[NL] Twitter user and Dutch website liable for disseminating explicit content of well-known TV personality

IRIS 2018-8:1/35

Gijs van Til
Institute for Information Law (IViR), University of Amsterdam

On 25 July 2018, Amsterdam District Court ruled that both a Twitter user and GeenStijl, a popular Dutch website (see IRIS 2016-9/3), acted unlawfully by disseminating, without her consent, sexually explicit (video) material of a well-known Dutch TV personality and singer. The content, which had been made in private by the claimant, had, for unclear reasons, appeared and circulated on the messaging service WhatsApp. The Twitter user had subsequently posted a tweet that contained the content, accompanied by a hashtag with the name of the claimant. GeenStijl, for a short period of time, referred to that tweet by means of an embedded link in a blog post.

The claimant argued that both the act of tweeting the content by the Twitter user, and of providing a link to that content by GeenStijl, had led to the dissemination of that content without her consent and therefore resulted in an unjustified violation of her privacy. She claimed a total sum of EUR 450 000 for damages, of which EUR 250 000 for the compensation of moral damages.

In its judgment, the Court balanced the claimant's right to respect for her private life (Article 8 of the European Convention on Human Rights (ECHR)) and the right of the Twitter user and GeenStijl to freedom of expression (Article 10, ECHR). The Court made it clear that it is in principle unlawful to disseminate (explicit) content that clearly belongs to the private sphere when it cannot be reasonably assumed that the person depicted in that content had agreed to that dissemination. It rejected the copyright-based argument made by GeenStijl that the use of an embedded link, which, according to GeenStijl, merely functioned as a reference to the real public location of the content, could not qualify as the dissemination of that content. The Court deemed a discussion about the technique of dissemination "not interesting" with regard to the question of the lawfulness of that dissemination.

The defendants also argued that the content had already circulated widely and that they merely wanted to point out the hypocrisy of other news outlets who, while condemning the leaking of the content, at the same time also eagerly reported about it. The Court, however, found that the defendants, in doing so, insufficiently took into account the interests of the TV personality. This lead the

© European Audiovisual Observatory (Council of Europe) 2026

Court to the conclusion that, having weighed up all the circumstances, the claimant's right to a private life had, in this case, to prevail over the Twitter user's and Geenstijl's right to freedom of expression..

With regard to the damages, the Court rejected the claim for pecuniary damages and considerably lowered the claim for non-pecuniary damages to EUR 30 000, for which the Twitter user and GeenStijl are jointly liable.

Rechtbank Amsterdam 25 juli 2018, ECLI:NL:RBAMS:2018:5130

http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBAMS:2018:5130

District Court of Amsterdam, 25 July 2018, ECLI:NL:RBAMS:2018:5130

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026