[NL] Court rules retweeting is not an endorsement

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On 10 December 2015, the District Court of the Hague delivered a comprehensive criminal judgment in a case against nine suspects of an international organisation with terrorist intent. The suspects were amongst many other things accused of crimes against the public order under Articles 131 and 132 of the Dutch Criminal Law (Sr). Article 131 Sr criminalises incitement to violence against public authorities and incitement to criminal offences through speech, writings or images. Article 132 Sr criminalises stocking such images or writings with the intent of making them publically available, if the suspect knows, or has serious reasons to believe, that they would cause incitement.

The suspects used multiple media channels (website, digital radio, YouTube, Twitter and Facebook) to spread messages that encouraged participation in violent jihad combat in Syria. The Court ruled that the rapid exchange of messages that takes place on social media like Twitter and Facebook does not result in a carte blanche for the user to post inflammatory content. Messages are often consumed quickly, and a superficial reading, which leaves no room for nuance or analyses of these messages. It has a reinforcing effect on the message conveyed when messages with similar intentions are placed frequently, in a short period of time.

The Court ruled that on Twitter the basic rule is that retweeting is not an endorsement. This means that retweeting inflammatory messages does not fall within the scope of Article 131 Sr. However, retweeting inflammatory messages does fall within the scope of Article 132 Sr. A different reasoning applies when it is clear from the comment by the suspect underneath the retweet that the suspect supports the message of the retweet, or when it is clear from the context of series of tweets posted by the suspect, that the retweet and his own tweets convey a similar message. This reasoning also applies to the placement of hyperlinks.

Rechtbank Den Haag, 10 december 2015, IEF 15542; ECLI:NL:RBDHA:2015:14365

http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBDHA:2015:14365

District Court of the Hague, 10 December 2015, IEF 15542; ECLI:NL:RBDHA:2015:14365

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