[NL] Broadcasting Prohibited to Protect Privacy

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625 is a producer of a television show called Spookhuis (Haunted House) which is broadcast by Holland Media Group (HMG). With the help of a hidden camera the programme sheds some light on the way repairs in and around the house are carried out by professional repairmen. Through the programme HMG and 625 intend to expose fraud committed by the workmen. For Spookhuis 625 filmed the repair activities of both Luiten (electrical equipment repairman) and Schinkel (central heating serviceman). The film and the comments added afterwards suggested that Luiten and Schinkel did not carry out their work properly and questioned their professionalism and what they charge.

In both cases the President of the District Court of Amsterdam found that the plaintiff's interest in the protection of his private life prevails over the interest of HMG and 625 in exercising their right of freedom of expression. As a result, he prohibited the transmission of the programme. According to the President the defendants have not made a plausible argument that Luiten or Schinkel are frauds whose practices have to be exposed in the public interest. No submission was made or evidence produced that either of them is known as a fraud or as unprofessional, nor that there have been complaints from consumers. The President attached weight to the fact that a hidden camera was used. The use of a hidden camera must be justified by the gravity of the alleged fraud and the absence of other means to expose the possibly fraudulent practices.

In the case of Luiten, the President considered that the fact that Luiten did not explicitly object to the shootings and responded in front of the camera, does not mean that he gave tacit permission. In the case of Schinkel, the President held that plaintiffs are still recognisable by figure, posture and clothes despite the fact that their faces and voices were made unrecognisable. The President even felt that to make plaintiffs in this way anonymous even strengthened the impression that they were criminals. Therefore he recognised the plaintiffs' reasonable interest in prohibiting transmission.

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President District Court Amsterdam, Judgment of 11 September 2000, KG 00/2095, Luiten HMG and 625 TV Productie (625 TV Productions)

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President District Court Amsterdam, Judgment of 25 September 2000, KG 00/2197, Schinkel et al v. HMGand 625 Producties (625 TV Productions)

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