[NL] Court rules on investigative TV programme's methods and the right to privacy

IRIS 2016-4:1/22

Pamela Bührman
Institute for Information Law (IViR), University of Amsterdam

The Dutch TV show *Onopgeloste zaken* investigates unsolved cases, which usually leads to a confrontation with a person on camera. In this particular case, a person confronted about possible wrongdoing considered the confrontation to be a violation of his privacy and brought proceedings against the TV show.

The claimant was approached by a family, asking him to store their furniture while they were renovating their house. Upon completion of the renovation they wanted their furniture back, but it seemed that the claimant's company could not be reached by phone or mail. Thereupon the family approached the TV show, which decided to investigate the case. After extensive research the production team found several witnesses who confirmed some suspicions. Onopgeloste Zaken tracked down the home address of the claimant and confronted him abruptly with their research results and stated that he had unjustly enriched himself by selling the furniture that was entrusted to him by the family. The claimant instantly acknowledged that he had not returned the family's belongings to them and that it could well be possible that he had sold it. He promised on camera to make financial amends upon presentation of a list of the missing furniture.

The District Court considered the case a clash between two fundamental rights: on the one hand the right to privacy, which entails the prevention of being lightly accused of a crime in public, and on the other hand the freedom to receive and impart information. Several aspects were taken in to consideration in deciding which fundamental right prevailed in this case. These were the nature and possible consequences of the broadcasted incriminations, the severity of the suspected crime which was brought to the attention of the public, whether the accusations were grounded in the available facts, the presentation of the accusations, and finally whether it would have been possible to reach the same result using less damaging methods than broadcasting the issue on national television.

Weighing these factors the severity of the abuse was taken very seriously and by revealing the claimant's role in the embezzlement of the furniture, the show fulfilled its role as a public watchdog. The judge stresses that investigative journalists enjoy a rather wide margin of appreciation in assessing the proper methods for achieving their journalistic goals. In this case the goal was to help the family find their furniture. The research and set-up of the show was intended to

© European Audiovisual Observatory (Council of Europe) 2026

achieve that particular goal and precautions were taken, such as blurring the claimant's face, in order to prevent the claimant from being unnecessarily harmed. These precautions were not necessary, but were well in place considering the intrusive nature of television broadcasting. The exchange of strong wording, as happened in the broadcasting, is protected by the freedom of speech and should therefore not be prohibited. In conclusion, the balancing of interests of both parties was decided in favour of the interests of the TV show since these align with the interests of the public.

Rechtbank Overijssel, 29 december 2015, ECLI:NL:RBOVE:2015:5786

http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBOVE:2015:5786

District Court Overijssel, 29t December 2015, ECLI:NL:RBOVE:2015:5786

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026