal mobilisation, journalism, freedom of expression

Introduction

The Anti-SLAPP Directive (EU) 2024/1069 was adopted by the European Union to safeguard freedom of expression and prevent abusive litigation. It was recently applied in the Dutch court case of *Greenpeace v. Energy Transfer*, involving an energy company. After demonstrating support for the nonviolent indigenous-led demonstrations against the Dakota Access Pipeline in 2016, the multibillion-dollar corporation filed two consecutive SLAPPs against Greenpeace International and Greenpeace in the United States. Greenpeace continues to defend the second case, which is still pending, even after the first case was dismissed.¹ This case represents the

¹ Greenpeace International, "Greenpeace International Begins Groundbreaking Anti-SLAPP Case to Protect Freedom of Speech - Greenpeace International" (Greenpeace International, July 2, 2025)



first application of the EU Anti-SLAPP Directive (2024/1069). It therefore raises an important question: can activists rely on the new Directive to protect public participation from abusive litigation?

History of strategic litigation

Strategic litigation is often associated with the United States and the civil rights movement of the late nineteenth and early twentieth centuries. During this period, several cases challenged racial segregation in public institutions, such as *Brown v. Board of Education* (1954), in which parents of colour filed multiple lawsuits alleging that their children were compelled to attend segregated schools after being turned away from a fully white school closer to their homes.² In this instance, the Supreme Court decided in their favour, holding that racial segregation in public schools violated the Equal Protection Clause of the Fourteenth Amendment. This case demonstrated the power of strategic litigation as a tool for advancing social change.³ Going forward, human rights, corporate responsibility, climate change, and many other topics may be included in strategic lawsuit cases.

The legal mobilisation element sets strategic litigation apart from SLAPPs, even though there are other types of litigation in the legal field. This means that, in addition to prevailing in court, strategic litigation is more common when parties bring cases to modify laws or accomplish other, more general social or economic objectives. SLAPPs, on the other hand, harm people's freedom of expression by possibly intimidating and silencing NGOs, journalists, and attorneys.

What are SLAPPs and the creation of the Directive?

SLAPPs, which target activists, journalists, environmental campaigners, NGOs, and many others, are typically started by business entities.⁴ The Council of Europe received complaints in 2021 regarding widespread abuses of legal actions against journalists in many jurisdictions

<<https://www.greenpeace.org/international/press-release/76511/greenpeace-international-anti-slapp-eu-lawsuit-energy-transfer/>>.

² “Brown v. Board of Education (1954)” (National Archives, March 18, 2024) <<https://www.archives.gov/milestone-documents/brown-v-board-of-education>>.

³ Ibid.

⁴ Rafał Mańko and European Parliamentary Research Service, “Strategic Lawsuits against Public Participation (SLAPPs)” (2024) report PE 733.668 <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733668/EPRS_BRI\(2022\)733668_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733668/EPRS_BRI(2022)733668_EN.pdf)>.



over the preceding years. One of the most notable examples highlighting the seriousness of this issue is the case of Maltese investigative journalist Daphne Caruana Galizia. She was well-known for covering political corruption, money laundering, and numerous other incidents of corruption. This is a particularly striking example from prior years that highlights the significance of establishing this directive.⁵

At the age of 53, she was assassinated by a vehicle bomb outside her Malta home on October 16, 2017. Her murder sent shockwaves across the nation and the world, triggering widespread protests demanding justice.⁶ This case for the European Parliament demonstrates that physical violence was a component of a larger issue wherein linked institutions blocked public interest investigations.⁷ Furthermore, this case demonstrates the serious repercussions of intimidation and the effects of being overtaken by defamation lawsuits to silence her investigative reporting, which ultimately led to her death. Although she was reporting on crucial subjects crucial to the public's understanding of Malta's political landscape.

The Anti-SLAPP Directive (2024/1069) aims to protect journalists, human rights defenders, and civil society actors from abusive cross-border civil litigation.⁸ It aims to provide a minimum standard for protecting public watchdogs against abusive litigation SLAPPs. Additionally, it can order their early dismissal to prevent defendants from facing lengthy and costly legal proceedings initiated in bad faith.⁹

EU Member States are now responsible for transposing the Directive into their national legal systems. To guarantee that harmonisation may be achieved inside the EU by adhering to the

⁵ Justin BORG-BARTHET and others, "The Use of SLAPPs to Silence Journalists, NGOs and Civil Society" (Monika Laura LAZARUK ed, European Parliament's Committee on Legal Affairs, 2021) report <[https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694782/IPOL_STU\(2021\)694782_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694782/IPOL_STU(2021)694782_EN.pdf)>.

⁶ Hamish Boland-Rudder, "Malta Responsible for Assassination of Journalist Daphne Caruana Galizia, Inquiry Finds - ICIJ" International Consortium of Investigative Journalists (October 17, 2022) <<https://www.icij.org/investigations/panama-papers/malta-responsible-for-assassination-of-journalist-daphne-caruana-galizia-inquiry-finds/>>.

⁷ Justin BORG-BARTHET and others, "The Use of SLAPPs to Silence Journalists, NGOs and Civil Society" (Monika Laura LAZARUK ed, European Parliament's Committee on Legal Affairs, 2021) report <[https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694782/IPOL_STU\(2021\)694782_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694782/IPOL_STU(2021)694782_EN.pdf)>.

⁸ "Directive - EU - 2024/1069 - EN - EUR-LEX" <<https://eur-lex.europa.eu/eli/dir/2024/1069/oj/eng>>.

⁹ Amnesty International, "The Anti-SLAPP Directive Creates a Promising Minimum Standard for Member States" (European Institutions Office, February 28, 2024) <<https://www.amnesty.eu/news/the-anti-slapp-directive-creates-a-promising-minimum-standard-for-member-states/>>.



Directives' requirements, the Coalition Against SLAPPs in Europe (CASE) will be keeping an eye on this transition.¹⁰ Additionally, CASE has determined that the definition of cross-border and compensating damages, as well as the early dismissal mechanism, are the most crucial elements to consider when transferring the directive to national law.

The case of EnergyTransfer

The first instance in which the EU Anti-SLAPP directive was applied was *Greenpeace v. Energy Transfer (2025)*. SLAPPs in the field of climate change activism are demonstrated by this case. The North American energy company EnergyTransfer filed two large SLAPP lawsuits against Greenpeace USA and International. Alleging that they had developed a "violent and unlawful scheme" to damage the company's finances and obstruct pipeline construction. As a result, EnergyTransfer demanded hundreds of millions of dollars in damages. In 2016, Greenpeace claimed to have only backed nonviolent, indigenous-led demonstrations against the pipeline. The first case to test whether the EU Anti-SLAPP Directive can shield European actors from foreign intimidation was Greenpeace's July 2025 lawsuit in the Netherlands.¹¹

This case demonstrates the potential benefits of the Directive. It also demonstrates the directive's potential for cross-border elements and its capacity to shield activists against SLAPPs even when they are filed outside of the EU. NGOs and journalists can lessen the power disparity that typically exists in SLAPP lawsuits thanks to this Directive. This guideline gives NGOs a greater chance of levelling the playing field after they were forced to abandon cases because powerful actors may sue them and deplete their resources. This Directive also protects the NGOs, journalists and other actors' rights of freedom of speech and keeps them connected to their voice to bring awareness of public interest topics like climate change and human rights topics.

Conclusion

¹⁰ "CASE" <<https://www.the-case.eu/>>.

¹¹ "Greenpeace v Energy Transfer LP – An Early Look at How the EU Directive 2024/1069 Will Operate" (McCann FitzGerald) <<https://www.mccannfitzgerald.com/knowledge/disputes/greenpeace-v-energy-transfer-lp-an-early-look-at-how-the-eu-directive-2024-1069-will-operate>>.elements



In conclusion, SLAPP litigation has increasingly become a significant threat to freedom of expression and public participation. The EU Anti-SLAPP Directive (2024/1069) represents an important step toward protecting journalists, NGOs, and activists from abusive cross-border litigation. The case of *Greenpeace v. Energy Transfer* illustrates the Directive's potential to provide legal tools for civil society actors facing intimidation through lawsuits. However, the effectiveness of the Directive will largely depend on how EU Member States implement and enforce its provisions in national law. As the transposition process continues, the Directive may play a crucial role in strengthening protections for public watchdogs and safeguarding democratic participation across the European Union.

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