[NL] Broadcaster ordered to remove part of video report on police raid

IRIS 2015-5:1/26

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On 1 March 2015, the police raided a warehouse in Brunssum and discovered a drugs laboratory. Two persons were arrested. The local broadcaster made a video report covering the raid and police investigation and this video was posted on its website. The footage was then sold to the regional broadcaster, who re-edited it and placed it on its website accompanied by text written by the regional broadcaster. The raid was also covered on the regional broadcaster's news programme.

The plaintiffs are a family whose members are also the partners in a commercial partnership. In the video report, the street on which the raid took place was filmed and the plaintiffs' warehouse and sign with the partnership's name was shown repeatedly. However, the warehouse that was raided was not the one located on the plaintiffs' property. Customers were confused by the report and the plaintiffs argued that their reputation has been damaged due to the wrongly-created impression of an existing link between the raid and their partnership. In their view, this constituted an unlawful act against the plaintiffs.

The defendants are the regional and local broadcasting companies. They maintained that there was no voice-over in the video report which showed the investigation and that the accompanying text clearly stated that there is no relation between the warehouse owned by the plaintiffs and the warehouse that was raided by the police.

If the claims are successful, a restriction on the freedom of speech of the defendants, as contained in Article 10 of the European Convention on Human Rights (ECHR), would result. However, this right may be restricted if this is necessary to protect the rights of others, such as the right to respect for private and family life as contained in Article 8 of the ECHR. In this case, establishing an unlawful act by the regional broadcaster against the plaintiffs would give rise to a lawful restriction.

The court concluded that, in the video report, the regional broadcaster wrongly implied that the plaintiffs were involved with the raid, discovery of the drugs laboratory and the subsequent arrests. Since the video report could be watched without seeing the accompanying text denouncing any relation between the plaintiffs and the raid, this text was not a sufficient measure. This constituted an

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unlawful act against the plaintiffs. In order to avoid the impression that the plaintiffs were involved with the raid, the relevant part of video report must be removed from the regional broadcaster's website. All other claims, seeking publication of a correction, were rejected. This judgment is subject to payment of a periodic penalty payment if the regional broadcaster does not comply with the provisions contained therein.

Rechtbank Limburg, 26 maart 2015, vennootschap onder firma [naam VOF] VOF , [eiser sub 2], [eiseres sub 3], [eiser sub 4], [eiser sub 5], tegen Omroepbedrijf Limburg B.V., Stichting Lokale Omroep Gemeente Onderbanken, ECLI:NL:RBLIM:2015:2515

http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBLIM:2015:2515

Limburg District Court, 26 March 2015, commercial partnership [name of the commercial partnership] VOF , [plaintiff 2], [plaintiff 3], [plaintiff 4], [plaintiff 5], v. Omroepbedrijf Limburg BV, Stichting Lokale Omroep Gemeente Onderbanken, ECLI:NL:RBLIM:2015:2515

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