[NL] Amsterdam Court of Appeals rules media may assume factual correctness of news agency reports

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In its judgment of 16 June 2015, the Amsterdam Court of Appeal decided that media may assume that press reports published by the news agency ANP are factually correct. The case concerned two articles written by journalists of the Dutch newspaper De Telegraaf on the involvement of former directors in the bankruptcy of investment fund Partrust. The investment fund had been under investigation by the Dutch public prosecutor and the *Autoriteit Financiele Markten* (Financial Markets Authority - AFM) for large-scale investment fraud and undertaking a pyramid scheme for over five years.

In one of the two articles, De Telegraaf stated that "the Autoriteit Financiële Markten deemed that Partrust was a pyramid scheme because up to three-quarters of the investments of new investors was shared out as dividend to earlier shareholders". The applicants contested an earlier judgment of the District Court, which had judged the statement lawful. According to the applicants, such a statement was unlawful because the AFM had never filed a report accusing the applicants of undertaking a pyramid scheme, and the AFM had only filed a report that stated that they believed that this might be the case. Furthermore, they argued that due to the prosecution being limited to other possible criminal acts by the public prosecutor, the newspaper's link between the losses of 300 investors and a pyramid scheme was unlawful.

The Court of Appeals first recognised that two competing interests were at stake; namely the freedom of expression of De Telegraaf, and the protection against infringement of the reputation of the three former directors. The Court then stated that the statement had been transcribed from the news agency ANP, after which it stated that barring exceptional circumstances, the media could assume that press reports published by the news agency ANP are correct, and that they do not need to conduct further research, before publishing its information. The Court furthermore recognised that suspects, like the applicants in this case, retain this status until conviction in court. Nevertheless, the fact that the AFM had only filed a report accusing the applicants of other criminal acts, does not mean the AFM only presumed the undertaking of a pyramid scheme. The Court therefore concluded that the complaint of the applicants must fail, confirming the ruling of the District Court.

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Gerechtshof Amsterdam, 16 Juni 2015, ECLI:NL:GHAMS:2015:2318

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