[NL] Court orders politician to remove social media posts comparing COVID-19 measures to the Holocaust

IRIS 2022-2:1/13

Arlette Meiring
Institute for Information Law (IViR), University of Amsterdam

On 15 December 2021, the *Rechtbank Amsterdam* (District Court of Amsterdam) delivered a significant judgment on the issue of a politician's right to freedom of expression set against the right to a private life of the victims and survivors of the Holocaust. The Court ordered the removal of four messages from Instagram, Facebook, and Twitter, as well as prohibitions on reposting the messages and posting Holocaust imagery in the context of the debate on COVID-19 measures.

The case involved Mr. Thierry Baudet, leader of the political party *Forum voor Democratie*, who had written several messages on social media comparing the impact of the Dutch government's COVID-19 measures to the (developments leading up to the) Holocaust. The posts included statements such as "the unvaccinated *are* ("*zijn*") the new Jews, the exclusionists who look the other way *are* ("*zijn*") the new Nazis and NSB'ers [members of the Dutch Nazi Party]." In another message, Baudet had placed a photo depicting a child behind a fence wearing a Star of David next to a photo of a child, also behind a fence, watching the arrival of 'Sinterklaas' (Saint Nicholas). The accompanying text read: "Ask yourself, is this really the country you want to live in? In which children who are "unvaccinated" are not allowed to attend the Sinterklaas parade?"

Two Jewish interest groups and four individuals initiated legal proceedings against the politician to seek removal of the social media posts. They claimed the posts infringed upon the private life of Holocaust victims, survivors, and their relatives as protected by Article 8 of the European Convention on Human Rights (ECHR). Baudet argued that any forced removal of the posts would violate his right to freedom of expression under Article 10 ECHR.

The Court first observed that Article 17 ECHR (prohibition of abuse of rights) did not apply to the case, as Baudet's expressions did not directly downplay or minimise the Holocaust. It further considered that Article 10 ECHR protects expressions that "offend, shock or disturb" certain groups in society. Moreover, criticism regarding a vital societal issue deserves a high degree of protection, especially when communicated by elected representatives. However, the Court stressed that freedom of expression is not without limits and is shaped by duties and responsibilities. These include the duty to avoid as far as possible expressions that go beyond what is necessary for a robust public debate and are gratuitously

© European Audiovisual Observatory (Council of Europe) 2026

offensive to others and thus an infringement of their rights.

The Court ruled that the comparison drawn by Baudet had gone “beyond what can be justified by a robust public debate.” First, it noted that the (effects of the) current COVID-19 measures “in no way correspond to the hate and discrimination towards Jewish people in the 1930s and 1940s that eventually led to deportation and genocide in which more than 6 million European Jews were killed.” Second, the Court considered the comparison inherently flawed, not only because Jews were denied access to public spaces on the basis of their identity – without a choice of getting tested or vaccinated – but also because the measures were implemented by a totalitarian regime rather than a democratically elected legislature. As a result of the large non-equivalence between the situations, the injustice and suffering caused by the Holocaust was “implicitly downplayed.” The Court deemed it irrelevant Baudet had later nuanced his expressions and clarified his intentions since “it is the actual content of the messages that matters.” It was also highlighted that due to the chosen medium, especially Twitter, the messages had had a wide reach and profound impact. In sum, the Court concluded the politician had “instrumentalised” the suffering of Jewish people, and therefore acted unlawfully against Holocaust survivors, victims, and their relatives.

Finally, the Court held that the order to remove the social media posts was proportionate as it was limited to four messages only. The prohibition on the use of Holocaust images in the debate on COVID-19 measures was considered necessary to protect the rights and interests of others and to protect public debate itself.

Rechtbank Amsterdam, ECLI:NL:RBAMS:2021:7392, 15 december 2021

http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBAMS:2021:7392

District Court of Amsterdam, ECLI:NL:RBAMS:2021:7392, 15 December 2021

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026