

## [NL] Court refuses to order removal of broadcaster's investigative programme

**IRIS 2025-4:1/4**

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On 19 March 2025, the Rechtbank Den Haag (District Court of The Hague) delivered an important ruling on investigative journalism reporting on commercial companies. The Court refused an application to prevent further broadcast of an episode of a public broadcaster's investigative programme on a Dutch-based company involved in the international oil industry, holding that such a commercial company must tolerate a "greater level of criticism" when it is the subject of "critical" investigative-journalism reporting.

The case arose on 16 March 2023, when the investigative current affairs programme Zembla, of the Dutch public broadcaster BNNVARA, broadcast an episode investigating an alleged international network that was evading international sanctions placed on the Iranian government. The programme delved into a Dutch-based oil company. Prior to the broadcast, the broadcaster sent detailed questions to the company, seeking comment on its financing, but received no response, and proceeded with the broadcast. Following the broadcast, the company initiated legal proceedings against BNNVARA, seeking to have the programme removed from the public broadcaster's website, prohibit its further publication, and sought damages over allegations that it violated sanctions legislation.

The District Court first set out that the case involved two conflicting rights: the broadcaster's right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR), and the company's right to protection of its reputation, guaranteed under Article 8 ECHR. The Court also emphasised that it had taken into account that the case involved reporting by the media, and in the context of freedom of expression, the media is of "special significance". The media has an important social function, in particular as a "public watchdog" that exposes matters and "contributes to the public's right to receive (critical) information". Further, the Court recognised that the issue that the programme sought to highlight – "sanction evasion" – is a matter of public interest, and there must be "ample room" for the broadcaster to address this subject.

Crucially, the Court then turned to specific allegations made, and noted that the programme had not stated that the company was "guilty of violating the sanctions law". However, the programme did "clearly link" the company to

“sanctions evasion”, and the question for the Court was whether these statements had a “sufficient factual basis”. Importantly, the Court ruled that the broadcaster “had a sufficient factual basis for the position it took” in the broadcast, and its conclusions were based on “various sources”, including interviews with security and sanctions law experts, who “each have a great deal of knowledge” of international sanction evasion. The Court also noted that the broadcaster provided “sufficient scope for a response to the broadcast, with “all core findings from the investigation” presented to the company “prior to the broadcast” and the company was “given sufficient time to respond to them”. Further, the programme had provided “sufficient nuance” in the broadcast, making it clear to the viewer “that the issue is complicated and nuanced”, and it is therefore not “immediately certain” there were violations of sanctions legislation. Finally, the Court emphasised that as a commercial enterprise that is “active in (among others) the international oil and gas industry”, the company must tolerate a “greater level of criticism” when it is the subject of “critical” investigative-journalism reporting.

As such, the Court held that the broadcast did not act unlawfully against the company, and dismissed the application. The Court also ordered the company to pay the legal costs of the broadcaster.

***Rechtbank Den Haag, ECLI:NL:RBDHA:2025:4367, 19 maart 2025***

<https://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBDHA:2025:4367>

*District Court of The Hague, ECLI:NL:RBDHA:2025:4367, 19 March 2025*

