[NL] Dutch politician Wilders convicted for group insult and incitement to discrimination

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On 9 December 2016, the District Court of The Hague convicted Dutch politician Geert Wilders for statements that he made on 19 March 2014 during a televised speech. On this date, Wilders asked his audience during a public meeting whether they wanted more or fewer Moroccans. In response, the audience cheered “Fewer! Fewer! Fewer!” numerous times. Wilders then said: “Well, then we are going to take care of that.” Both Wilders’ statements and the cheering of the audience were recorded and broadcast by the Dutch public broadcaster NOS.

The Dutch Public Prosecution Service charged Wilders with incitement to hatred, incitement to discrimination of race, and group insult. The politician defended himself by saying he merely asked the audience a question. Moreover, he said, Moroccans are not a race but a people. Lastly, he put forward that he had nuanced his statements immediately after his speech (in a separate interview with the public broadcaster NOS) by saying that this of course only concerned criminal Moroccans.

The District Court delivered its judgment on 9 December 2016. It started by stating that Wilders had not merely asked a question: Wilders had instructed his audience beforehand to cheer “Fewer!” In the words of the court, Wilders clearly had a message to deliver and not just a question to ask.

The Court then said that Moroccans fall under the definition of a race in the International Convention on the Elimination of All Forms of Racial Discrimination. Article 1 of this Convention provides that racial discrimination can also concern discrimination as to national origin.

According to the Court, Wilders had generalised all Moroccans, making contemptuous and therefore insulting statements. The fact that he later on nuanced his statements in a separate interview by saying it only concerned criminal Moroccans was found irrelevant by the Court: the harm had already been done. Wilders had showed seditious behaviour that did not contribute to the current public debate on immigration and integration. Therefore Wilders could not be protected by the right to freedom of expression under Article 10 of the European Convention on Human Rights.

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Furthermore, Wilders had incited discrimination by distinguishing Moroccans from other people living in the Netherlands. As to incitement to hatred, Wilders was found not guilty, as he did not summon his audience to take action: using powerful rhetoric is not considered sufficient to incite to hatred.

The court did not impose a punishment on Wilders. Given the exceptional circumstances of the case - Dutch politicians are rarely prosecuted - the judgment that Wilders was guilty was enough, the court said. Both Wilders and the Public Prosecution Service have stated their intention to appeal against the decision of the District Court.

Rechtbank Den Haag, 9 december 2016, ECLI:NL:RBDHA:2016:15014

https://www.rechtspraak.nl/Organisatie-en-contact/Organisatie/Rechtbanken/Rechtbank-Den-Haag/Nieuws/Paginas/Wilders-schuldig-aan-groepsbelediging-en-aanzetten-tot-discriminatie.aspx

District Court of The Hague, 9 December 2016, ECLI:NL:RBDHA:2016:15014

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