Prakken d'Oliveira

Amsterdam District Court
Civil sector, Commercial team
Case/roll number: C/13/771545 25/1227
Roll date: November 12, 2025

Brief in reply to the interim plea seeking to raise an objection of lack of jurisdiction and *lis pendens*

In the matter of

1. **Energy Transfer LP,**
a company incorporated under the laws of the State of Delaware, United States of America, with its registered office in Dallas, Texas, United States of America,

2. **Energy Transfer Operating LLP,**
a company incorporated under the laws of the State of Delaware, United States of America, with its registered office in Dallas, Texas, United States of America,

3. **Dakota Access LLC,**
a company incorporated under the laws of the State of Delaware, United States of America, with its principal place of business in Houston, Texas, United States of America,

defendants in the main action, plaintiffs in the incidental action
attorney: mr. J.H. Duyvensz

against:

Stichting Greenpeace Council,

with its registered office and place of business in Amsterdam,

plaintiff in the main action, defendant in the incidental proceedings,

Attorney: E.W. Jurjens

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1 INTRODUCTION AND SUMMARY

1. In this reply brief in the interim plea lodged by Energy Transfer et al. ("ET"), Greenpeace International ("GPI") will explain why ET's interim pleas are ripe for dismissal. GPI will address the following points in succession, supplementally to its arguments in the summons:

    a. New facts (para. 2): an overview of developments in the State Lawsuit. In doing so, GPI aims to provide your Court with as up-to-date and complete a picture of the facts as possible at this stage of the proceedings, without wishing to pre-empt the examination of the merits of this case.

    b. Discussion of ET's factual assertions (para. 3): ET's factual assertions in its interim plea largely delve into the merits of the case, for which there is no room at this stage of the proceedings. At the same time, the interim plea contains several serious inaccuracies that GPI considers important to rebut at this stage, partly in light of Article 21 of the Code of Civil Procedure.

    c. Jurisdiction (para. 4): GPI will explain that your Court has jurisdiction on the basis of Article 6(e) of the Code of Civil Procedure. GPI will outline the relevant test and apply it to the facts, in addition to what it has argued in this regard in the summons.

    d. *Lis pendens* (para. 5): GPI will explain that there is no reason to stay the proceedings, since the cases do not concern the same subject matter, or, *in the alternative*, the judgment in the State Lawsuit will not be eligible for recognition, or, *in the further alternative,* there is no basis in the circumstances of this case for the exercise of the court's discretionary power under Article 12 of the Code of Civil Procedure.

    e. Other points (para. 6) and conclusion (para. 7): in para. 6, GPI presents reasoned objections to ET's motion to allow an interim appeal if your Court were to assume jurisdiction, and addresses the legal costs of these interim proceeding. Finally, GPI concludes that ET's interim pleas should be rejected, and that ET should be ordered to pay the costs of the interim proceedings (para. 7).

2. The foregoing satisfies the requirement of Article 2.13 of the National Rules of Procedure to include a summary in any pleadings longer than 10 pages. The length of this brief is in any case necessary in view of the length of ET's brief and the need for GPI to refute the arguments contained therein. In this regard, GPI points out that this brief is 9 pages shorter than ET's brief.

2 NEW FACTS

3. Since the date of the summons, there have been several developments in the State Lawsuit, namely (1) the jury's verdict and subsequent motions by GPI; (2) a Memorandum Opinion of the judge hearing the State Lawsuit, holding a ruling on the points mentioned under (1); (3) ET's motion in the State Lawsuit to impose a so-called anti-suit injunction on GPI and the rejection thereof; and (4) new (online) statements by ET about GPI in response to these developments. GPI will briefly explain these points. In doing so, GPI aims to provide your Court with as up-to-date and complete a picture of the facts as possible at this stage of the

proceedings, without going into the merits. In its discussion of ET's arguments regarding jurisdiction and *lis pendens*, GPI will refer to these new developments where relevant.

2.1 Jury verdict in State Lawsuit and subsequent motions by GPI

4. On March 19, 2025, the jury in the State Lawsuit ruled that the Greenpeace entities must pay Energy Transfer a total of no less than $667 million (Exhibit 53 ET). Of this amount, nearly $132 million would be payable by GPI. This has rightly caused a great deal of controversy worldwide. The American attorney representing GPI and GP Inc. succinctly explained the reason for this outcome as follows: "What the verdict in this case reflected, your honor, is the community's desire to punish someone who was involved in the protests" (**Exhibit 35 –** North Dakota Monitor report).

5. It is important to note, however, that this jury verdict is not the final outcome of the State Lawsuit. This will ultimately be determined in the first instance by the judge hearing the case (Mr. Gion), by the North Dakota Supreme Court on appeal, and possibly by the Supreme Court of the United States. In this context, GPI has submitted several motions to this judge, of which it will briefly discuss the two most relevant. The other Greenpeace entities have submitted their own, similar motions. These motions have since led to the dismissal of part of ET's claims and a reduction of the amount awarded by the jury by hundreds of millions of dollars, as will be discussed below.

6. The first motion was the so-called "Renewed Motion for Judgment as a Matter of Law" filed on behalf of GPI on April 16, 2025 (**Exhibit 36**). In this motion, GPI requests the court to declare ET's claims against it inadmissible for lack of personal jurisdiction, and in the alternative, to dismiss them (Exhibit 36, para. 67). The basis for these requests is summarized as follows (Exhibit 36, para. 1):

> The jury's March 19, 2025, special verdict awarded over $130 million against Defendant Stichting Greenpeace Council aka Greenpeace International ("International"), a Dutch entity with no employees or business in North Dakota prior to the litigation filed by Plaintiffs. These massive damages purported to be based on International co-signing a letter (along with 500 other entities), for which a federal district court judge ruled the author itself was not subject to personal jurisdiction in North Dakota. The letter, which was not directed to any bank based in North Dakota, discussed European banking standards, and was signed by International in the Netherlands. Moreover, Plaintiffs never established that any recipients actually read the letter, much less made a decision based on the letter, its contents, or the fact of International's additional signature. The jury also assigned liability for a purported conspiracy between International and Greenpeace, Inc. with respect to commission of the property torts in 2016, notwithstanding the fact that Plaintiffs failed to prove the existence of any such agreement, and for which the undisputed evidence established that International was not even aware of the nature and extent of Greenpeace, Inc.'s involvement in the protests."

7. GPI's second motion concerned the extremely high amounts of damages awarded by the jury, even by the standards of the applicable law. In this context, GPI, together with the other two Greenpeace entities, filed a "Motion to Reduce Damages Award" on March 29, 2025 (**Exhibit 37**). In this motion, GPI asks the court "[to] reduce the jury's damages award

because it exceeds the statutory limit for exemplary damages, fails to account for contributory fault and bears no reasonable relationship to the economic damage incurred by Plaintiffs" (Exhibit 37, para. 39).

8. In particular, GPI points out that the jury found it liable for seven alleged statements that, according to ET itself, it did not even make (Exhibit 37, para. 38). GPI further refers to the content of its motion for a complete picture of the reasons why, in its opinion, the jury should not and could not have awarded the amounts of damages.

2.2 Memorandum Opinion by Judge Gion, October 28, 2025, and subsequent US proceedings

9. On October 28, in response to the aforementioned motions to amend the jury's verdict, Judge Gion issued a Memorandum Opinion in which he reduced the combined potential liability of the Greenpeace entities from USD 667 million to USD 345 million (**Exhibit 38**). GPI's share was reduced from USD 131,889,740 to USD 64,357,100 (a reduction of USD 67,532,640).

10. With regard to the four torts for which the jury found GPI liable, Judge Gion ruled as follows:

    a. Conspiracy: the judge states that "the BankTrack letter and communications between GP and GPI (...) could reasonably lead a jury to conclude a conspiracy existed" (Exhibit 38, para. 15). He then expresses his surprise at the fact that the jury found GPI, but not Greenpeace Fund Inc. (hereinafter: "GP Fund" or "GPF"), to be a participant in a conspiracy, apparently on the basis of the same act, namely the signing of the BankTrack letter (para. 23):

        > "The Court struggled to reconcile the divergent findings that GPF did not participate in the conspiracy to defame, especially because the jury found GPI did conspire based on its signature on the BankTrack letter, and little more. If the jury found GPF liable based on their signature as 'one-half' of Greenpeace USA, and nothing more (since the protest activities of GP were not imputed to GPF or GPI), the Court sees little difference in culpability between GPI and GPF."

        The question of how signing an open letter, "and little more," can reasonably lead to the conclusion that there was a "conspiracy" is not discussed further.

        The judge does note, however, that 'conspiracy' should not lead to the award of a separate amount, as this has already been factored into the award for the underlying torts (paras. 16 and 33 (apparently erroneously numbered as 18), under e). Nevertheless, his table of remaining liabilities (paras. 20-21) indicates an amount of USD 879,790 against GPI on the basis of 'conspiracy'. GPI intends to request the judge to clarify this apparent contradiction.

    b. 'Defamation' and 'defamation per se': the court summarises the arguments of the parties and then states: "the Court cannot find the jury could not reach the conclusion it did" (para. 20). Key questions, such as whether the disputed statements are opinions or factual claims, whether they were made with 'actual malice', and what the causal link is between the disputed statements and the alleged damage, remain unaddressed. The judge does dismiss the claim for 'defamation per se' because it duplicates 'ordinary' defamation (para. 25), resulting in a reduction of USD

41,652,850 for GPI. He also strikes out the exemplary damages for defamation in the amount of USD 25 million because ET failed to request correction or clarification of the contested statements within ninety days of becoming aware of them. Under North Dakota law, this is a condition for the award of such damages (para. 31).

c. Tortious interference: once again, the judge briefly summarises the parties' positions and rules that "evidence was presented that would allow a jury to reach the conclusion this jury reached" (para. 28). This leaves important questions unanswered, such as the role of third parties such as the US Army Corps of Engineers and the federal judge in causing the delay damage determined by the jury (it is important to note that the jury had been specifically instructed to leave the question of relative fault to the court).

11. This Memorandum Opinion is not the final judgment in the State Lawsuit. Judge Gion indicates that, among other things, a specification of ET's costs will be required for that purpose (para. 40, apparently erroneously numbered as 25).

12. ET has announced that it will appeal against the reduction in liability, but says it is pleased that the remaining amount of USD 345 million sends a "clear signal to those who choose to deliberately break the laws of the United States of America" (**Exhibit 39**). GPI and the US Greenpeace entities, in turn, intend to file a "Motion for a New Trial" shortly. There are a number of grounds for this, not least the astronomical amount awarded, which the court has now also recognised was hundreds of millions of dollars too high, and the refusal to move the trial to another county, given the jury members' personal experiences with the protests.

2.3 Rejection of ET's motion to impose an "anti-suit injunction" on GPI

13. On July 22, 2025, almost six months after receiving the summons, ET filed an "Emergency Motion for Anti-Suit Injunction" in the US case, requesting that GPI be urgently ordered to halt the present proceedings (Exhibit 71 ET).

14. In its motion, ET essentially argues that GPI has turned to your Court with the intention of "re-litigating issues already decided here," which it characterizes as "a blatant, calculated end-run around the lawful outcome of this case and an affront to the integrity of [the North Dakota] Court" (Exhibit 71 ET, para. 2). Furthermore, it argues the present case qualifies as "vexatious litigation," a "campaign of legal evasion," "desperate," and that GPI supposedly "explicitly" asks your Court "to resolve issues that the Court and the jury have already resolved" (Exhibit 71 ET, paras. 3, 8, and 13). ET pontificates that "The Court cannot countenance GPI's assault on its integrity" (Exhibit 71 ET, para. 32) and even calls the present case a "[threat to] the legitimacy of the North Dakota judiciary" (Exhibit 71 ET, para. 33).

15. The judge did not follow ET's far-reaching arguments and rejected this motion in an opinion dated September 9, 2025 (**Exhibit 40**).[1] As this opinion shows, a key requirement for granting an anti-suit injunction is that "the same issues" are at stake in both cases (Exhibit 40, para. 6). In this regard, the judge observes that both the present case and the State

[1] Incidentally, this fact is not mentioned in ET's replacement court document, which dates from a few weeks after this ruling.

Lawsuit are set against the backdrop of the same facts, namely the construction of the DAPL. However, the two cases do not concern "the same issues," the judge rules (Exhibit 40, para. 7):

"However, as indicated by the recitation of the claims in the respective actions, the issues do not seem to be the same. As noted in GPI's brief, North Dakota does not recognize a SLAPP or anti-SLAPP action, as such. So, as that issue was not raised in North Dakota, but is alleged and recognized in the Netherlands, there is a difference on that issue. Likewise, the North Dakota action did not consider any allegations of defamatory statements directed toward GPI from Energy Transfer."

16. The judge also rejected ET's other arguments. The judge did not consider the present case to be 'vexatious', as ET repeatedly states in its interim plea, "because GPI's Dutch claims do not require to relitigate the claims of the North Dakota action". ET has appealed this ruling. That case is now pending before the North Dakota Supreme Court. By filing that motion, which seeks the same result as its interim pleas in this case, ET has wrongfully imposed (even more) costs on GPI.

2.4 New statements by ET

17. As GPI explained in the summons (section 3.4), ET continuously makes serious, unfounded accusations against it, particularly online. These are therefore (also) continuously available in the Netherlands and cause continuous damage to GPI's reputation (see also summons, paragraph 154 under x).

18. After the start of the trial in the State Lawsuit, ET once again made numerous unfounded accusations against GPI. For example, it alleged GPI was guilty of "organizing, funding, and encouraging the unlawful destruction of property and dissemination of misinformation" (**Exhibit 41** – statement by ET in a report by the Washington Examiner).

19. After the jury's verdict, ET made even more unfounded statements—even though, as explained above, the State Lawsuit is not yet over. On March 31, 2025, an article appeared on the Daily Caller website entitled: "EXCLUSIVE: How Greenpeace's Pipeline Protests Ultimately Led It To The Brink Of Bankruptcy" (**Exhibit 42)**. The Daily Caller is a website founded by conservative commentator Tucker Carlson, former host of a talk show on Fox News. In this article, ET – through its US attorney Trey Cox, of the law firm Gibson Dunn – makes a large number of accusations about GPI and the two US Greenpeace entities. In doing so, ET wrongly fails to distinguish between the three defendant Greenpeace entities, nor does it differentiate between their respective roles in the case.

20. For example, ET states through its attorney in this article that "[t]hey [*the Greenpeace entities including GPI*] coordinated attacks on the Dakota Access Pipeline during construction" and that "activists linked to or trained by Greenpeace-paid protesters" were guilty of "[d]estroying and damaging equipment." ET even claims that GPI was guilty of attacking people ("When you (...) attack the people (...) that stuff is unacceptable"). These false and unfounded accusations damage the essence of GPI's reputation, which, as mentioned above, has peacefulness as one of its core values.

21. At the end of March/beginning of April 2025, ET posted a link to the Daily Caller article containing some of these quotes on its LinkedIn page (**Exhibit 43**). ET also posted a statement on its website 'Energy Transfer Facts', discussed in the summons, in which it

thanks the judge and the jury and states: "Our victory is shared with the people of Mandan and throughout North Dakota who had to live through the daily harassment and disruptions caused by the protesters who were funded and trained by Greenpeace." (**Exhibit 44)**. There is no evidence that the Greenpeace entities (let alone GPI) played such a role.

22. On the website of his firm Gibson Dunn, Cox states that GPI and the other Greenpeace entities "not only organized and funded physical attacks on the pipeline and its construction crews but also spread malicious and deceptive narratives about Energy Transfer and law enforcement in Morton County" (**Exhibit 45**).[2] Cox's profile page on the Gibson Dunn website states that he is lead counsel for Dakota Access (emphasis added) "suing Greenpeace International in the largest case in the history of North Dakota, claiming that Greenpeace incited terrorist acts (...)" (**Exhibit 46)**. In doing so, he wrongfully repeats earlier (and completely unfounded) statements made by ET that GPI was guilty of organizing physical attacks on the DAPL and on people, and even inciting "terrorist acts." Contrary to what Cox suggests, this is not part of the State Lawsuit.

23. All these statements by and on behalf of ET about GPI, which are also accessible in the Netherlands via the internet, undermine and damage GPI's carefully built reputation. This is all the more problematic in the current social context, where NGOs such as GPI are under severe pressure, as the Netherlands Institute for Human Rights pointed out in its latest annual report (**Exhibit 47** – relevant parts of this report).

24. Finally, it is alarming that in the article discussed above on the Daily Caller website, Cox concludes with the following statement:

    25. "Cox told the DCNF that he has received numerous calls from people in the oil and gas industry inquiring about the case and whether they may be able to pursue similar actions in the wake of the Greenpeace verdict. 'I'm getting a number of calls and questions about what happened in this case. 'How did you do this? Is this something that might apply to us?'" Cox said. "I'm getting calls from the oil and gas industry, and I'm getting calls from any number of other industries that have been similarly affected." [3]

3 DISCUSSION OF ET'S FACTUAL ASSERTIONS

26. The factual assertions made by ET in chapters 1 to 6[4] of its interim plea largely get ahead into the merits phase of the case. A substantive ruling on these assertions is not necessary for the assessment of ET's interim pleas. As GPI will explain below, there is no room for an examination of the merits of the case in a interim proceeding concerning jurisdiction or *lis pendens*.[5] GPI will therefore not refute all of ET's factual statements in the interim plea in detail at this stage (it does contest them and will substantiate this further in the merits

[2] These are statements made by Gibson Dunn, but they would not have been published online without ET's express approval.

[3] GPI notes that Gibson Dunn operates worldwide and also has several offices in Europe. In the email correspondence between GPI's and ET's counsel prior to the summons, Mr. Robert Spano of Gibson Dunn, who is affiliated with the firm's London and Paris offices, was cc'd in this regard.

[4] This also applies to a significant part of chapters 7 and 8, as GPI will substantiate below.

[5] District Court of the Central Netherlands, Utrecht location, January 8, 2025, ECLI:NL:RBMNE:2025:10, paragraph 3.4.

phase). However, the interim plea contains some factual inaccuracies that are so serious that GPI considers it important to address them now, partly in light of Article 21 of the Dutch Code of Civil Procedure.

27. In order to make GPI's role appear greater than that of co-signing an open letter, ET uses a sleight of hand in its interim plea that GPI is already familiar with from the US proceedings. In short, this consists of the following three steps:

(i) **Distortion of the timeline**: ET accuses GPI of unlawfully conspiring with GP Inc. to prevent the construction of the DAPL in 2016 (interim plea, para. 2.6). This conspiracy allegedly consisted of two "pillars" (para. 4.1): in short, organizing or supporting unlawful actions in 2016 and disseminating false statements on a large scale, both with the aim of preventing the construction of the DAPL. In its chronological account of the events in 2016, ET refers exclusively to documents relating to the 'Global Pipelines/ETP Project' in order to substantiate GPI's alleged role in this. However, as ET is well aware, that is a project from 2018 which GPI and GP Inc. were engaged in in order, among other things, to resist ET's SLAPPs. GPI believes that ET's presentation of the facts in this section constitutes a violation of Article 21 of the Code of Civil Procedure.

(ii) **Conflation of entities**: ET then uses the argument that there was a conspiracy to refer, 'for the sake of brevity' (see 2.7), to 'Greenpeace', 'which also includes GPI'. The alleged actions of three separate legal entities are thus lumped together, and the role of GPI can no longer be distinguished from that of GP Inc.[6] As will become apparent below, none of the actions that ET attributes to "Greenpeace" were carried out by GPI, with the exception of signing the BankTrack open letter.[7]

(iii) **Other ET assertions**: the interim plea is full of irrelevant assertions by ET aimed at creating an air of suspicion around GPI. For example, GPI allegedly "does not shy away from violence" and its actions are claimed to have had serious consequences for the population of North Dakota. Although these (incorrect) statements are not relevant in this phase of the proceedings, ET presents various facts in such a misleading way that GPI has four comments to make about them.

3.1 ET's distortion of the timeline

28. In chapter 4 of the interim plea, ET presents a seemingly chronological account of the events surrounding the protests against the DAPL. The chapter begins in April 2016 when the protests start (para. 4.3), continues with a description of the growth of the protests in August/September 2016 (para. 4.3-4.17), and ends in February 2017 when the protests ceased (para. 4.18 ff.).

29. ET is well aware that in August and September 2016, GPI was unaware of any involvement by GP Inc. in the protests against the DAPL. The earliest indication in the 100,000 documents disclosed to ET (interim plea, para. 8.13 under (iv)) that GPI was even aware of Inc.'s activities is an email from a GP Inc. employee on October 28, 2016, to a general list of campaign directors within the global Greenpeace network, in which she writes: "We've

[6] GP Fund played no role whatsoever.

[7] Incidentally, many of these actions were not carried out by GP Inc., at least not as ET suggests.

been keeping it quiet, but you will not be surprised to hear that Greenpeace US is very engaged in the Indigenous-led protests at Standing Rock (...)". (Exhibit 22 ET).[8]

30. However, despite this awareness, ET states the following in its interim plea (paras. 4.9-4.11) (emphasis added):

> "4.9 From the early stages of the aforementioned actions, Greenpeace provided support to the activists, including in the form of money (including grants provided by GPI), equipment, supplies, and training. For example, Greenpeace provided camping equipment, a solar generator, vans, kayaks, reconnaissance cameras and binoculars (to gather information), access to satellite internet and many other items. This support was crucial for maintaining the camps and the anti-DAPL protests organised from there.
>
> 4.10 Meanwhile, a 'GPI dream team' had also been set up to support the 'global priority project on ETP [Energy Transfer Partners]'. This was a project set up by GP Inc. and GPI with the aim, among other things, of 'confronting and delaying pipelines on the ground'.
>
> 4.11 In September 2016, Greenpeace employees arrived in North Dakota to coordinate and support activities aimed at stopping the construction of the DAPL (...)."

31. The placement of paragraph 4.10 in the chronology and the use of the word 'meanwhile' make it very clear that ET wants your Court to believe that GPI, with a 'dream team', played a decisive role in the protests against the DAPL in the period August-September 2016 (and in any case before October 2016). This is further confirmed by the statement in the previous paragraph (4.9) that Greenpeace provided support "from the early stages" of the protests, "including grants provided by GPI."

32. However, as ET itself knows, this is not the truth. The "dream team," the "global priority project," and the grants referred to only came into the picture in 2018. But ET does its utmost to conceal this. To uncover the truth, it is necessary to study in detail the footnotes and publications referred to by ET in paragraph 4.10 of its brief.

33. The first sentence of this paragraph ("In the meantime, a 'GPI dream team' had also been set up to support the 'global priority project on ETP [Energy Transfer Partners]') ends with footnote 45, in which ET refers to Exhibit 23 ET. This is an email from a GPI employee dated February 16, 2018. For the avoidance of doubt: February 16, 2018, is well after the end of the protests against the DAPL. The DAPL had even been completed by then and had been in use since June 2017 (summons, para. 34). This does not support the conclusion that GPI was 'by then' – i.e. around August 2016 – involved in the protests against the DAPL.

34. The second sentence of this paragraph ("That was a project set up by GP Inc. and GPI with the aim, among other things, of 'confronting and delaying pipelines on the ground') ends with footnote 46, in which ET refers to Exhibit 24 ET. Both in the footnote and in the

[8] The reason for "*keeping it* quiet" was that GP Inc., in line with its "Indigenous Peoples Policy," considered it inappropriate to use its solidarity with the protests to make itself the center of attention.

description of the exhibit, ET omits the date of this presentation (ET is of course well aware of when it dates from). It concerns a presentation dated February 12, 2018.

35. In February 2018, there was indeed a project concerning ET in which GPI was involved. At that time, the Federal Lawsuit against GPI and GP Inc., among others, had already been running for almost six months (subpoena, para. 41 et seq.). The "Global Pipelines/ETP Project" was launched in that context, (Exhibits 23 and 24 ET) with financial support from GPI. As part of this project, GP Inc. brought ET's practices to the attention of financial institutions, among others. The pipelines that were the subject of the project were proposed new pipelines for the transport of oil extracted from Canadian tar sands. The aim of this project was therefore to enable legitimate actions in the context of public participation, and to make it clear that GPI and GP Inc. had not been intimidated by the SLAPP (Federal Lawsuit) that was then pending. The Global Pipelines/ETP project did not aim to prevent the construction of the DAPL. That would have been nonsensical and incongruous, since that pipeline had already been completed and in use for more than six months.

36. Equally misleading and incorrect is ET's aforementioned assertion (para. 4.9) that from the early stages of the protests, i.e. from April 2016 onwards (emphasis added): "Greenpeace provided support to the activists, including in the form of money (including grants provided by GPI)". Further on in its interim plea, ET elaborates on this incorrect statement (para. 4.13):

> "GPI also paid travel expenses and daily allowances to activists and otherwise financed (via GP USA) the activities of the activists, which enabled them to (continue to) carry out their unlawful actions. For example, Greenpeace provided (financial) support to the Indigenous Peoples Power Project (IP3) (...) GPI's assertion that it was not involved in the actions and that only GP Inc provided limited support is therefore incorrect."

37. ET thus claims unequivocally in its interim plea that GPI financially supported activists during the protests against the DAPL around August 2016. However, and again as ET knows, this is not the truth.

38. In support of this assertion, ET refers in footnote 51 (para. 4.13, first sentence) to its Exhibit 8. This is the transcript of a *deposition* by Mads Christensen, the Executive Director of GPI. In it, he is asked about a transaction between GPI and GP Inc. described in Exhibit 1710, in the context of a project called "pipelines and ETP."

39. Exhibit 1710 is the same document that ET submitted as Exhibit 28 ET in this case. This is an email from a GPI employee dated March 26, 2018. ET does refer to Exhibit 28 ET in footnote 51, but fails to mention that this is the same document as Exhibit 1710 in the State Lawsuit, and therefore cannot support ET's assertion. GPI considers the likelihood that this omission is accidental to be very limited, given the circumstances discussed above.

40. Insofar as there could still be any doubt that ET is deliberately trying to mislead the reader of its brief, this is dispelled by paragraph 4.24 of its interim plea, in which it discusses GPI's alleged "smear campaign." The wording of this, and the reference back to paragraph 4.10 of its interim plea discussed above, makes it clear that ET claims that this alleged action by GPI (which is disputed) also took place in 2016:

> "4.24 This campaign amounted to spreading defamatory statements to (potential) banks. These statements were made in letters, during personal meetings with banks, and via Greenpeace's media channels. This disinformation campaign was also part of the 'Global Pipelines/ETP Project' set up by GPI, which not only aimed to "confront and delay pipelines on the ground" (see 4.10 above) but also to stop the DAPL by putting pressure on banks."

41. As explained above, the Global Pipelines/ETP project of GPI and GP Inc. only started in February 2018, when the DAPL was already in full operation. This project therefore cannot in any way prove that GPI was involved in a conspiracy to stop the construction of the DAPL through a 'smear campaign'.

42. In short: ET's references to the 2018 "Global Pipelines/ETP Project" prove nothing. There was no conspiracy to prevent the construction of the DAPL. GPI and GP Inc. only joined forces in 2018 when they were forced by ET's SLAPP (the Federal Lawsuit, an unfounded 'RICO' claim) to take lawful action together. There is therefore no basis for identifying GPI with the American Greenpeace entities.

43. Because these are facts that ET is also aware of, but has presented in a seriously misleading manner, GPI believes that ET is guilty of a violation of the duty of truthfulness and completeness under Article 21 of the Dutch Code of Civil Procedure (CCP). Article 21 CCP imposes an *obligation* on the parties to present the facts 1) completely and 2) truthfully.[9] Among other things, the parties are obliged never to state facts that they know to be incorrect, thereby misleading the court and the opposing party.[10] It is clear from the above that ET has done so. GPI therefore requests your Court to draw the conclusions it deems appropriate (in the merits phase of the case or, insofar as relevant, at this stage of the proceedings[11]).[12]

3.2 Conflation of entities

3.2.1 No 'intertwining' of GPI with other Greenpeace entities

44. ET also argues that GPI, GP Fund, and GP Inc. are so 'intertwined' that they could be considered as one 'Greenpeace', to the extent that, when determining liability, it no longer matters which entity performed which action. This argument goes nowhere.

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[9] See T&C Van Mierlo on Article 21 of the Dutch Code of Civil Procedure, under 1a; Opinion of Advocate General De Bock, ECLI:NL:PHR:2021:38, paras. 3.11-3.13.

[10] Opinion of Advocate General De Bock, ECLI:NL:PHR:2021:38, paras. 3.11-3.13.

[11] After all, ET's factual assertions are not relevant to the assessment of this interim plea.

[12] See, for example, Opinion of Advocate General De Bock, ECLI:NL:PHR:2021:38, para. 3.22. See also Text & Comment by Van Mierlo on Article 21 of the Code of Civil Procedure, under 4b. Your court may do so ex officio, cf. Supreme Court 25 March 2011, ECLI:NL:HR:2011:B09675, *NJ* 2012/627 with commentary by H.J. Snijders, ground 3.3. This may involve, for example, deviating from procedural rules such as adjusting the burden of proof; assessing evidence; awarding damages and/or ordering the actual costs of the proceedings at an earlier stage.

45. GPI notes that ET never made this argument in the US proceedings against GPI.[13] For that reason alone, this argument cannot explain why ET sued GPI in the US, nor can it help demonstrate that the US court has an acceptable basis for jurisdiction.

46. The argument is also incorrect. As explained in the summons, GPI is a separate legal entity with its own role and responsibilities within the Greenpeace network (summons, section 2). Against this background, GPI and GP Inc. signed the BankTrack letter separately in November 2016. As described in the summons, GPI and GP Inc. work together in the context of the Greenpeace network, but are each independent legal entities with their own responsibilities, their own boards, their own day-to-day management, their own employees, and their own financial resources.

47. The fact that money flows between GPI and GP Inc. (interim plea, para. 2.4) does not mean that these two legal entities can be equated with each other. On this point too, ET again wrongly suggests that GPI made money available to GP Inc. in 2016 in the context of the protests against the DAPL (interim plea, para. 24 and footnote 12). The fact that the Executive Director of GPI has the right to disqualify candidates for an Executive Director position at an NRO if they do not meet applicable minimum criteria does not alter the fact that the Executive Director of GP Inc. is appointed by the Board of GP Inc. itself. Although GPI coordinates between the strategies of the NROs (national/regional organizations) at a high level and in that relation receives three-year strategic plans from them, as explained in the summons, GPI does not have the authority to direct their activities. This was confirmed by the highest civil court in Scotland (the Court of Session), in another case in which an oil company attempted to equate GPI with an NRO. The Court of Session held: "GPI is a separate legal entity from the various Greenpeace NROs and has no power of direction over them."[14] There is no question of GPI controlling "all Greenpeace activities in the United States," as ET claims.

48. ET also refers to the findings of Judge Marquart (who presided over the State Lawsuit until his retirement in 2022, Exhibit 6 ET), in which he does indeed appear to say that GPI, together with GP Fund, controls all Greenpeace activities in the US. In the relevant opinion, GP Inc. is defined as "GI," GP Fund as "GPF," and GPI as "GPI" (Exhibit 6, para. 1). However, in para. 7 of this judgment, Judge Marquart confuses "GI" and "GPI" when he states: "Concerning GPF, it and GPI also hold themselves out as Greenpeace USA." This ruling is only comprehensible if "GPI" is read as "GI." This is also evident from the following sentence, in which Marquart notes that the two entities share a common director. This is only the case with GP Fund and GP Inc., and not with GP Fund and GPI. Judge Marquart consistently makes this error in paragraph 7 of the ruling. This ruling therefore does not imply that GPI controls the activities of the two US entities in the Greenpeace network and that it can be held responsible for the actions of these entities.

49. In sum, there are no grounds for setting aside the basic principles of legal personality and holding GPI responsible for the alleged actions of GP Inc. or GP Fund (which, however, did not take any relevant actions).

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[13] ET only argued that GP Inc. and GP Fund were 'alter egos' (could be identified as one and the same). This argument was rejected by the court.

[14] Cairn Energy Plc v Greenpeace Ltd & Anor [2013] ScotCS CSOH_50 (March 27, 2013), paragraph 27.

3.2.2 Deliberately conflating the actions of separate legal entities

50. Now that it has been established that GPI cannot be identified with GP Inc. and/or GP Fund, GPI will successively and separately address the specific actions that ET attributes to "GPI" on the one hand and "Greenpeace" on the other, whereby it will become apparent that GPI did not carry out any of the latter. Starting with the actions specifically attributed to GPI:

    a. GPI did not provide grants to GP Inc. for the DAPL protests, as ET suggests (para. 4.9), nor did it pay travel expenses, daily allowances, or other allowances to activists (4.13). ET refers exclusively to GPI's 2018 project for this, but as stated, that does not provide a basis for this allegation.

    b. The alleged formation of a 'GPI dream team' "to confront and delay pipelines on the ground" (para. 4.10) also refers to actions taken in 2018 (as explained above).

    c. Paragraph 4.23 states that 'internal communications' show that GPI played a 'major role' in 'putting pressure on lenders'. ET refers to its exhibit 42 ET. This is a short email dated October 10, 2017, from a former employee of GP Inc. to GP Inc. She asks for help with a project and writes in that context: "thinking about GPI's big role in putting pressure on financial institutions during the Standing Rock solidarity." This proves nothing: the former employee in question did not work for GPI and merely makes a casual remark. No value can be attached to this. It is quite conceivable that she is confusing GPI with Greenpeace Nordic, which did indeed actively approach financial institutions in Scandinavia (but was not summoned by ET). These institutions later explicitly stated that this did not play a role in their decision-making regarding the financing of the DAPL.[15]

    d. In paragraphs 4.20 - 4.27, ET discusses the alleged deliberate dissemination of false statements. It refers to a "disinformation campaign by Greenpeace (with) the aim of persuading the banks to refrain from financing" (para. 4.22) in which "GPI in particular played a major role" (para. 4.23). However, ET later acknowledges that there were nine specific statements, and "[o]f the nine statements, two were made specifically by GPI" (para. 6.2 under (b)). These are two passages from the BankTrack letter (see Exhibit 14, Appendix A). GPI's "major role" therefore consists of nothing more than signing the BankTrack letter of November 2016, which was also signed by more than 500 other organizations.

    e. In paragraph 4.1, ET claims that GPI disseminated "false statements" to the effect that "Energy Transfer uses violence against activists" (paragraph 1.4). However, the two statements by GPI that ET's complaint in the State Lawsuit alleges to be false and defamatory do not refer to this. They concern violations of "Native land titles" and the desecration of sites important to the Standing Rock Sioux Tribe (section 6.2 under (b)). This specifically concerns Statements 4 and 5, which are included in the jury's decision (Exhibit 53 ET, p. 11). Insofar as ET attributes other statements to GPI in the present proceedings, it apparently does so on the basis of its unfounded position, discussed above, that GPI can be identified with GP Inc. For the sake of

[15] Reuters, August 29, 2017, "Nordic investors reject Dakota pipeline operators allegations," https://www.reuters.com/article/business/environment/nordic-investors-reject-dakota-pipeline-operators-allegations-idUSKCN1B928U/.

completeness, GPI believes that neither it nor GPI Inc. disseminated any false or defamatory statements.

51. All remaining activities described by ET are attributed to "Greenpeace." As mentioned above, these are, without exception, activities in which GPI was not involved. Insofar as they happened at all, they were actions by employees of GP Inc., without any form of guidance or support from GPI. GPI expressly disputes ET's descriptions of these activities and refers to the correct representation of GP Inc.'s involvement in the summons (paras. 39-40). For the sake of completeness, it concerns the following points, most of which have already been addressed in the summons:

    a. Only GP Inc. provided supplies to the camps (para. 4.9);

    b. Only employees of GP Inc. were present in North Dakota during the protests against the DAPL (para. 4.11);

    c. An employee of GP Inc., Mr. Khoury, monitored the progress of the pipeline construction on site and inspected a nearby equipment storage facility, sharing this information with other employees and allies of GP Inc. (para. 4.12). Incidentally, there is no indication whatsoever that Khoury entered ET property or that the information he shared was used for unlawful actions;

    d. No GPI employees were involved in "shutting down construction on the easement" (para. 4.12). Moreover, this is an incomplete quote from a report by an employee of GP Inc., who wrote: "Below are a few things that <u>we were present for or involved in</u> (...)" (emphasis added by counsel). Thus the actions described here may also be actions "that we were present for";

    e. ET claims (para. 4.12): "In another action, a Greenpeace employee attached themselves to Energy Transfer's work equipment with a 'lockbox'." This never happened, and ET does not substantiate the claim. ET may be confusing IP3 and GP Inc. employees. In any case, there were no GPI employees at the protests against the DAPL.

    f. One GP Inc. employee was present at one of the roadblocks during the protests against the DAPL. ET omits to mention that she was not prosecuted or convicted (para. 4.12). Again, GPI was not involved in any way. Furthermore, despite the suggestion made, there is no evidence whatsoever that three actions were organized by "Greenpeace."

    g. GP Inc. made USD 15,892 available to Indigenous trainers from IP3, from its own funds, without any involvement from GPI (see summons, para. 15.7). This amount was spent on facilitating trainings focused on peacefulness, prayer, and nonviolence, and on preventing damage to property. There is no evidence that "unlawful tactics" such as "breaking and entering and sabotage" were taught (para. 4.13). Incidentally, the amount pales in comparison to the total amount of donations to the protesters.

A study by High Country News found that 138,000 people donated a total of nearly USD 8 million to support the protests.[16] Again, GPI was not involved in this.

h. The chat message from a GP Inc. employee does not in any way imply that "Greenpeace was aware of the unlawful nature of its actions" (para. 4.14). The evidence referred to by ET shows that an employee of GP Inc. stated that GP Inc. "was only offering support" and that the ultimate responsibility for the IP3 trainings lay with the Indigenous community. No one from GPI was involved in this chat session, nor does it reveal any involvement on the part of GPI.

i. ET claims that GPI gave instructions to "keep Greenpeace's activities as low-key as possible in order to avoid liability" (4.16). This is not the case and does not follow from exhibits 36 and 37 ET. Exhibit 36 ET is a draft of a GPI "non-violent direct action" manual (which was not used in any way during the Standing Rock protests), with a typology of different types of non-violent and peaceful protest and a description of the care that must be taken in this regard (for illustration, see chapter 6 of this document). Exhibit 37 ET is a chat session between two employees of GP Inc. from March 2018, i.e. well after the allegedly damaging actions and after the start of ET's SLAPPs, in which the author reminds the recipient that an email she is drafting 'might be requested in discovery'. These documents cannot support ET's serious accusation against GPI.

3.3 Other ET assertions

52. In summary, there is still no evidence that GPI did more than co-sign the BankTrack letter. ET knows this, and therefore attempts to use extensive arguments to erect a smokescreen in order to suggest (without any factual basis) that GPI was more involved than it actually was. GPI briefly discusses a few examples of this below.

3.3.1 False assertion that Greenpeace does not shy away from violence

53. In its SLAPPs against GPI and its related public statements, ET has repeatedly taken the malicious, incorrect, and harmful position that the Greenpeace network does not protest peacefully and uses violence. Once again (interim plea, paras. 2.8-2.9), ET argues that the Greenpeace network's protests are not peaceful, and even violent. The fact that, in the entire history of the global Greenpeace network since 1971, it has only been able to find two incidents (from 2011 and 2018) that it considers to be violent speaks volumes in this regard. It apparently employs a definition under which setting off fireworks already count as non-peaceful. GPI was not involved in either of these actions, nor was there any harm to individuals.

54. Furthermore, the way in which ET presents a comment by Faiza Oulahsen, former Head of Climate and Energy of Greenpeace Netherlands (and not, as ET claims, of the Greenpeace network – interim plea, paragraph 2.10) is downright misleading, suggesting that the Greenpeace network has begun to take more violent actions. The underlying article (Exhibit

[16] Graham Lee Brewer, High Country News, "The squandered funds raised around Standing Rock - What we learned about accountability from a nine-month investigation into #NoDAPL," April 13, 2018, https://www.hcn.org/articles/indian-country-news-the-squandered-funds-of-standing-rock.

12 ET) clearly shows that Oulahsen was speaking in general terms about a trend of hardening that she perceives in the environmental movement (not: the Greenpeace network), but explicitly noted that she does not support this: "Oulahsen disapproves of recent actions such as defacing famous works of art." At the end of the article, Oulahsen says about violent actions: "I am not ready for that, I do not want to compromise non-violent and peaceful protest."

55. Furthermore, in Dutch proceedings, making such demonstrably incorrect statements as explained above is contrary to Article 21 of the Code of Civil Procedure, or can be regarded as an unlawful defense.[17]

3.3.2 Statements about protests against the DAPL at Standing Rock

56. ET discusses the construction process of the DAPL and the allegedly violent nature of the protests against the DAPL at Standing Rock at length (see, inter alia, Chapter 3 and paragraphs 4.3-4.17 of the interim plea). These statements are not relevant to the assessment of ET's interim pleas. ET paints an inaccurate picture, without any evidence, that the local population "suffered greatly" (paragraph 4.17) due to "unlawful and criminal activities" for which GPI was supposedly responsible. GPI expressly disputes that these assertions accurately reflect reality and refers to the statements made in its summons on this point (and reserves the right to further supplement these assertions during the substantive hearing).

57. However, the underlying documents submitted by ET inadvertently demonstrate what it is trying to conceal. Exhibit 13 ET is a judgment of the US District Court of North Dakota dated April 23, 2025, on the responsibilities of the federal and state governments regarding the protests against the DAPL. This judgment goes into great detail about the events surrounding the protests, and who was involved in them. Given GP Inc.'s limited involvement (and GPI's complete lack of involvement), it is not surprising that the 117 pages of the ruling make no mention whatsoever of the Greenpeace entities.

58. The same applies to the website of the State of North Dakota referred to by ET (interim plea, para. 4.6).[18] This also clearly shows that GPI was by no means the driving force behind the protests, or the evil genius behind a large-scale "disinformation campaign," as ET would have one believe. The word "Greenpeace" is nowhere to be found.

3.3.3 Alleged consequences of statements by GPI

59. ET claims to have suffered more than $100 million in damages as a result of what it describes as "defamatory statements by Greenpeace" (interim plea, paras. 4.24-4.26). This amount stems from the delay in refinancing a loan for the DAPL, which is claimed to result from these statements.

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[17] See Opinion of Advocate General De Bock, ECLI:NL:PHR:2021:38, paras. 3.11-3.13; Supreme Court 15 September 2017, ECLI:NL:HR:2017:2360 (*Vehmeijer/Janssens)*, ground 5.3.4; Supreme Court 16 July 2021, ECLI:NL:HR:2021:1144, *NJ* 2021/275; Court of Appeal The Hague 30 August 2022, ECLI:NL:GHDHA:2022:2207 (*X/State)*, ground 3.9.

[18] See: https://ndresponse.gov/2016/dakota-access-pipeline/myth-vs-fact.

60. This assertion is untenable. The discovery process in the State Lawsuit revealed that ET itself made the decision to postpone the refinancing, due to uncertainty about the outcome of the Standing Rock Sioux Tribe's lawsuit against the Army Corps of Engineers, as discussed in the summons. After all, this lawsuit put ET at risk of the pipeline being shut down (as was ordered by the federal court in 2020, although this was reversed on appeal; see summons, para. 35). As exhibits 16 and 20, ET has submitted judgments in cases brought by the Standing Rock Sioux Tribe and others against the US Army Corps of Engineers and others. As ET itself indicates, these proceedings are still ongoing (interim plea, para. 3.41) and GPI notes that the required Environmental Impact Statement to be issued by the Army Corps of Engineers is still pending. None of the Greenpeace entities are involved in all this.

61. It is therefore obvious that these proceedings (and not any other circumstances) played a decisive role in the decision-making of ET and the relevant lenders. This is also confirmed in the minutes of the board meetings of relevant ET entities dated March 28, 2018, June 27, 2018, and January 30, 2019, in which directors of these entities state (**Exhibit 48** – quotes from these minutes included in PowerPoint presentation by expert John J. Reed in the State Lawsuit):

> "Following meetings with certain bank groups, the decision was made to delay the full marketing effort for the refinancing until there was more clarity on the status of the lawsuits still pending related to the Lake Oahe crossing."
>
> "The decision was made to delay the refinancing effort until there was more certainty regarding the lawsuit with the Native American Tribes."
>
> "In order to close the refinancing prior to the decision in the U.S. District Court case involving several Native American tribes, structural enhancements are needed to the deal. The enhancement chosen is an Equity Contribution Agreement, which is . . . triggered if there is a material adverse decision for the pipeline at the District Court."

62. The minutes of the board meetings from the relevant period make no mention of the Greenpeace entities. Furthermore, there is no evidence that any financial institution was guided by the two sentences in the BankTrack letter that ET considers unlawful. See also Exhibit 37, paras. 33-35 (the Motion to Reduce Damages Award by GPI, GP Inc. and GP Fund).

63. On top of this, there is the question of why GPI (of the more than 500 organizations that co-signed the letter) together with the US Greenpeace entities ought to be liable for the full alleged damages suffered by ET as a result. GPI believes that it is entitled to hold the same views as the Standing Rock Sioux Tribe and to support it by co-signing an open letter from BankTrack (see also summons, para. 56 and exhibit 14). Moreover, the two sentences that ET takes issue with merely repeat what UN experts had previously noted.[19] ET's assertion that these are 'anonymous' individuals is incomprehensible (interim plea, footnote 40).

[19] This concerns the persons mentioned here, "Mr. Alvaro Pop Ac, Chair of the Permanent Forum on Indigenous Issues, and Dr. Dalee Dorough and Chief Edward John, Expert Members of the Permanent Forum on Indigenous Issues":
https://www.un.org/development/desa/indigenouspeoples/news/2016/11/statement-from-the-chair-and-pfii-members-dalee-dorough-and-chief-edward-john-on-the-dakota-access-pipeline/.

These individuals are Alvaro Pop Ac (Chair of the Permanent Forum on Indigenous Issues), Dr. Dalee Dorough, and Chief Edward John (Expert Members of the Permanent Forum on Indigenous Issues). See **Exhibit 49,** a simple document available online in which these experts express their grave concerns about the construction of the DAPL and its impact on sites that are culturally important to the Sioux.

3.3.4 Collage with quotes

64. Another form of propaganda is the collage that ET included in its interim plea (para. 6.8). This collage contains a few text fragments that, according to ET, demonstrate "the remarkable vehemence with which Greenpeace spoke about Energy Transfer." It rather illustrates the techniques ET used to manipulate the jury. It represents the meager harvest from 100,000 internal documents of the Greenpeace defendants that ET was able to inspect, whereby it should be noted that none of these text fragments come from GPI documents. However one views them, they cannot be held against GPI.

3.3.5 Interim conclusion

65. Despite ET's extensive attempts to confuse and discredit, it remains clear that GPI's only relevant involvement in the protests against the DAPL consisted of co-signing the BankTrack letter in November 2016.

66. Unfortunately, GPI has had to conclude that it was unable to obtain a fair trial in Morton County and, as stated, will request a new trial.

4 JURISDICTION

67. GPI believes that your Court has jurisdiction on the basis of Article 6, preamble and under e of the Code of Civil Procedure (CCP). As has been shown above, ET's defense does not detract from this conclusion. It is important in assessing this case that, as explained in the summons, GPI is seeking protection against torts (Article 6:162 of the Dutch Civil Code) and abuse of rights (Article 3:13 of the Dutch Civil Code) against it by ET. Because it co-signed a single letter, GPI has been drawn into years of legal proceedings initiated by ET, the end of which is still far from sight, and has been publicly accused by ET worldwide, without any basis, of committing or causing serious unlawful and criminal acts. This conduct is (in any case) contrary to the social standard of care set out in Article 6:162 of the Dutch Civil Code. This tortious conduct (or abuse of rights) by ET leads to direct damage to GPI in the Netherlands. GPI will discuss ET's arguments below, supplementing what it argued in this regard in the summons.

68. GPI further notes that these provisions of the Dutch Civil Code are fleshed out—as GPI explained in the summons—by Article 10 of the ECHR and the provisions of international legal sources such as the Directive. Given the subject matter of this case, the content of the Directive is obviously relevant, but as the Dutch legislature explained in the implementing legislation, both Dutch procedural law and Dutch substantive law already provide the protection that the Directive aims to offer parties such as GPI (see Exhibit 62 ET, for example, pp. 12 and 13). The Dutch court therefore has jurisdiction in this case on the basis of Article 6, preamble and under e CCP.

4.1 Basis for jurisdiction: Article 6, preamble and under e of the Code of Civil Procedure

69. The jurisdiction of your Court in this case follows from Article 6, preamble and under e CCP (hereinafter referred to as "Article 6(e) CCP" for the sake of brevity), since the defendants are established in the United States and the case concerns obligations arising from torts (summons, paragraph 5). Although this provision is based on Art. 7(2) Brussels I bis[20] , it is and remains a provision of Dutch law. In formulating Art. 6(e) CCP, the legislature therefore intended to give the Dutch court the discretion to decide for itself whether it wishes to follow the interpretation of Art. 7(2) Brussels I bis by the Court of Justice of the European Union (CJEU).[21] In doing so, the legislature noted that, although it is obvious that the interpretation of these rules by the CJEU will form an important guideline,[22] there is no scope for referring questions to the CJEU for a preliminary ruling when applying Article 6(e), as it is a provision of Dutch law.[23]

70. Article 6(e) CCP stipulates that Dutch courts have jurisdiction in cases concerning obligations arising from torts if the harmful event occurred or may occur in the Netherlands. An imminent tort may therefore also be sufficient for the application of this ground of jurisdiction, in line with the case law of the CJEU.[24]

4.2 Relevant case law of the CJEU

71. In cases where the (current) Article 7(2) of Brussels I bis is at issue, the classic *Bier/Mines de Potasse* judgment of the Court of Justice stipulates that the plaintiff may choose to bring legal proceedings against the defendant before the court in "the place where the damage occurred" (the "Erfolgsort").[25] The Court considers that, in determining jurisdiction, it is always important that there is a 'connecting factor' with the court of the Member State where the case is pending. For cases concerning torts, the Court ruled that "it is well to point out that the place of the event giving rise to the damage no less than the place where the damage occurred can, depending on the case, constitute a significant connecting factor from the point of view of jurisdiction."[26] Thus, the Erfolgsort can also be such a "connecting factor." The Court considers it undesirable to exclude the Erfolgsort, partly because "by its comprehensive form of words, Article 5 (3) of the Convention covers a wide diversity of kinds of liability."[27]

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[20] At least the precursors thereof.
[21] T&C Rv, commentary on Art. 6 CCP, M. Zilinsky, no. 8 under b.
[22] Explanatory Memorandum, *Parliamentary History Revision CCP,* p. 105.
[23] See Court of Appeal of Den Bosch, October 6, 2015, ECLI:NL:GHSHE:2015:3904, ground 3.3.2 and the quotation from the Explanatory Memorandum with regard to Art. 6(e) CCP, pp. 102 and 105: "For the sake of certainty, it should be noted that questions of interpretation of the provisions discussed here, even if they are identical to the parallel provisions of the EEX Convention, cannot lead to preliminary questions being referred to the Court of Justice. They are and remain exclusively provisions of Dutch law." The request by ET contained in the interim plea to refer questions for a preliminary ruling (para. 7.53) is therefore not admissible.
[24] GS Civil Procedure, Art. 6 CCP, note 9.
[25] Court of Justice, November 30, 1976, ECLI:EU:C:1976:166 (*Handelskwekerij Bier v Mines de Potasse d'Alsace)*, paras. 14-17 and para. 19.
[26] *Bier/Mines de Potasse,* paragraph 15.
[27] *Bier v Mines de Potasse,* paragraph 18.

72. The grounds provided by Article 7 of Brussels I bis for assuming jurisdiction are referred to as grounds of "special jurisdiction" (Section 2), because they constitute an exception to the principle laid down in Article 4 of Brussels I bis that jurisdiction is based on the domicile of the defendant.[28] According to recital 15 of Brussels I bis, these grounds may apply in cases "in which the subject-matter of the dispute or the autonomy of the parties warrants a different connecting factor" than the defendant's domicile. According to recital 16, it is sufficient for there to be a "close connection between the court and the action." However, according to the first sentence of recital 16, "the sound administration of justice" may also be a *separate* reason for applying a "special ground of jurisdiction" ("there should be alternative grounds of jurisdiction based on a close connection between the court and the action **or** in order to facilitate the sound administration of justice"). This therefore leaves the domestic court considerable discretion to make its own assessment, which is all the more true when Brussels I bis does not apply, as in this case.

73. Following the *Bier/Mines de Potasse* judgment, the CJEU has developed a significant body of case law on (the current) Article 7(2) of Brussels I bis. It is important to note that the CJEU has expressly ruled that "the place where the damage occurred may vary according to the nature of the right allegedly infringed."[29] As Hartley has noted in this regard, the case law of the CJEU on Article 7(2) of Brussels I bis may seem confusing or inconsistent, but it is always important to consider the nature of the case in question.[30] The CJEU assesses some cases on the basis of general principles, while "others were based on the need to find a special rule for a specific tort, a rule which provides the best solution from the point of policy."[31]

74. For example, in cases concerning prospectus liability, the CJEU established a specific line in its *Kolassa* and *Löber* judgments.[32] In cases concerning publications with international aspects, the CJEU has also established a line in its *Shevill* and *eDate/Martinez* judgments,[33] as well as its *Bolagsupplysningen* judgment specifically for legal persons.[34] In each case, a tailor-made approach to jurisdiction applies.

75. What always plays a role in this is the balance of power between the plaintiff and the defendant. As Lehmann et al. note, the principle of the defendant's place of residence as the basis for jurisdiction can be "too one-sided in certain cases," whereby "the option given to the claimant to choose the competent court suggests that it is also designed to protect his interests."[35] This applies, for example, in cases where the plaintiff alleges to have been the victim of tortious conduct: in such cases, it may be unfair to force him to litigate where the defendant is domiciled.

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[28] For significantly more detail, see Lehmann et al. 'Special Jurisdiction', in A. Dickinson, E. Lein, A. James (eds.) (2015), 'The Brussels I Regulation Recast', Oxford: Oxford University Press, p. 132.

[29] CJEU 21 December 2016, ECLI:EU:C:2016:976 (*Concurrence SARL v Samsung Electronics France SAS et al.)*, para. 30, and the sources cited therein.

[30] T. Hartley (2023), Civil jurisdiction and judgments in Europe, Oxford: Oxford University Press, p. 133.

[31] Id.

[32] CJEU 28 January 2015, ECLI:EU:C:2015:37 (*Harald Kolassa v Barclays Bank Plc)* and CJEU 12 September 2018, ECLI:EU:C:2018:701 (*Helga Löber v Barclays Bank plc)*.

[33] CJEU 7 March 1995, ECLI:EU:C:1995:61 (*Fiona Shevill et al. v. Presse Alliance SA)*; CJEU 25 October 2011, ECLI:EU:C:2011:685 (*eDate and Martinez v. MGN Limited)*.

[34] CJEU 17 October 2017, ECLI:EU:C:2017:766 (*Bolagsupplysningen OÜ et al. v Svensk Handel AB)*.

[35] Lehmann et al. 'Special Jurisdiction', in A. Dickinson, E. Lein, A. James (eds.) (2015), 'The Brussels I Regulation Recast', Oxford: Oxford University Press.

76. It follows from the above that it is important to carefully consider the nature and background of judgments of the CJEU on Article 7(2) of Brussels I bis before using them as a guideline. ET failed to do so and therefore wrongly attaches great importance to the *Universal* Music judgment of the CJEU. However, this is of little or no relevance in the specific circumstances of this case. GPI will discuss this in more detail, but will first address the following point.

4.3 Article 17 of the Directive: 'Special jurisdiction' for anti-SLAPP cases already follows from the Code of Civil Procedure

77. In Article 17(1) of Directive,[36] the EU legislature has included a 'special ground for jurisdiction' in SLAPP cases, namely that a victim of a SLAPP outside the EU can sue the other party 'in the courts or tribunals of the place where that person is domiciled'. In doing so, the EU legislature did not intend to amend or change Brussels I bis. Article 17(1) of the Directive is merely a tailor-made approach to jurisdiction that is entirely in line with existing provisions and principles of EU law, and for which provision had already been made in Dutch law. [37]

78. After all, it follows from the characteristics of a SLAPP that it qualifies as a tort against the victim. Thus, Article 17(1) of the Directive is in line with the provisions of Article 7(2) of Brussels I bis and merely specifies how the 'Erfolgsort' should be interpreted for the specific situation of SLAPPs in third countries against a party established in the EU. This is no different from the way in which the CJEU has further clarified the provisions of Article 7(2) of Brussels I bis for cases concerning prospectus liability, for example. The Dutch legislature has confirmed in the implementing legislation that this possibility already exists under Dutch procedural law.

79. This is further confirmed by the final Explanatory Memorandum to the bill for the implementation of the Directive (Exhibit 62 ET). In it, the Dutch legislature explicitly confirms that Dutch (procedural) law already provides for the procedural safeguards provided for in Article 17(1) of the Directive, considering that:

> "In the case of SLAPPs in a third country directed against a person residing in the Netherlands, it is conceivable that there will be both material damage (including the costs of the proceedings) and immaterial damage to the person against whom the SLAPP is directed. For purely financial damage, the CJEU requires other special circumstances in addition to the location of the bank account in the place of residence of the injured party in order to assume jurisdiction. If that is the case, the court of the place where the financial damage occurred may assume jurisdiction. Such other special circumstances could include, for example, in the light of the directive, in the case of a SLAPP brought abroad: the fact that participation in the public debate took place from that place of residence or that the injured party has never even set foot in the country where the SLAPP is pending. In such cases, it can be assumed that the direct damage to this person also occurs in the Netherlands, so that there is a competent court in the

[36] As in the summons, this refers to the Anti-SLAPP Directive; the authentic English version is submitted as Exhibit 30.

[37] ET's assertions about what *GPI* would argue about the Directive (interim plea, paras. 7.44-7.48) are incorrect and are disputed by GPI.

> Netherlands where a SLAPP target can claim the aforementioned damage. In the case of immaterial damage, it is even more obvious to assume that this occurs in the place of residence of the person against whom the SLAPP is directed. This means that a provision has already been made for the implementation of Article 17 of the Directive."

80. The Dutch legislature thus confirms that SLAPPs in third countries directed against parties established in the Netherlands will readily result in both material and non-material damage in the Netherlands. Dutch law, and in particular Article 6(e) CCP, therefore offers more than sufficient scope for assuming jurisdiction in such cases. It also follows that Article 6(e) CCP – as GPI already argued in the summons – has offered this this possibility for many years, and that this has now only been confirmed by the provisions of Article 17(1) of the Directive.

81. In the Directive, the EU legislature took into account that SLAPP cases will often involve both actual and/or threatened material and immaterial damage, as is apparent from recitals 16 and 46, respectively (emphasis added):

> "Court proceedings against public participation may have an adverse impact on the credibility and reputation of natural and legal persons that engage in public participation and may exhaust their financial and other resources."
>
> "It is typical in SLAPPs that those targeted suffer severe financial repercussions and psychological and reputational harm."

82. The principle underlying the provisions of Article 7 of Brussels I bis, namely that an exception to Article 4 of Brussels I bis is justified if there is a difference in power between the parties, is also fully applicable in the context of the Directive. The EU legislature explicitly mentions the "imbalance of power" between parties as a frequently relevant element of a SLAPP (recital 15 of the Directive). Furthermore, the EU legislature notes that SLAPPs in countries outside the EU are particularly problematic for victims (recitals 43 and 44 of the Directive). The Dutch legislature confirms that these circumstances are (or may be) relevant under Dutch law for the purposes of Article 6(e) CCP.

83. This leads to the following application of Article 6(e) CCP in this case (in which GPI also explicitly refers to the statements in the summons, paragraph 5).

4.4 Application of Article 6(e) CCP in this case

84. Based on the above, the question under Article 6(e) CCP is whether the 'Erfolgsort' is (or may be) located in the Netherlands. All facts and circumstances of the case may play a role in answering this question under Article 6(e) CCP. Article 17(1) of the Directive stipulates that in cases falling under that article, the 'Erfolgsort' shall be deemed to be 'the place where that person is domiciled'. This is sufficient to establish the connection with the Member State whose law is applicable, and it is clear from the wording and explanatory notes to the Directive and the implementing legislation that both the European and Dutch legislatures consider this to be in line with the principle of the 'sound administration of justice'.

85. Designating the place where a party is established or resides as the 'Erfolgsort' is already common practice and possible under Dutch and EU law. In the case law of the CJEU on the application of Article 7(2) of Brussels I bis in cartel damage cases, it has been assumed that

in cases where a party claims to have suffered damage as a result of cartel formation, the place of 'that victim's registered office' qualifies as the Erfolgsort in any event.[38] In that regard, the CJEU considers that the court in the place where the victim is established is "manifestly best suited" to determine that damage.[39] It is also established case law of the CJEU in cases concerning prospectus liability that jurisdiction lies with the court of the place "where the applicant is domiciled."[40] In this respect, the Directive does not introduce anything new compared to existing case law under Article 6(e) CCP and Article 7(2) of Brussels I bis. In each case, it is a matter of what is appropriate in the light of the relevant facts and circumstances of the case.

86. The place where the victim of the SLAPPs is established is, for GPI, clearly the Netherlands (and more specifically Amsterdam). This is, among other things, the place where it is registered, where it has its headquarters on Surinameplein, where the largest group of its employees works and where it is subject to the Public Benefit Organization (ANBI) rules (and the associated supervision by Dutch Tax Authority). Any other outcome would be contrary to the spirit and purpose of the applicable Dutch and European law.

87. In the event that your Court does not accept jurisdiction on this basis alone, GPI submits the following (and also refers to the arguments in the summons).

4.4.1 Applicable analysis in the context of determining jurisdiction

88. As ET itself rightly acknowledges, at this stage of the proceedings, the court may limit itself to a *prima facie* assessment of the facts (see interim plea, para. 7.9). ET also acknowledges that, in principle, the plaintiff's arguments should be taken as a starting point (interim plea, para. 7.43). The reason for this, as shown by a recent ruling by the Midden-Nederland District Court, Utrecht location, is the following:[41]

> "Legal certainty requires that the domestic court be able to rule on its own jurisdiction without having to examine the merits of the case. Therefore, in order to determine its jurisdiction, the domestic court does not need to allow evidence to be presented on the accuracy of the relevant facts, even if [the defendant] has contested the plaintiffs' arguments. It is important to avoid prejudging the merits of the claim. There is no place for this at this stage of the proceedings. It follows that, in answering the question of whether it has jurisdiction, the court may limit itself to a prima facie assessment (a prima facie judgment)."

89. However, despite this, ET presents a large part of its substantive defense in the interim plea. For example, ET disputes the various forms of damage claimed by GPI in detail: a defense that, in GPI's view, would only be appropriate in the phase of the proceedings for the assessment of damages (or in any case in the phase after jurisdiction). GPI expressly disputes these assertions and reserves the right to rebut them in more detail later in the proceedings.

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[38] CJEU 21 May 2015, ECLI:EU:C:2015:335 (*Cartel Damage Claims (CDC) Hydrogen Peroxide SA v Akzo Nobel et al.)*, paras. 51-56.
[39] Id., para. 53.
[40] CJEU 28 January 2015, ECLI:EU:C:2015:37 (*Harald Kolassa v Barclays Bank Plc)*, para. 55.
[41] District Court of Midden-Nederland, Utrecht location, January 8, 2025, ECLI:NL:RBMNE:2025:10, para. 3.4.

90. The threshold for establishing jurisdiction is (much) lower than ET suggests. For the application of Article 7(2) Brussels I bis (and thus Article 6(e) CCP), it is sufficient that the "harmful event" may be harmful, even without specific evidence to that effect.[42] Thus, that is not the question at issue: the only question is where the alleged damage occurred. This is also apparent from Dutch case law on this subject. In a recent judgment, for example, your Court ruled on jurisdiction over various foreign defendants under both Brussels I bis and the Code of Civil Procedure.[43] In doing so, your Court rightly based its decision on the plaintiff's arguments in this regard (para. 4.14 of the judgment, "If the allegations made by [the plaintiff] were correct" and para. 4.15 "the damage allegedly suffered") without making a final judgment on the merits. The same can be seen in a recent judgment of the District Court of Midden-Nederland, Utrecht location, in which the District Court determined, on the basis of a *prima facie* (and therefore summary) assessment, that it had jurisdiction on the basis of Article 7(2) Brussels I bis (Erfolgsort).[44] In short, the District Court rejected more detailed substantive objections on the part of the defendant as inappropriate in the context of the assessment of jurisdiction.[45]

91. As GPI will explain below, the Erfolgsort in this case is the Netherlands. In addition to the statements in the summons, GPI will also explain (without being required to do so, but for the sake of completeness) what its damages consist of. These have increased significantly since the date of the summons.

4.4.2 The 'Erfolgsort' in this case is the Netherlands

92. GPI explained in detail in the summons that, in short, the damaging event consists of ET's tortious towards it, including the filing of the Federal Lawsuit and the State Lawsuit (SLAPPs) and the making of serious, unfounded allegations about GPI (summons, paras. 5 and 6). GPI has also explained in detail in the summons why the aforementioned lawsuits qualify as SLAPPs. ET's defense in this regard (interim plea, paras. 7.54-7.67) is irrelevant at this stage of the proceedings. In response to ET's disputing of the fact that GPI suffered damage in the Netherlands, the following applies.

93. Firstly, it is correct that GPI is suffering financial loss on a bank account in the Netherlands (interim plea, paragraph 7.13). However, ET argues that GPI is insured for all costs incurred by the SLAPPs and therefore is not actually suffering any financial loss (paragraph 7.12).

94. However, this suggestion is unfounded, as ET itself is well aware. During the State court proceedings, ET requested information about any insurance coverage for GPI in this regard, and copies of any insurance policies. GPI did not produce any applicable insurance policies

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[42] CJEU 7 March 1995, ECLI:EU:C:1995:61 (*Fiona Shevill et al. v. Presse Alliance SA)*, paragraphs 37-38: "the sole object of the Convention is to determine which court or courts have jurisdiction to hear the dispute by reference to the place or places where an event considered harmful occurred." In that case, the fact that under UK law non-pecuniary damage is assumed as a starting point in defamation cases does not preclude the applicability of (the current) Article 7(2) Brussels I bis, paragraph 40. See also Lehmann et al. 'Special Jurisdiction', in A. Dickinson, E. Lein, A. James (eds.) (2015), 'The Brussels I Regulation Recast', Oxford: Oxford University Press, p. 161.

[43] Amsterdam District Court, March 19, 2025, ECLI:NL:RBAMS:2025:3859 (*Heineken/Xorta et al.)*.

[44] District Court of Midden-Nederland, Utrecht location, January 8, 2025, ECLI:NL:RBMNE:2025:10, paragraphs 3.7-3.11.

[45] Id., ground 3.13.

because it had no insurance policies which could potentially provide coverage for the claims by ET. ET also requested a deposition of GPI's corporate witness, but then chose not to inquire of whether there was insurance. In addition, the insurance policies that the other GP defendants produced in the State court proceedings do not show GPI as an insured party. In short, ET knew in 2024, and knows now, that GPI has no insurance that could provide potential coverage for the claims brought by ET. For parts of the case, GPI was subsumed within common defense arguments made on behalf of, and funded in part by the insurance policies of, GP Inc. and GP Fund, given the strong interconnection and overlap between the claims against the three Greenpeace Defendants. However, GPI has separately incurred legal fees and costs related to the proceedings in the case, which it paid itself and which are not covered by insurance in any way. These costs remain significant and continue to rise. For example, GPI has engaged separate legal counsel for the appeal, and therefore has to incur even higher legal costs. GPI has suffered financial damage and will continue to suffer such damage, in addition to the legal costs. This therefore constitutes financial damage suffered by GPI in the Netherlands (see in more detail the summons, paragraphs 5 and 7).

95. It is true that the mere fact that damage has been suffered in a bank account in the Netherlands is not sufficient to assume jurisdiction under Article 6(e) CCP, but that is (clearly) not the case here. After all, there are numerous other elements which connect this case to the Dutch legal sphere, some of which have already been put forward in the summons (para. 139 et seq.). Particularly relevant in this regard is the fact that GPI has its center of interests in Amsterdam, which in itself is sufficient grounds for assuming jurisdiction in the context of the reputational damage to be discussed below.[46] The fact that GPI operates internationally does not prevent all the facts and circumstances from showing that the center of its interests is located in Amsterdam (the arguments put forward by ET in its interim plea, para. 7.37 et seq., are unfounded).

96. A fact ET is well aware of, but systematically fails to mention, is that BankTrack, the author of the open letter co-signed by GPI, is a Dutch organization with ANBI status (as is GPI). The statements for which ET holds GPI liable were therefore made from Dutch territory by (at least) two Dutch organizations. Moreover, the letter was primarily addressed to banks in the European Union, including ING in the Netherlands.

97. In this context, it is relevant that the letter was not only drafted by BankTrack, but also published on BankTrack's website, banktrack.org. This website is the responsibility of BankTrack, a foundation based in Nijmegen.[47] It follows that the publication of the open letter took place in the Netherlands, as did its signing by GPI (a Dutch organization). The participation in the public debate was therefore carried out from the Netherlands – by BankTrack, GPI, and 15 other Dutch organizations that co-signed the letter.[48] The Dutch legislature explicitly identifies this as a special circumstance on the basis of which the Dutch

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[46] ECJ 7 March 1995, ECLI:EU:C:1995:61 (*Fiona Shevill et al./Presse Alliance SA)*; ECJ 25 October 2011, ECLI:EU:C:2011:685 (*eDate and Martinez/MGN Limited)*.

[47] At the bottom of every page of the BankTrack website is the following statement: "BankTrack, Nijmegen, The Netherlands." BankTrack's privacy policy indicates that this refers to Stichting BankTrack, registered in the Trade Register under no. 30198568 (https://www.banktrack.org/page/our_privacy_policy_1).

[48] ActionAid Netherlands, BothENDS, Fair Bank Guide, Fossil Free NL, Fossil Free Amsterdam, Fossil Free The Hague, Friends of the Earth NL/Milieudefensie, Greenpeace Netherlands, GroenFront!, OTN-Hydroconsult, Stichting Schaliegasvrij Nederland, Stop Ecocide, Transnational Institute, Urgenda, XminY het actiefonds.

court has jurisdiction ("the fact that participation in the public debate took place from that place of residence," see above). BankTrack's open letter of November 30, 2016, which is at the heart of this case, is (rightly) still online on BankTrack's website (**Exhibit 50)**.

98. As explained in the summons, ET therefore joined BankTrack as a defendant in the federal lawsuit alongside GPI. In those proceedings, ET argued, in its defense against the motion to dismiss (**Exhibit 51** – relevant sections from ET's Plaintiff's Consolidated Memorandum of Law in opposition to moving Defendants' Motions to Dismiss the Complaint):

"Under the direction of its director Johan Frijins, BankTrack authored and aggressively disseminated the Enterprise's materially false and misleading information about Energy Transfer and DAPL to the financial institutions financing DAPL and Energy Transfer's other infrastructure projects, and demanded that each bank immediately withdraw funding from Energy Transfer or face crippling boycotts, divestment campaigns, and reputational damages. (¶ 38(j), 237-38, 245-47, 251-52, 255, 261-62, 275.) BankTrack widely disseminated these false and misleading letters on its website to galvanize the public to exert further pressure on the banks through direct actions. (Id.)"

99. In addition to demonstrating once again how bizarre it is that ET now holds GPI responsible for the two sentences from BankTrack's open letter of November 30, 2016 (Exhibit 9), it can be inferred from this statement that ET itself (i) believes that BankTrack is the author of the open letter and (ii) reproached BankTrack for publishing the open letter on its website. It is not disputed that GPI merely co-signed this letter and, unlike BankTrack, did not publish it on its website.

100. Parts of the State Lawsuit also took place in the Netherlands, specifically at GPI's office in Amsterdam, such as the deposition of Mads Christensen, to which ET repeatedly refers in its interim plea. As mentioned above, a large part of GPI's employees work at this office, some of whom are also closely involved in the handling of the US cases. ET does not dispute this – rightly so – (interim plea, paras. 7.38-7.39). The largest group of GPI employees is located in the Netherlands, which confirms that the center of its interests is located here. As explained above, the fact that GPI is based in Amsterdam is also of particular importance in the context of cases against SLAPPs. After all, jurisdiction can be based on the place of residence of the victim of the SLAPP.

101. Furthermore, ET cannot ignore the fact that GPI has claimed to have suffered damage as a result of the deliberate hindrance of the attainment of its public interest goals pursuant to Article 6:106(a) of the Dutch Civil Code (summons, para. 162). ET puts forward a detailed substantive defense on this point (interim plea, paras. 7.17-7.26) and argues that GPI's reliance on this provision "could not succeed." However, the question is not whether these alleged damage is recoverable, but whether it can be assumed that it is being suffered in the Netherlands. This is the case: GPI is also suffering these damages at the place where the center of its interests is located, i.e., in Amsterdam. This damage results, among other things, from the following steps that GPI has had to take:

a. Imposing a hiring freeze in May 2025 for approximately half of the current 40 vacant positions at GPI, partly due to the financial consequences of the State lawsuit.

b. Assembling teams and projects to respond to the lawsuits and defend GPI's reputation and freedom of expression. Examples of this are:

i. The already extensively discussed "Global Pipelines/ETP Project" from 2018, for which GPI made significant funding available;

ii. A "response team" set up in 2024 in the run-up to the trial in the State Lawsuit, for which several senior employees were deployed for a year, resulting in reduced capacity and leadership of their regular teams and delays to planned activities;

iii. A campaign launched in 2025, partly to respond further to the State Lawsuit and mobilize people to defend freedom of expression. Eleven GPI employees are working on this campaign, including two in Amsterdam. GPI has allocated a significant budget for this, partly related to the State Lawsuit.

c. Extensive attention at the board level to ET's SLAPPs. For example, GPI's director, Mads Christensen, who lives in the Netherlands, spends a considerable amount of his time overseeing the attorneys, program teams, and operational teams involved in responding to the State Lawsuit, at the expense of his core tasks of day-to-day management, publicly representing GPI and promoting its mission and fundraising. He also was required to travel to North Dakota to appear as a witness in the State Lawsuit.

102. GPI has also argued that it is suffering reputational damage as a result of ET's actions (Art. 6:106(1)(b) and Art. 8 ECHR), including, in particular, the serious accusations that ET has spread about it via the internet and continues to spread (see summons, section 3.4 and paragraph 163(e)). In 2025 alone, ET accused GPI via websites available in the Netherlands of "organizing, funding, and encouraging unlawful destruction of property," "coordinating attacks on the DAPL," "destroying and damaging equipment," "attacking the people," and "inciting terrorist acts and vandalism." These serious and unfounded accusations of committing or causing unlawful and criminal acts, in addition to the accusations already made, clearly lead to reputational damage for GPI. ET disputes in detail that this reputational damage has been suffered, but there is no place for this argument at this stage of the proceedings (interim plea, paras. 7.29-7.42). GPI will make a brief comment on this argument below.

103. Another form of immaterial damage that is occurring (amongst others) in the Netherlands is immaterial damage to GPI's employees as a result of ET's conduct. ET's frontal attack aimed at preventing GPI from doing its work (as it has stated itself, see summons) is causing a great deal of stress and unrest among GPI's employees. In January 2025, the Amsterdam-based GPI People & Culture team noted that employees involved in the ET lawsuit in the United States needed extra support. It therefore offered them up to ten individual emotional support sessions through Thrive Worldwide, an intercultural and multidisciplinary team of clinicians, consultants, and coaches. In the three months following the jury's verdict in March 2025, there was also an uptick in use of the Employee Assistance Program's (EAP) services, although a causal link cannot be proven because contacts with the EAP are confidential.

104. As the Dutch legislature has already emphasized, it is obvious that in the case of immaterial damage, "it should be assumed that this occurs in the place of residence of the person against whom the SLAPP is directed." This also follows from established case law of the CJEU on jurisdiction in cases concerning statements available online, whereby jurisdiction lies with all courts of states where those statements are available (and the full amount of

damages can be claimed before the court of the center of interests of the plaintiff).[49] After all, as the CJEU emphasizes in *eDate/Martinez:* "Given that the impact which material placed online is liable to have on an individual's personality rights might best be assessed by the court of the place where the alleged victim has his center of interests, the attribution of jurisdiction to that court corresponds to the objective of the sound administration of justice."[50]

105. As further follows from the Explanatory Memorandum, the fact that "the injured party has never even set foot in the country where the SLAPP is pending" may be relevant to the assessment of whether jurisdiction can be assumed. As is apparent from the facts outlined above and in the summons, GPI employees were not present at the protests at the DAPL, nor at any other events relevant to this case that took place in North Dakota. GPI only co-signed an open letter from the Netherlands. The first time a GPI employee set foot in North Dakota in the context of this matter was to respond to the Federal Lawsuit filed by ET against GPI.

106. Finally, GPI now faces the threat of significant additional material and immaterial damage in the Netherlands. An appeal in the State Lawsuit has become inevitable and is already underway on some points. Furthermore, there is a real risk that GPI will face new lawsuits as a result of ET's actions. For example, the Romanian Minister of Energy has called on oil and gas companies to claim the highest possible amounts from NGOs, citing Energy Transfer as an example.[51] The African Energy Chamber is using similar threatening language: "The $660 million fine imposed in the U.S. should be viewed as just the beginning of the reckoning that Greenpeace faces."[52] As discussed earlier, ET's counsel also reports interest from other oil companies (exhibit 42, pp. 6-7). And as long as the case is ongoing in the United States, GPI will continue to face new unfounded accusations from ET, which are being spread worldwide (and therefore also in the Netherlands) via the internet. According to the wording of Article 6(e) CCP and Article 7(2) of Brussels I bis, imminent damage can also provide a basis for assuming jurisdiction.

107. As is apparent from the above, and as confirmed by the European and Dutch legislature, it is typical in cases involving SLAPPs that there may be both material and immaterial damage. This is also the case here, as explained, and this damage has been suffered by GPI in the Netherlands (and threatens to be suffered in the Netherlands). This clearly demonstrates the required connection with the Dutch legal sphere.

108. Furthermore, in this case, the principle of "the sound administration of justice" carries particular weight in determining jurisdiction. After all, the Directive and the implementing legislation show that great importance is attached to the possibility for victims of SLAPPs in third countries to be able to easily and effectively use legal remedies in the country where they are established in order to recover damages and costs suffered. In this context, GPI also refers to recital 32 of the Directive:

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[49] CJEU 25 October 2011, ECLI:EU:C:2011:685 (*eDate and Martinez/MGN Limited)* and CJEU 17 October 2017, ECLI:EU:C:2017:766 (*Bolagsupplysningen OÜ et al./Svensk Handel AB)*.

[50] e*Date/Martinez,* paragraph 48.

[51] Mediafax, "Burduja asks companies to sue NGOs that file bad faith lawsuits," March 20, 2025, https://www.mediafax.ro/english/burduja-asks-companies-to-sue-ngos-that-file-bad-faith-lawsuits-23530940.

[52] African Energy Chamber, "Greenpeace Must Pay Far More Than $660 Million: The Global Reckoning Has Begun," March 21, 2025, https://energychamber.org/greenpeace-must-pay-far-more-than-660-million-the-global-reckoning-has-begun/

> "Member States should ensure that all the procedural safeguards provided for in this Directive are available to natural or legal persons against whom court proceedings have been brought on account of their engagement in public participation and that the exercise of those safeguards is not unduly arduous."

4.4.3 ET arguments against accepting jurisdiction do not hold water

109. ET advances several arguments as to why your Court should not assume jurisdiction in this case on the basis of Article 6(e) CCP. However, none of these arguments hold water, as GPI will explain below.

110. ET relies heavily on the *Universal Music* judgment of the CJEU.[53] However, that judgment is not relevant to the assessment of this case, because it was handed down against the background of very specific factual circumstances that are incomparable with the present case. [54]

> *Universal Music* revolves around the Dutch holding company Universal Music International Holding BV, the parent company of a group of companies in the Czech Republic. These Czech companies had acquired another Czech company, but due to an error by their Czech attorneys, the acquisition price turned out to be five times what the acquiring companies had actually wanted to pay. The subsequent lawsuit in the Czech Republic between the Czech companies in the Universal group and the acquisition target was settled.
>
> The settlement agreement required that a sum be transferred from the Dutch bank account of Universal Music (the Dutch BV), which was done. Universal Music International Holding BV then initiated legal proceedings in the Netherlands against the Czech attorneys who had given the Czech group companies incorrect advice. This raised the question of whether, in the given circumstances, where the connection with the Dutch legal sphere concerned only the payment from a Dutch bank account of a Dutch holding company, the Dutch court had jurisdiction. This led to a reference for a preliminary ruling.

111. In the *Universal Music* judgment, the CJEU concludes that purely financial damage occurring directly in a party's bank account is insufficient in itself: "Consequently, purely financial damage which occurs directly in the applicant's bank account cannot, in itself, be qualified as a 'relevant connecting factor', pursuant to Article 5(3) of Regulation No 44/2001." However, referring to the *Kolassa* judgment, the CJEU ruled that if there are "other circumstances specific to the case [that] also contribute to attributing jurisdiction to the courts for the place where a purely financial damage occurred, that such damage could, justifiably, entitle the applicant to bring the proceedings before the courts for that place."[55]

112. The case is therefore not comparable to the present case, where there are clearly numerous other circumstances that justify the assumption of jurisdiction here. This is in line with the *Universal Music* judgment, which supports GPI's arguments in this regard.

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[53] CJEU 16 June 2016, ECLI:EU:C:2016:449 (*Universal Music International Holding BV v Schilling et al)*.
[54] See also G. Calster (2024), 'European Private International Law', Oxford: Hart Publishing.
[55] *Universal Music,* paragraphs 38 and 39.

113. Given the close connection with the Dutch legal sphere that GPI has demonstrated, it is also entirely foreseeable for ET that it would sued in the Netherlands as a result of its actions (interim plea, paras. 7.16 and 7.40). It drew BankTrack and GPI, two Dutch organizations, into manifestly unfounded proceedings (or at least proceedings that qualify as an abuse of rights) and spread serious, unfounded accusations about GPI via the internet. It is certainly not inconceivable that one or both of these organizations would seek protection in some way against ET's actions, which under Dutch law qualify as a tort or abuse of rights.

114. ET further argues that, for various reasons, the Directive is meaningless (interim plea, paras. 7.44-7.53). This argument cannot be accepted: the Dutch legislature has explicitly confirmed that existing Dutch law already provides the protection that the Directive aims to offer (except on one point, which is not at issue in this case). The Directive merely confirms what is already possible under Dutch substantive and procedural law (see also the summons, section 5).

115. ET goes on to argue that there is no scope for interpreting Dutch law in accordance with the Directive in the present case. However, this does not follow from the ECJ's *Adeneler* judgment it cites in support (interim plea, paragraph 7.50). That judgment is only relevant "in the event of late transposition of a directive."[56] This is not the case here: transposition is not necessary because Dutch substantive and procedural law already offer the required protection. Incidentally, the domestic court is always free to interpret domestic law in accordance with a directive, even before the transposition period has expired.[57]

116. In this context, GPI also points to the so-called duty of abstention (also known as 'Vorwirkung') that applies to domestic courts from the moment a directive enters into force. It entails that all public authorities, including domestic courts, must refrain from any measures and any interpretation of national law that could significantly jeopardize the achievement of the result of that directive.[58] One of the explicit aims of the Directive is to offer legal protection to those who are the targets of SLAPPs in third countries within the country where they are established. Not accepting jurisdiction in this case would be directly contrary to that objective and would therefore significantly jeopardize the achievement of the result of the Directive.

117. It has already been explained that the applicable national law and EU law are in harmony with each other and provide a sufficient basis for jurisdiction in this case. There is no risk of any form of *contra legem* interpretation, as ET wrongly asserts (interim plea, paragraph 7.50). The mere fact that there is no precedent regarding jurisdiction in a case with a specific factual background such as the present one does not, of course, mean that this cannot or may not be done. That is how the development of law works.

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[56] CJEU 4 July 2006, ECLI:EU:C:2006:443 (*Adelener et al./ELOG)*, paragraph 115.

[57] This follows, inter alia, from Article 4(3) TEU; see also H.C.F.J.A. de Waele, De doorwerking van Europese internemarktregels in de nationale rechtsorde (The effect of European internal market rules in the national legal order). In I. Govaere (ed.), European law. Modern internal market for the practicing attorney, 2012, p. 271: "As stated, the obligation to interpret in conformity only applies once the transposition period for the directive has expired. Before that time, domestic courts are therefore not obliged to interpret in conformity. However, if they wish to do so for compelling reasons, they are free to do so (at least under European law)."

[58] ECJ 18 December 1997, ECLI:EU:C:1997:628 (*Inter-Environnement Wallonie/Walloon Region)*, paragraph 44; *Adelener,* paragraph 123. See also H.C.F.J.A. de Waele, The effect of European internal market rules in the national legal order. In I. Govaere (ed.), European law. Modern internal market for the practicing attorney, 2012, p. 269.

118. ET then raises the question of whether the Directive has retroactive effect (interim plea, para. 7.45). This is irrelevant, as GPI is relying on Article 6:162 of the Dutch Civil Code and the social standard of care contained therein (or Article 3:13 of the Dutch Civil Code). ET's conduct was always unlawful or constituted an abuse of rights towards GPI under Dutch law. The Directive merely confirms, as do the other legal sources cited by GPI in the summons, that ET's conduct was and is prohibited under Dutch law. As discussed, the implementing legislation is also based on this view. Incidentally, it does not follow from the text of the Directive that it applies only to SLAPPs brought after April 11, 2024 (the date on which the Directive was adopted).[59]

119. One of ET's favorite tricks is to misrepresent GPI's arguments. This applies, for example, to the way in which ET deals with GPI's arguments in relation to Article 10 of the ECHR (interim plea, paras. 7.68-7.74). GPI did not argue that "Article 10 of the ECHR creates jurisdiction for the court" (para. 7.68). However, in the summons, GPI did point out the importance of Article 10 of the ECHR in these proceedings and the positive obligations incumbent on the State to ensure these rights for its residents (Article 1 of the ECHR). The assumption of jurisdiction in the present case would be entirely in line with this.

4.4.4 Some comments on ET's factual assertions

120. ET makes numerous factual assertions that are not relevant to the assessment of jurisdiction (interim plea, para. 7). However, some of these assertions are so incorrect that GPI will nevertheless comment on them in this section. Furthermore, GPI disputes all factual assertions made by ET and reserves the right to dispute them in more detail once the substantive part of the proceedings has commenced.

121. In its discussion of the reputational damage suffered by GPI, ET states that GPI is "completely in its element" with the proceedings in the US and is "successful" in this regard (interim plea, paras. 7.29-7.32). GPI wants to leave no room for misunderstanding: ET's actions against GPI are among the most serious and impactful threats that GPI (and the Greenpeace network) has ever faced. That seriousness and impact already follow clearly from the fact that ET acknowledges that the State Lawsuit is the most complex case in North Dakota's history.

122. GPI is therefore using all available peaceful and lawful means to draw attention to this serious threat. Fortunately, it has found allies in this endeavor. However, this does not mean that it has not suffered significant material and immaterial damage as a result of ET's actions. The funds received by GPI pale in comparison to the enormous costs incurred by GPI in connection with the Federal Lawsuit and the State Lawsuit. Moreover, ET has stated that its goal in these proceedings is "absolutely" to ensure that GPI will no longer have the funds to carry out its regular activities.[60]

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[59] GPI disputes that it follows from the legislative history of the Directive that the EU legislature intended to limit the effect of the Directive to cases brought after its entry into force. (interim plea, footnote 139). The fact that certain formulations did not make it into the Directive does not mean that the Directive now stipulates that the scope of application should be limited in this way. That would also be incongruous, given that the conduct of parties bringing SLAPPs was already unlawful or constituted an abuse of rights under Dutch law in any case, and there is nothing to suggest that the Directive intended to remove this protection.

[60] See Exhibit 18, this interview is still available online at:

123. ET also claims that there is no imbalance of power between ET and GPI. That is an absurd assertion. ET's revenue in 2024 was USD 82.671 *billion;* GPI's revenue in the same year was approximately USD 106 *million.* ET's revenue is thus 780 times higher than GPI's. This alone shows that there is an insurmountable difference in power between ET and GPI.

124. Finally, in the summons, GPI explained why the Federal Lawsuit and the State Lawsuit qualify as tortious conduct and SLAPPs under applicable Dutch law, also read in the light of the Directive and other international sources of law. ET puts forward a detailed substantive defense against this in its interim plea, stating: "The US Proceedings are not SLAPPs under Article 17(1) of the Directive" (paras. 7.54-7.67). However, this assertion (which is disputed) and its elaboration are not relevant at this stage of the case. This is pre-eminently a question to be addressed during the merits phase and does not need to be addressed in the context of determining the jurisdiction of the Dutch court.

5 *LIS PENDENS*

125. ET invokes *lis pendens* in the alternative, pursuant to Article 12 CCP. As GPI will explain below, there is no reason to apply Article 12 CCP in this case, firstly because the State Lawsuit and the Dutch proceedings do not concern the same subject matter; in the alternative, because a judgment in the State Lawsuit will not be eligible for recognition or enforcement; and in the further alternative, because a stay of proceedings is not appropriate in view of the interests of the parties and the efficiency of the proceedings.

5.1 Legal framework

126. The Supreme Court clearly set out the framework for assessing an invocation of Article 12 CCP in a 2023 judgment. In that judgment, the Supreme Court instructed Dutch courts to first assess, in the event of an appeal to *lis pendens* under Article 12 CCP, whether (step 1):[61]

> "the conditions for the application of this provision are met, i.e. whether (i) between the same parties (ii) on the same subject matter (iii) a case is pending before a court of a foreign state (...) (iv) which case – in the first instance – was brought before the court earlier than the proceedings before the Dutch court."

127. Only after the court has determined that the above conditions have been met, the Dutch court must, according to the Supreme Court, examine "whether a decision can be given in the foreign proceedings that is susceptible to recognition and, where applicable, enforcement in the Netherlands" (step 2). [62]

128. Even if all these conditions are met, the Supreme Court held that "the court may, on the basis of Article 12, first sentence, of the Code of Civil Procedure, stay the proceedings; it is

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https://www.valleynewslive.com/content/misc/Energy-Transfer-Partners-CEO-Kelcy-Warren-says-DAPL-was-about-a-money-raise-442409553.html.

[61] Supreme Court 29 September 2023, ECLI:NL:HR:2023:1265, ground 3.3.4.

[62] Supreme Court 29 September 2023, ECLI:NL:HR:2023:1265, ground 3.3.5.

not obliged to do so."[63] For example, the court may "decide not to stay the proceedings because a final decision by the foreign court is expected to take too long" (step 3).[64]

129. ET wrongly ignores this three-step test in its interim plea (paras. 8.1-8.10 and in particular para. 8.6) and the test it outlines pursuant to Article 12 CCP is therefore incorrect.[65]

130. GPI points out that on September 29, 2023, the Supreme Court handed down two judgments on Article 12 CCP in two different cases with ECLI numbers ending in 1265 and 1266, respectively.[66] These cases involved two separate family law disputes in which both the Moroccan and Dutch courts had been asked to rule. However, the case positions of differed on one crucial point: in the '1265' case, the question was whether it concerned 'the same subject' (step 1), whereas this was not the case in the '1266' case. In the '1266' case, it was established that the case concerned the same subject matter, but the question was whether the decision of the Moroccan court would be eligible for recognition and enforcement in the Netherlands (step 2).

131. However, in its interim plea, ET wrongly fails to mention the '1265' judgment at all. It only refers twice to the '1266' ruling (see interim plea, footnotes 166 and 174). However, it was precisely in the '1265' ruling that the Supreme Court set out the comprehensive framework for the assessment under Article 12 of the Code of Civil Procedure, as discussed above. This is particularly important in this case because the Dutch case and the State Lawsuit (clearly) do not concern 'the same subject matter' within the meaning of Article 12 of CCP, as GPI will explain below.

132. Finally, GPI notes that, although the content of Article 12 CCP largely corresponds to that of Article 29 of Brussels I bis, there are also important differences. For example, under Article 12 CCP, the Dutch court may stay the proceedings if all the above conditions are met, but there is no obligation to do so (discretionary power). The provision in Article 29 Brussels I bis does not offer this discretion.[67] This means that ET's assertion that the Dutch court in this case 'must exercise its discretionary power under Article 12 of the Code of Civil Procedure' is incorrect (interim plea, paragraph 8.1; emphasis added).

5.2 The State Lawsuit and the Dutch proceedings do not concern 'the same subject matter'

5.2.1 Cases do not concern 'the same subject': confirmed by experts and in the State Lawsuit

133. The key question for the application of Article 12 CCP, on which the parties disagree, is whether this case and the State Lawsuit concern "the same subject matter" within the meaning of Article 12 CCP. The literature and national and European case law on this concept show that, in interpreting this, consideration may be given to (the purpose of) the

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[63] Supreme Court 29 September 2023, ECLI:NL:HR:2023:1265, ground 3.3.5.
[64] Supreme Court 29 September 2023, ECLI:NL:HR:2023:1265, ground 3.3.5.
[65] Supreme Court 29 September 2023, ECLI:NL:HR:2023:1265, paragraphs 3.3.4 and 3.3.5, read in conjunction.
[66] It is clear from Supreme Court 29 September 2023, ECLI:NL:HR:2023:1265, ground 3.7.1 that this was a point of discussion in the underlying case. It is follows from Supreme Court 29 September 2023, ECLI:NL:HR:2023:1266, paragraph 3.2.2, that only Article 12 CCP is applied here only "insofar as relevant" (i.e., only in the context of step 2 in the assessment framework outlined by the Supreme Court in the other judgment).
[67] Conclusion of Advocate General Vlas, November 11, 2022, ECLI:NL:PHR:2022:1042, paras. 2.4-2.5.

claims in the respective cases, the respective applicable legal provisions invoked, and the relevant facts in each case.[68] If there are differences in one or more of these areas, the two lawsuits cannot lead to conflicting judgments, and therefore there is no scope for the application of Article 12 CCP.[69] In the present case, there are significant differences in all these areas (claims, legal provisions, and relevant facts).

134. In the State Lawsuit, ET invokes the applicable legal provisions concerning 'ground torts', defamation and tortious interference with business relations, and unlawful conspiracy. ET, asserts that GPI, with its alleged conduct surrounding the protests against the DAPL in 2016, is liable for violating these legal provisions. Among other things, GPI is alleged to have been responsible for 'preventing the construction of the DAPL' (see in this regard interim plea, para. 6.2). ET's objective in the State Lawsuit is to obtain compensation for the damage it allegedly suffered.

135. GPI expressly disputes all of this, of course, but in any event, that is a completely different matter from the present case. After all, this case concerns the assessment under Dutch law, read in conjunction with European law, of ET's conduct towards GPI. Briefly put, this includes, in any case, the filing of the Federal Lawsuit and the State Lawsuit (which qualify as SLAPPs), as well as the past and ongoing utterance of numerous false and damaging accusations against GPI via, among others, the internet. GPI requests your Court to protect it against ET's conduct by, *inter alia*, awarding compensation for its costs and damages and ordering ET to post a notice on its website.

136. Not only are these legal provisions, facts, and claims not at issue in the State lawsuit: they cannot be. After all, North Dakota is one of the few states in the United States that does not have an anti-SLAPP act or regulations. It is therefore by definition impossible for GPI to bring proceedings in North Dakota on the same subject matter as the present case.

137. The claims in these proceedings therefore do not serve the same purpose as ET's claims in the State Lawsuit, nor are they based on the same legal provisions and facts. There is also no question of 'mirroring', as ET wrongly asserts but does not further substantiate.[70] These are two different cases.

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[68] Vlas, "Groene Serie Burgerlijke Rechtsvordering" (Green Series Civil Procedure), Article 12 CCP, note 1, and Zilinsky in *T&C Rv,* Article 12 CCP, note 7. Zilinsky also discusses the relationship between the case law on Article 12 of the Code of Civil Procedure and Article 29 of Brussels I bis on "the same subject matter." Dutch case law takes a pragmatic approach to this, as evidenced by a recent ruling by the District Court of Rotterdam: "In cases where claims have been brought before courts in different countries that have 'the same subject matter' but are based on different sets of facts and/or rules of law, and therefore do not have 'the same cause', these claims cannot lead to conflicting judgments. In that case, there is therefore no need for a *lis pendens* rule such as that in Article 12 CCP. It can therefore be assumed that the above-mentioned requirement of 'the same cause' is also part of Article 12 CCP." (District Court of Rotterdam, April 18, 2025, ECLI:NL:RBROT:2025:4599, ground 2.16).

[69] Amsterdam District Court, May 7, 2025, ECLI:NL:RBAMS:2025:2975, paragraph 5.13: "Although the facts in all proceedings overlap to a significant extent, it cannot be said that these legal rules are the same, so that the same cause cannot be said to exist."

[70] This situation clearly does not arise in this case: for an example of application, see District Court of Rotterdam, October 21, 2020, ECLI:NL:RBROT:2020:9275, paragraph 2.9: there must be "mirror-image claims in which the same legal question is central." That is not the case here.

138. This was also an important argument put forward by GPI in its defense against ET's motion for an anti-suit injunction ("ASI"). In the context of that defense, GPI consulted two experts in the field of Dutch, European, and international law. They each wrote an affidavit, which was submitted on behalf of GPI in the ASI proceedings, in which they conclude, among other things, that the two cases do not concern the same subject matter. Both affidavits were drawn up under oath and notarized.

139. The first affidavit was drafted by Dr. Ruud Hermans, deputy judge at the Court of Appeal in The Hague and senior researcher at Leiden University. GPI submits this affidavit as **Exhibit 52.** In his affidavit, Hermans discusses the course of the Dutch proceedings and concludes that "a request to stay the proceedings [before the Amsterdam District Court] pending a decision in the case before the North Dakota State court would already fail, given that the subject matter of the two proceedings is different" (Exhibit 52, para. 17). In paras. 41-43 of his affidavit, he explains why these two cases do not concern the same subject matter and, in short, concurs with what has been stated above. In that context, he also notes that the alleged damages claimed by ET in the State Lawsuit and the damages claimed by GPI in this case are completely unrelated.

140. The second affidavit was prepared by Prof. Justin Borg-Barthet, Dean and Professor of EU Law and Private International Law at the University of Aberdeen. GPI submits this affidavit as **Exhibit 53**. As a member of the European Commission's Expert Group on SLAPPs, Borg-Barthet was involved in the drafting of the Directive and therefore has particular expertise in this area. Insofar as relevant at this stage of the case, he discusses the content of Article 17 of the Directive in paragraphs 17 and 18 of his affidavit. In that context, he concludes (para. 18):

> "Furthermore, in the absence of an anti-SLAPP law in North Dakota, it appears that a defendant in North Dakota proceedings would not have had an opportunity to invoke anti-SLAPP provisions in that jurisdiction. It follows that a defendant would only be able to invoke those provisions elsewhere, and that they would do so on the basis of an inquiry which could not have been conducted in a North Dakota court."

141. The judge in the State Lawsuit, in his Opinion rejecting the ASI requested by ET, subsequently confirmed that that case and the Dutch case do not concern the same subject matter. The relevant test for granting ASIs includes, among other things, the criterion of whether there is "the same subject matter" (Exhibit 40, paras. 5-6). As stated, the US judge ruled that the State Lawsuit and the present case do not concern the same subject matter. To that end, he considered that both cases relate to the protests against the DAPL, but (Exhibit 40, para. 7):

> "as indicated by the recitation of the claims in the respective actions, the issues do not seem to be the same. As noted in GPI's brief, North Dakota does not recognize a SLAPP or anti-SLAPP action, as such. So, as that issue was not raised in North Dakota, but is alleged and recognized in the Netherlands, there is a difference on that issue. Likewise, the North Dakota action did not consider any allegations of defamatory statements directed toward GPI from Energy Transfer. All of the defamatory claims in the North Dakota action addressed those from the Greenpeace Defendants toward Energy Transfer."

142. Incidentally, the US court also sees no objections to the simultaneous pursuit of the Dutch case and the State Lawsuit, considering, among other things:

> "Because GPI's Dutch claims do not require the parties to relitigate the claims of the North Dakota action, the Court does not find the Dutch action to be vexatious." (par. 9)
>
> and
>
> "The issue of comity does not apply to GPI's SLAPP claims or GPI's defamation claims, as those matters are not pending before the North Dakota court." (para. 10)

143. ET has appealed this decision, but as it stands, the US court in the State Lawsuit has determined that the State Lawsuit and the Dutch case do not concern the same subject matter.

144. The State Lawsuit and this case do not therefore concern the same subject matter, which means that there is no risk of conflicting decisions and that ET's request for a stay of proceedings on the basis of Article 12 CCP is not admissible.

5.2.2 ET's arguments cannot lead to a different conclusion

145. ET argues that the proceedings do concern the same subject matter. It believes that in both proceedings, the central question is "whether Energy Transfer has a valid claim" (interim plea, para. 8.20). As explained above, this is not the case: the question of whether ET's claims in the State Lawsuit can be granted under relevant North Dakotan law is expressly not at issue in this case. ET's argument therefore cannot lead to any conclusion other than the rejection of the request for a stay. GPI would like to make the following additional point.

146. ET refers to the *Gantner/Basch* judgment of the CJEU.[71] However, this judgment does not imply anything more or less than that, when answering the question of whether there is *lis pendens* under Article 29 of Brussels I bis, the court must base its decision exclusively on the claims of the plaintiff in both proceedings concerned.[72] As explained above, it follows in this case that the claims, legal provisions, and facts put forward by ET in the State Lawsuit and by GPI in this case are completely different. In view of ET's reference to this judgment, GPI does not understand why it goes into detail on GPI's substantive defenses in the State Lawsuit (interim plea, paras. 8.23-8.32), and GPI requests your Court to disregard those arguments, which it disputes.

147. In this context, ET also disputes that the Federal Court case and the State Lawsuit qualify as SLAPPs (interim plea, para. 8.20). However, as stated above, the question of whether ET's

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[71] ECJ 8 May 2003, ECLI:EU:C:2003:257, C-111/01 (*Gantner/Basch)*.

[72] See M.W.F. Bosters, "Sdu Commentaar Burgerlijk Procesrecht" (Sdu Commentary on Civil Procedure), Art. 12 CCP.

conduct is tortious or qualifies as an abuse of rights is not at issue at this stage of the proceedings.[73]

5.3 In the alternative: judgment in the State Lawsuit will not be eligible for recognition

148. Insofar as your Court does assume that the State Lawsuit and this case concern the same subject matter within the meaning of Article 12 CCP, GPI argues *in the alternative* that there is no scope for the application of Article 12 CCP, since the State Lawsuit cannot lead to a judgment that is susceptible to recognition or enforcement in the Netherlands.

149. ET will have to ask the Dutch court for recognition of a judgment rendered in the United States on the basis of Article 431(2) CCP. The applicable test was established by the Supreme Court in the *Gazprombank/Bensadon* judgment: four cumulative criteria must be met.[74]

150. The first requirement is that the jurisdiction of the US court must be based on a ground of jurisdiction that is acceptable by international standards. That is not the case. GPI has repeatedly and specifically raised this defense in the State Lawsuit, most recently in its "Renewed Motion for Judgment as a Matter of Law" of April 16, 2025 (Exhibit 36, para. 6 et seq.), but Judge Gion has not ruled on this. The only ground for jurisdiction stated in the State Lawsuit, which has now been going on for six years, is the following preliminary conclusion by Judge Marquart in his 'Memorandum Opinion and Order' of February 13, 2020 (Exhibit ET 6, para. 5): "there is personal jurisdiction of GPI by contact. It committed tortuous [*sic*] acts outside the state causing injury to persons or property in the state. Here, Plaintiffs have made out a prima facie cause of action for defamation."

151. However, the fact that GPI signed a letter by another Dutch NGO, addressed for the most part to non-US banks, does not constitute reasonable grounds for jurisdiction under international standards. Incidentally, the federal court already dismissed ET's claim against BankTrack—which drafted and published the letter—in 2018 because there were no grounds for the exercise of personal jurisdiction (summons, para. 43). This must apply a *fortiori* to GPI, since its role as a signatory was even more limited.

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[73] GPI also points out that the Directive offers protection against legal proceedings that are "manifestly unfounded" or qualify as "abusive." Contrary to what ET suggests, these are not cumulative requirements. This is already apparent from the wording of the title of the Directive. In the authentic English language version (bold: attorney): "[Directive] on protecting persons who engage in public participation from manifestly unfounded claims **or** abusive court proceedings ('Strategic lawsuits against public participation')".

[74] Supreme Court 26 September 2014, ECLI:NL:HR:2014:2838 (*Gazprombank/Bensadon)*, ground 3.6.4. The criteria, which ET also mentions in its interim plea, are repeated here for the sake of readability:
(i) the jurisdiction of the court that issued the decision is based on a ground of jurisdiction that is generally acceptable according to international standards,
(ii) the foreign decision was reached in legal proceedings that met the requirements of due process and were accompanied by sufficient safeguards,
(iii) the recognition of the foreign decision is not contrary to Dutch public policy,
(iv) the foreign decision is not incompatible with a decision given by a Dutch court between the same parties, or with an earlier decision given by a foreign court between the same parties in a dispute concerning the same subject matter and based on the same cause of action, provided that the earlier decision is capable of recognition in the Netherlands.

152. For that reason alone, in the context of this subsidiary defense, there is no scope for the application of Article 12 CCP, and ET's request for a stay of proceedings is ripe for dismissal. However, other cumulative conditions of Article 431(2) of the Code of Civil Procedure are also not met.

153. Another important requirement is that recognition of the foreign judgment must not be contrary to public policy (requirement iii from the *Gazprombank/Bensadon* judgment). GPI believes that the US courts will eventually refuse to exercise jurisdiction over GPI, or else will reject ET's claims in their entirety. However, if the State Lawsuit nevertheless leads to a judgment against GPI, this cannot, by its nature, be a judgment that is compatible with Dutch public policy. In this regard, GPI's freedom of expression, as laid down in Article 7 of the Constitution, Article 10 of the ECHR, and Article 11 of the Charter, plays a decisive role. All case law cited by ET concerning the alleged recognition of US judgments in the Netherlands lacks this element and is therefore irrelevant to the assessment of the present case.[75]

154. If the State Lawsuit ultimately leads to a ruling in which GPI is ordered to pay damages for exercising its freedom of expression in a manner which, at least according to Dutch and European law, is entirely legitimate, recognition of such a ruling in the Netherlands would be contrary to Article 10 of the ECHR.[76] It is established case law of the ECHR that, in light of Article 10 of the ECHR, domestic courts must apply a high threshold for awarding any damages in response to contributions to public debate (and certainly political expressions).[77] In this regard, the fact that there was a basis for a finding of liability in national law is not sufficient.[78] In light of the requirement of proportionality under Article 10(2) of the ECHR, the European Court of Human Rights especially strictly scrutinises an award of (relatively) high damages in cases involving speech. Such judgments have a significant *chilling effect* on the exercise of freedom of expression and, therefore, on participation in public debate. It is also significant that NGOs such as GPI, like the media, are regarded by the ECtHR as 'public watchdogs' entitled to a high level of protection of

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[75] The Dutch case law referred to by Energy Transfer concerns only standard international commercial disputes. See District Court of Midden-Nederland, September 11, 2019, ECLI:NL:RBMNE:2019:4310, concerning a commercial dispute over the sale of coffee; and Court of Appeal of 's-Hertogenbosch, August 31, 2021, ECLI:NL:GHSHE:2021:2699, a commercial dispute in equestrian sports.

[76] Established case law of the ECHR and the Dutch courts recognizes the fundamental importance to a democratic legal order of the rights protected by Article 10 of the ECHR. These rights clearly qualify as "fundamental values and principles of the Dutch legal order." Recognition of a judgment to be rendered in the State Lawsuit will undermine the core of these values and principles. Compare Amsterdam Court of Appeal July 17, 2018, ECLI:NL:GHAMS:2018:3008, ground 3.23.

[77] See, for example, ECHR 15 September 2022, no. 22287/08 (*Yeremenko v. Ukraine)*; ECHR 28 July 2020, no. 53028/14 (*Macovei v. Romania)*; ECHR 15 June 2017, no. 28199/15 (*Independent Newspapers v. Ireland)*; ECHR 15 February 2005, no. 68416/01 (*Steel & Morris v. United Kingdom)*; ECHR October 18, 2022, no. 22953/16 (*Stancu et al. v. Romania)*.

[78] The Directive also confirms that the award of damages does not automatically mean that the case is not a SLAPP, see recital 16 of the Directive: "SLAPPs in third countries may involve excessive damages being awarded against persons engaged in public participation." See also the opinion of Borg-Barthet (Exhibit 53, para. 13), recital 29 of the Directive and the Explanatory Memorandum to the Implementation Act of the Directive that refers to this (Exhibit 62 ET, p. 9).

their rights under Article 10 of the ECHR,[79] and that large companies such as Energy Transfer must tolerate a higher level of criticism. [80]

155. This established case law, which has also applied in Dutch courts for many years pursuant to Article 93 of the Constitution, has been confirmed by the provisions of Article 16 of the Directive, which obliges Member States to ensure that the recognition of judgments is refused in cases "[that] are considered manifestly unfounded or abusive under the law of the Member State in which such recognition or enforcement is sought." It follows that any judgment against GPI in the State Lawsuit will be contrary to Dutch public policy and will therefore not be eligible for recognition or enforcement in the Netherlands.

156. There is complete consensus on this point within the EU. In the *Real Madrid* judgment, the CJEU confirmed that the imposition of disproportionately high damages by a court in one EU Member State on participants in public debate in another EU Member State has a chilling effect on freedom of expression.[81] As a consequence, the domestic court in the EU Member State where recognition of this judgment is sought must refuse to recognize such a judgment on the grounds that it is contrary to public policy.[82]

157. In the case that led to this ruling, a Spanish court had ordered a French newspaper and a journalist to pay €300,000 to Real Madrid for damage to its reputation caused by a publication (and €90,000 in interest and costs).[83] Real Madrid sought recognition and enforcement of this judgment in France. However, the French court refused, on the grounds that doing so would be contrary to public policy, specifically because the awards "had a deterrent effect on the participation of a journalist and a press organ in the public debate on matters of social importance" and thus constituted an infringement of freedom of expression.[84]

158. The ECJ considers that Article 11 of the Charter (or Article 10 of the ECHR)[85] "leaves little room for restrictions on freedom of expression in matters of (...) public interest."[86] The ECJ further held that "any unjustified restriction on freedom of expression carries the risk of hindering or silencing media coverage of similar issues in the future."[87] Therefore, "the utmost caution must be exercised when the measures taken or sanctions imposed are such

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[79] See summons, para. 104, and the references to case law therein.
[80] See, for example, ECHR February 15, 2005, no. 68416/01 (*Steel & Morris v. United Kingdom)*.
[81] CJEU 4 October 2024, ECLI:EU:C:2024:843 (*Real Madrid)*.
[82] CJEU 4 October 2024, ECLI:EU:C:2024:843 (*Real Madrid)*. This case concerned the recognition of court judgments between EU Member States on the basis of Brussels I bis. The starting point of Brussels I bis is mutual trust, which in principle requires EU Member States to recognize each other's judgments. In such a context, recognition may only be refused on grounds of public policy in exceptional cases, where recognition would be incompatible with the legal order of the Member State addressed in an unacceptable manner, because it would infringe a fundamental legal principle (paragraphs 29-37). In *Real Madrid*, this was the case due to a conflict with Article 11 of the Charter (the parallel article to Article 10 of the ECHR). There is no comparable principle of mutual trust between the Netherlands and the United States, and Dutch courts are therefore free to review judgments from the US more strictly.
[83] CJEU 4 October 2024, ECLI:EU:C:2024:843 (*Real Madrid)*, paragraph 20.
[84] CJEU 4 October 2024, ECLI:EU:C:2024:843 (*Real Madrid)*, paragraph 21.
[85] In this ruling, the CJEU interprets Article 11 of the Charter on the basis of ECtHR case law on Article 10 of the ECHR, as these two articles have the same content insofar as they are relevant here.
[86] CJEU 4 October 2024, ECLI:EU:C:2024:843 (*Real Madrid)*, paragraph 53.
[87] CJEU 4 October 2024, ECLI:EU:C:2024:843 (*Real Madrid)*, paragraph 60.

that they may deter the press from participating in the discussion of issues of legitimate public interest and thus have a chilling effect on the exercise of press freedom in relation to such issues."[88] Furthermore, the CJEU considers that "in any decision to award damages for damage to reputation, there must be a reasonable relationship between the amount awarded and the damage in question."[89] The CJEU concludes that enforcement of a decision such as that in *Real Madrid* "must be refused if it would lead to a manifest violation of the rights and freedoms laid down in Article 11 of the Charter," since "such a manifest violation (...) is a matter of public policy in the Member State addressed."[90]

159. GPI emphasizes that this case concerned the recognition of judgments within the EU on the basis of Brussels I bis, to which the principle of mutual trust applies and which therefore sets a high threshold for assuming a conflict with public policy. It is indicative of the importance attached in the EU to the rights protected by Article 11 of the Charter (or Article 10 of the ECHR) that, according to the CJEU, this threshold can be met on the basis of the criteria set out in the judgment. Furthermore, the principle of mutual trust does not apply between the Netherlands and the United States, which means that the threshold for assuming a conflict with public policy is (much) lower.[91] The importance attached to the rights protected by Article 11 of the Charter (or Article 10 of the ECHR) remains the same in that situation, of course.

160. Given these circumstances, it is inconceivable that a judgment in the State Lawsuit would be eligible for recognition by a Dutch court. All this applies *a fortiori* given the current position in the State Lawsuit, according to which GPI would have to pay USD 64 million, including punitive damages, for co-signing an open letter. The chilling effect of recognizing such a judgment in the Netherlands would be unprecedented.

161. For that reason alone, in the context of this subsidiary defense, there is no room for the application of Article 12 CCP, and ET's request for stay is ripe for dismissal.

162. Finally, to date, the State Lawsuit has not been conducted in accordance with the principles of due process (requirement ii of the *Gazprombank/Bensadon* judgment). GPI has raised several concerns in its summons in this regard (paras. 58-63), and the proceedings since then have been marred by numerous other serious shortcomings. It will address these in detail in the State Lawsuit in the context of a Motion for a New Trial. In any case, GPI refers to the concerns it raised against the hearing of the State Lawsuit by a jury from Morton County in its 'Petition for Supervisory Writ' of February 27, 2025 (**Exhibit 54)**, from which it follows that it is not possible to form an impartial jury in Morton County because the potential and ultimately selected jurors were biased, both by their personal experiences and by fake newspapers distributed in the county prior to the trial, along with ET's advertising campaigns on TV and the internet. The Supreme Court of North Dakota rejected this petition without substantive discussion. Insofar as your Court considers this point to be of decisive importance for the assessment of the interim pleas, GPI expressly offers further evidence of its assertion that the State Lawsuit was not conducted in accordance with the principles of due process.

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[88] CJEU 4 October 2024, ECLI:EU:C:2024:843 (*Real Madrid)*, paragraph 61.
[89] CJEU 4 October 2024, ECLI:EU:C:2024:843 (*Real Madrid)*, paragraph 57.
[90] CJEU 4 October 2024, ECLI:EU:C:2024:843 (*Real Madrid)*, paragraphs 66-67.
[91] See also *Yukos:* Supreme Court January 18, 2019, ECLI:NL:HR:2019:54, paragraphs 4.1.2 and 4.1.3.

163. For this reason too, there is no scope for the application of Article 12 CCP in the present case.

5.4 In the further alternative: no grounds for exercising discretionary power

164. GPI argues, in the further alternative, that if your Court were to find that the conditions for the application of Article 12 CCP discussed above are met, there are no grounds for staying the proceedings in the specific circumstances of this case. As mentioned above, it is important to note that this is a matter of discretion.[92] All the facts and circumstances of the case may play a role in this assessment.

165. A decisive circumstance in this regard is that the Dutch legislature has explicitly decided that a stay is not possible in a case such as this. Article 17(2) of the Directive offers Member States the option of allowing domestic courts to stay proceedings in a case as referred to in Article 17(1) of the Directive for as long as the SLAPP is pending in the third country (see also recital 44 of the Directive).

    The Dutch legislature has chosen not to make use of this option. The provisions of Article 17(2) of the Directive are therefore not relevant under Dutch law. In the Explanatory Memorandum to the Implementation Act, the Dutch legislature justifies this choice as follows: "This option is not being used because there is no reason to limit the options available to potential SLAPP targets in this regard."[93]

166. It follows that a stay in this case would directly contradict the intention of both the European and Dutch legislatures to offer practical and effective legal protection against such SLAPPs to targets of SLAPPs in third countries who are established in an EU Member State. This is particularly true while the proceedings in the third country are still pending (recital 44 of the Directive), as will often be the case. The question of whether there is a SLAPP in that third country, and whether the target can indeed claim compensation for costs and damages before the domestic court, must be decided exclusively in the merits phase of the proceedings. GPI further refers to what it has stated above about the relevance of the Directive for the assessment of this case (paras. 114-118, see interim plea, para. 8.45). In particular, GPI is entitled to practical and effective protection of its rights under Article 10 of the ECHR (and the positive obligations that this imposes on the State), and therefore, among other things, to a speedy hearing of the merits of this case.

167. It also follows from all this that the efficient administration of justice is served by continuing this case, and that a stay would in fact be contrary to such efficiency (interim plea, para. 8.44). ET's invocation of procedural economy fails, as the State Lawsuit and this case do not concern the same subject, as explained above (interim plea, para. 8.34). It also follows that the State Lawsuit does not need to be relitigated before the Dutch court, as ET wrongly asserts (interim plea, paras. 8.35-8.27). Furthermore, each of these points is directly contrary to the intention of the European and Dutch legislature to provide effective protection to targets of SLAPPs in third countries.

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[92] Supreme Court 29 September 2023, ECLI:NL:HR:2023:1265, ground 3.3.5.

[93] *Parliamentary Papers II* 2024-25, 36731, no. 3, p. 17. This sentence was also included in the draft Explanatory Memorandum on p. 14.

168. Finally, GPI's interest in the expeditious conduct and final judgment in these proceedings is evident (contrary to what ET attempts to insinuate, interim plea, para. 8.46 et seq.). GPI is suffering ongoing significant material and immaterial damages as a result of ET's conduct and is entitled to, and has an interest in, practical and effective legal protection against this. As explained, Dutch law provides for this legal protection.

169. The question of what difficulties GPI might encounter in enforcing a judgment in the United States (interim plea, paras. 8.47-8.49) is irrelevant here. The criterion for granting a stay is whether the judgment in the foreign proceedings is eligible for recognition in the Netherlands, not the other way around. Moreover, it is obvious that GPI is better off in all in any event with a writ of execution based on a Dutch judgment than without one, which means that GPI's interest is given. ET also fails to recognize GPI's interest in its request for a declaratory judgment. The Supreme Court has therefore ruled, even in a case where Article 10 of the ECHR was not at issue, that a stay is not appropriate if "the claimant has a reasonable interest in continuing the proceedings before the Dutch court without awaiting the decision of the foreign court."[94] As explained, GPI has a significant and compelling interest in continuing these proceedings.

170. ET's interest in a stay, on the other hand, is very limited, and it provides little justification for this (interim plea, para. 8.52). As an international billion-dollar company, it can be expected to be able to defend itself in proceedings such as these. This is all the more true in light of the far more complex proceedings it has brought against GPI and others in the United States.

171. In this context, too, ET argues that its cases against GPI in the United States do not qualify as SLAPPs (interim plea, paras. 8.41-8.42). This argument is again misplaced, as it goes to the merits of the case. GPI further refers to its earlier comments on this matter, see paras. 88-89, 124 & 147.

172. ET also suggests that the State Lawsuit "will be concluded in two to three years." It is unclear on what basis it makes this assertion. The State Lawsuit has been going on for years, and procedural complications continue to pile up. There is not even any direct prospect of a final judgment in the first instance, while several rulings in the first instance have already been appealed to the Supreme Court of North Dakota. In any case, ET itself has already announced that it will appeal separately against the most recent Opinion of the judge (Exhibit 39), which as discussed is not yet the final judgment in the first instance.

173. Furthermore, pursuant to Article 59 of the North Dakota Rules of Civil Procedure, the parties may also request a new trial in the first instance, as GPI intends to do. The basis for such a request may be the unfair conduct of the proceedings, an award of excessive damages, lack of evidence, and/or 'errors of law' committed during the proceedings.[95]

174. Everything currently indicates that the State Lawsuit will drag on for many years to come. This only underlines GPI's interest in a speedy judgment in this case. All in all, GPI believes that, even if the conditions of Article 12 CCP (steps 1 and 2) were met, the relevant facts and circumstances clearly show that there is no reason to stay the proceedings.

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[94] Supreme Court 3 July 1995, ECLI:NL:HR:1995:ZC1786, ground 3.4.

[95] Rule 59 North Dakota Rules of Civil Procedure, available at: https://www.ndcourts.gov/legal-resources/rules/ndrcivp/59

6 OTHER POINTS

175. In the event that your Court considers it has jurisdiction, ET requests that an interlocutory appeal be allowed (interim plea, paragraph 9.1). GPI strongly opposes this and points out that the starting point pursuant to Article 337(2) CCP is that, in principle, no appeal can be lodged against interim judgments until the final judgment has been rendered. In footnote 232, ET refers to arguments mentioned in the Green Series that could generally plead in favor of an interlocutory appeal, but omits the last sentences of this quotation:[96]

> "On the other hand, it is true that an (interlocutory) appeal as such also increases costs and delays the proceedings, but this is also the case when it is lodged after the final judgment. In all this, the court must of course also bear in mind that the legislature did not abandon the system in force before 2002 without good reason. The starting point was the expectation that it would be better for the speed of the proceedings to exclude interlocutory appeals. A judge who believes that it is nevertheless better to allow an interlocutory appeal must have good reasons for doing so."

176. In this case in particular, there are no good reasons for allowing an interlocutory appeal, in which ET will undoubtedly continue to litigate up to the Supreme Court and continue to try to refer questions to the CJEU for a preliminary ruling. As a victim of tortious conduct (or abuse of rights) by ET, which gravely infringes its fundamental right to freedom of expression and involves SLAPPs, GPI has a right and an interest in having this case heard on its merits as soon as possible. An interlocutory appeal will delay the hearing of the merits of this case for a considerable time, which is of course precisely ET's intention. That is not a legitimate interest and does not outweigh GPI's significant and compelling interest in the prompt hearing of the merits of this case. GPI therefore believes that ET's request to open an interlocutory appeal if your Court were to accept jurisdiction should be rejected.

177. Finally, GPI notes that it has requested an award of full costs in the main action. The decision on this can only be made in the main action: for this interim proceeding, GPI requests an award of legal costs based on the liquidation rate. However, if GPI's claims in the main proceedings were to be upheld, it believes that its full costs for handling this interim procedure would also be eligible for award. At that time, credit will be given for the costs already paid in this interim procedure.

7 CONCLUSION

178. GPI's conclusion in the interim proceedings seeking a declaration of lack of jurisdiction and *lis pendens* that all claims of Energy Transfer et al. should be dismissed, with Energy Transfer et al. being ordered to pay the full costs of the interim proceedings, subject to the provision that if these costs are not paid within fourteen days of the date on which the judgment is rendered, statutory interest will be due on them.

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[96] Van der Helm, in: GS Civil Procedure, Art. 337 CCP, note 10.

Attorney

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