



Hearing in the case *Telegraaf Media Nederland Landelijke Media B.V. and Others v. the Netherlands*

The European Court of Human Rights is holding a Chamber hearing today **Tuesday 19 June 2012 at 9 a.m.** in the case of ***Telegraaf Media Nederland Landelijke Media B.V. and Others v. the Netherlands*** (application no. 39315/06).

The case concerns the protection of journalistic sources.

The hearing will be broadcast from 2.30 p.m. on the Court's Internet site (www.echr.coe.int). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.

The applicants are a limited liability company incorporated under Netherlands law (*Telegraaf Media Nederland Landelijke Media B.V.*), publisher of the mass-circulation daily newspaper *De Telegraaf* and two journalists, Joost de Haas and Bart Mos. Mr De Haas and Mr Mos are Netherlands nationals who were born respectively in 1967 and 1963. They live in Bovenkarspel and Ridderkerk, respectively.

In January 2006, the newspaper *De Telegraaf* published articles by the two journalists about investigations by the AIVD (Netherlands secret services) suggesting that highly secret information had been made available in the criminal circuit of Amsterdam. Having been ordered by the National Police Internal Investigation Department to surrender documents pertaining to the secret services' activities, the applicant company lodged an objection with the Regional Court of The Hague ("the Regional Court") and invoked its journalistic privilege against the disclosure of sources. It alleged that the examination of fingerprints on the documents could lead to identification of the source. The Regional Court did not consider that the rights protected by Article 10 (freedom of expression and information) of the European Convention on Human Rights had been violated in the journalists' case as they had not been required actively to co-operate into the identification of the source. It further held that the protection of State secrets had justified the interference with the right to source protection. The applicant company's appeal was dismissed by the Supreme Court.

In June 2006, the applicants brought civil proceedings claiming that Mr de Haas and Mr Mos had been subject to telephone tapping and observation, presumably by AIVD agents. The State refused to confirm or deny the use of such surveillance powers. The applicants however alleged that these measures had been unlawful as they had in fact targeted the journalists' sources. The Supreme Court held that the protection of journalistic sources was not absolute and that the use of special powers could not be excluded on principle.

In November 2006, Mr de Haas and Mr Mos appeared before the Regional Court to be questioned as witnesses in criminal proceedings against three individuals suspected of leaking secret AIVD information. They refused to answer questions, which might lead to the identification of the person from whom they had received the secret AIVD documents. They were detained for failure to comply with a judicial order and released a few days later as the Regional Court recognised the importance of the protection of journalistic sources. The Regional Court further found that no issue of State security could arise since the availability of the documents outside the AIVD had been common knowledge in the media. One of the three individuals was convicted; the judgment mentioned that the documents seized from the applicant company had been examined by the Netherlands Forensic Institute but that no fingerprints had been found.

Complaints and procedure

Relying on Articles 8 (right to respect for private and family life) and 10 (freedom of expression and information), the applicants complain about the order to surrender documents which may identify journalistic sources and about the use of special powers by the State.

The application was lodged with the European Court of Human Rights on 29 September 2006. In its [decision of 18 May 2010](#), the Court rejected the application in so far as it was lodged by two associations - *Netherlands Association of Journalists (Nederlandse Vereniging van Journalisten)* and *Netherlands Society of Editors-in-Chief (Nederlands Genootschap van Hoofdredacteuren)* – on the ground that these associations had not themselves been affected by the matters complained of.

Composition of the Court

The case will be heard by a Chamber, composed as follows:

Josep **Casadevall** (Andorra), *President*,
Corneliu **Bîrsan** (Romania),
Alvina **Gyulumyan** (Armenia),
Egbert **Myjer** (the Netherlands),
Ineta **Ziemele** (Latvia),
Luis **López Guerra** (Spain),
Kristina **Pardalos** (San Marino), *judges*,
Ján **Šikuta** (Slovakia),
Nona **Tsotsoria** (Georgia), *substitute judges*,

and also Marialena **Tsirli**, *Deputy Section Registrar*.

Representatives of the parties

Government

Mr Roeland **Böcker**, *Agent*,
Dr Martin **Kuijer**,
Mr Paul **van Sasse van Ysselt**,
Mr Rob **Dielemens**,
Ms Jitske **Jarigsmá**, *Advisers*.

Applicants

Mr R.S **Le Poole**, *Counsel*,
Mr Joost **De Haas**, *Applicant*,
Mr Bart **Mos**, *Applicant*,
Mrs H.M.A. **van Meurs-Bergsma**, *head of legal department, Telegraaf Media Nederland Landelijke Media B.V.*

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.