[NL] Court rejects politician’s claim against public broadcaster

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On 25 March 2020, the District Court of Midden-Nederland (*Rechtbank Midden-Nederland*) ruled that the Dutch public broadcaster VPRO was not obliged to rectify the paraphrased statements of the well-known politician Thierry Baudet that were broadcast on the influential Dutch television programme *Buitenhof*. Baudet had publicly asked for a rectification, which had attracted a considerable amount of media attention to the case.

The case revolved around a paraphrased question put by the presenter of the political programme *Buitenhof*. The presenter paraphrased a statement made by Thierry Baudet, who is the leader of the political party Forum for Democracy (*Forum voor Democratie*). A few days before the broadcast, Mr Baudet had made similar statements in the House of Representatives (*Tweede Kamer*). The politician’s literal words were: ‘’The European Union is an emerging state. All that money goes to the making of that state. So to regulating foreign policy. By setting up ferry services to transfer immigrants from Africa to Europe to weaken national identities so that there will be no more nation states." The presenter of *Buitenhof* summarised this in a question to her guest as follows: “Thierry Baudet caused a stir in the House of Representatives last week by saying that he thinks the EU has a preconceived plan to replace the white European race with African immigrants.’’

Baudet and Forum for Democracy argued that, through this paraphrase, *Buitenhof* had deliberately committed “character assassination” (*karaktermoord*). The words "white", "race" and "replacement" had not been used by Baudet in the parliamentary debate and therefore the broadcaster had acted unlawfully, according to Baudet and Forum for Democracy.

However, the court ruled that, while the paraphrase contained flaws, the statement made by the presenter in the *Buitenhof* programme was not unlawful towards Baudet and Forum for Democracy. The decisive factor in this case was the fact that Baudet is a public figure who actively participates in the public debate. This means that he has to accept more than the average citizen. Moreover, paraphrased statements made by the presenter can be seen as a contribution to the public debate. In 2015 and 2017, for example, Baudet made similar statements about a ‘’white and dominant Europe’’. Previous statements made by Baudet cannot be separated from the paraphrase by the presenter of

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Buitenhof. The court applied the principle from the case law of the European Court of Human Rights according to which when contributing to the public debate, the right to freedom of expression should not be easily limited. Furthermore, the District Court saw no reason to assume that the VPRO had had a preconceived purpose to commit character assassination. Finally, Baudet was ordered by the court to pay the costs of the proceedings.

Rechtbank Midden-Nederland, 25 maart 2020, ECLI:NL:RBMNE:2020:1070

https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBMNE:2020:1070

District Court Central Netherlands, 25 March 2020, ECLI:NL:RBMNE:2020:1070

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