judgment of the appeal court “Gerechtshof Den Haag”

in the case of a private Foundation, 26 February 2021

the Dutch version is authentic and the English version is not without legal effects

Overview of what has happened

The State in its capacity of executive power has imposed a curfew in order to get the spread of the Corona virus under control. For the control of this virus, a law has previously been made and entered into force that serves as the legal basis for the curfew. A private group of individual citizens are united in a Foundation, fighting almost every 'virus' measure and in this case the curfew. The court of first instance rules that the curfew is illegal and orders the State to stop it immediately. The State appeals and at the same time uses an urgent appeal to quash the court-order to stop. The president of the tribunal of the appeal court is challenged by the Foundation and the challenge has been rejected. Rush roll call has been granted and the curfew remains in effect. The appeal in summary proceedings has also been granted. Cassation is possible against this decision.

Hereafter, the European Convention for the Protection of Human Rights and Fundamental Freedoms will be abbreviated as ECHR.

Overview of the judgment

On the front page, the parties are presented and that it is a simplified procedure.

Furthermore, the judgment is divided into the following chapters.

1. The procedure.
2. The question the court asks itself: What is the case about?
3. The facts.
4. The proceedings at first instance.
5. The appeal procedure.
6. The assessment of the appeal.
   - § General starting points
   - § The system of the Wbbbg.
   - § The standard for application of the Wbbbg.
   - § Proportionality and subsidiarity.
   - § Other arguments.

Decision

Introduction of public scrutiny

Any court judgment or decision must be made in public, with the aim of allowing the public to scrutinise the judiciary for at least a “fair trial”. The European Court of Human Rights recognizes this, also by its rulings. (Quote :) “*According to the Court, it would be inconceivable*

that Article 6 (1) (Article 6-1) should describe in detail the procedural guarantees offered to parties in an ongoing lawsuit and should not first protect that which is only possible. to take advantage of such safeguards" (case of Golder vs. UK case, 21 February 1975, §35 penultimate sentence). Subsequently, the fair, public and expeditious characteristics of Article 6, §1 are considered without further elaboration. It was only later elaborated (case of Pretto and others vs. Italy, 8 December 1983, §27) the purpose of the compulsory public pronouncement of a judgment, namely to ensure that the judiciary is scrutinised by the public with a view to protecting the right to a fair trial. This case in 1983 does not change the retroactive effect of any European Court's ruling, including public scrutiny from the date the ECHR came into effect.

The public scrutiny is a unity and equally 'established by law' or equally 'law making treaty' (Golder v. United Kingdom case, 21 February 1975, §36) established as a judicial authority, as any (disciplinary) tribunal.

The European public contains approximately 450 million citizens minus government employees, civil servants and officials. In Article 6, §1 ECHR, the press is also excluded from the public. Who takes part in the public scrutiny is described in the "Manual for public scrutiny" (URL: www.publicscrutiny.nl, item 4). Why public control is a unity and by what it is united is also sufficiently explained in the "Manual for public scrutiny" and in paragraph 18e of the judgment on the Golder case.

A judgment of the Public Scrutiny has been made public only on the internet site "www.publicscrutiny.nl". Also with the aim of control by the public, which of course cannot result in a different judgment (by the unity of judging) about the published judge-decision.

Introduction of the appeal court "Gerechtshof"

The Court of Appeal is a court of the judiciary established by law. Among other things, it handles cases on appeal. Each appointed judge has taken an oath (required by law) before taking up his duties. Every judgment or decision must be pronounced in public.

Before an appointed judicial officer can enter the service, he must take the oath or affirmation. This is done in front of the court (almost always in the person of the president). This oath reads (quote):

"I swear (promise) that I will be loyal to the King, and that I will keep and obey the Constitution and all other laws.

I swear (declare) that, neither indirectly nor immediately, under any name or pretense, I have given or promised, nor will give or promise anything to anyone in order to obtain an appointment.

I swear (declare) that I will never accept or receive any gifts or gifts whatsoever from any person whom I know or suspect has or will receive legal action that might involve my official services.

I swear (promise) that I will perform my office with honesty, rigor and neuter, without regard to persons, and in this exercise will behave as befits a good judicial officer.

So help me God Almighty! (That I declare and promise!)"

The principles for any review of the judiciary.

Good faith from a judge is certainly absent in a fair public scrutiny. If good faith must be respected, any scrutiny is useless or impossible.

The evidence of perjury, abuse, or violations does not alter the ability of the perpetrators to inadvertently express righteous findings or conclusions. Offending courts don't change this either.

Any lawsuit is a party exercising its rights (empowerment is a right) against another party who does not wish to endure this exercise. As an example**:** the investigated Golder case testifies to a government reluctant to agree with the Commission. The reason for a fair investigation is to uncover the cause for a repair of a fair exercise: is it an opposing right, a lack of knowledge about the right (to be exercised). Sometimes it turns out it's to make a disadvantage (or worse). A judge is equipped, facilitated and obliged to make available the working documents of the authentic legislator (author) so that his reflections, object or purpose with the law and the articles concerned are published. This is a required obligation.

The place and importance of the ECHR.

The ECHR is the non-tolerant and non-crossable contour boundary of the "Rule of Law", in which all activities or human effects take place (see the "Introduction" to the Golder case). Not the same, but similar to the safety regulations for products in society, which have their own specific rules for construction and operation. So no matter how well and legally made a product is, if it does not pass the security check it is unusable and out of society.

The ECHR is a regular contract, with the Contracting States on the one hand and everyone on the other (Article 1 ECHR). Any breach of contract also has legal consequences under the Agreement Rights in the country where the breaches occur. Any appeal against the court decision at first instance is a notice of default.

Human rights do not reverse roles, do not interchange with persons in their official capacity or reverse the power differences that have arisen. Human rights are nothing more and nothing less than an equalizing, evening power.

Final conclusions about the judgment inside Human Rights

(*) The basis for the Public Scrutiny is solely the written judgment. Partly because every oral statement is true for a few seconds. After this only disputing remain about what has been said. (*) Here again emphasized**:** the good faith of a judge is absent for a fair scrutiny. (*) There is already a dossier (www.de-openbare-zaak.nl) that provides conclusive evidence that many, if not all, judges lie, cheat and deletes facts or arguments from the justice procedure. This identifies bias. (*) Like any criminal offender, a court or judge can (perhaps by accident) express a true fact or statement.

The entire lawsuit and decision are unacceptably unfair.

Because almost all considerations reflect the opinions of the tribunal, while these opinions have not been made known in advance to the trial parties by the tribunal. It is one (1) of the few requirements for a 'fair play' that the valid rules are known in advance to the parties.

Conclusion 1;

Because of this alone, the trial, grounds and decision are in conflict with the guarantee of a fair trial as written in the ECHR. So that the trial, grounds and decision are nugatory and void and never existed in law.

The written statement is invalid for the Public Control.

Lied litigants

Because the considerations express that the State appealed against the judgment of the court of first instance, are the parties mentioned a lie. **Conclusion:** It is clear that the State's counterparty was satisfied with the decision by the court of first instance.

Notice of default

Since the ECHR is an ordinary contract with the State as contracting party, an appeal in court and factual is a notice of default and a claim on the warranty. The litigant who did not appeal has been wrongfully summoned and its defence is the same and not against the attacked decision. The State did not appear as a (second) party to the proceedings in the capacity of guarantor. Also, the court of first instance did not appear as a (third) party to the proceedings as the actual defaulting party. Failure to summon the correct litigants is another crime. **Conclusion:** The appeal case has not been handled as a notice of default, the correct parties to the proceedings have not appeared.

Contemplated input as true is not acknowledged

Because the parties to the proceedings have not signed for a correct representation of their submitted facts, arguments or propositions, nor do they agree that the considerations are their complete points of dispute. **Conclusion:** So that the Public Scrutiny cannot sufficiently verify which facts or consideration is false, deceit or true. **It remains secret that the president of the tribunal has been challenged**

Conclusion 2;

Lies are stated in the appeal judgment, the correct legal parties have not appeared and have not been summoned, and it is also not possible to verify what lies, deceit or truth is. Already because of this the trial, the grounds and decision are in conflict with the guarantee of a publicly declared judgment as intended by the author of the ECHR with his Convention and article. So that the trial, grounds and decision are null and void and never existed in law.

The judges, appeal courts and courts of first instance in the Netherlands are extremely criminal and excessively criminal.

Because the General Provisions Act ("Wet algemene bepalingen") has not been mentioned, nor has it been considered in the paragraph where the tribunal considers its competence or in the matters. Every judge of the judiciary in the Netherlands and here the judges of the tribunals in these cases, is or are limited in their powers at least by this General Provisions Act. Each judge ignores this Act; each deliberately and knowingly violates it. Every judge commits perjury and also because he does not convict his criminal colleague-judge in a "fair trial" with a public hearing, while every judge is legally obliged to do so.

NB: The General Provisions Act is attached at the end of this document.

Conclusion 3;

Any civil servant or officer posing and persisting as a sworn judge but acting in violation of the law is immediately or retroactively since the perjury action, unauthorised as a judge of the judiciary. So that the trial, grounds and decision are nugatory and void and never existed in law.

An enforced superficial reconnoitre of the substantive reasoning and decision

Despite the fact that the judgment is threefold void, it remains an authentic statement by the tribunal or each of the judges. In doing so, they can acknowledge or fight.

(1) In any court case, a preparation form, or model judgment or otherwise titled document with similar intent, is prepared by the court. This document is required by law to be provided to the parties for comment. This document was not provided to the parties, and therefore not well in advance of the hearing. It is not in the dossier (§1.1) and is (illegally) kept secret.

(2) The tribunal, each judge individually and his / her court (hereinafter: the tribunal) complains or complain with remaining unclarities in §6.11 penultimate sentence. The tribunal hereby declares that there has been no hearing as intended by the author of the ECHR by his ECHR. Because it is impossible to be left with unclarities. So that a lie has been reported in §1.2 that the oral hearing has taken place. Furthermore, this makes the tribunal extremely incompetent, even with the preparation form with which the considerations and decision already were settled.

(3) The tribunal considers in §6.3 its own empowerment or jurisdiction and at the same time that of each Judge. The tribunal declares**:** The civil court must exercise restraint in assessing the choices the State makes within the limits of its discretion and policy discretion; Only if it is evident that the State is making incorrect choices will there be room for judicial intervention. The jurisdiction here appropriated by the tribunal is illegal, unlawful and criminal (perjury) because of Chapter 5, Constitution and again emphatically article 112, Constitution. The General Provisions Act ("Wet algemene bepalingen") has not been mentioned or considered and applied in this section and nowhere in the judgment. Furthermore no tribunal or judge is authorized to omit, withhold or delete a disliked law or law article from the legal process.

(4) (Quote)**:** "*Every judge must adjudicate according to the law**:** he may under no circumstances judge the inner validity or fairness of the law*" (Article 11, General Provisions Act). Contrary to the law and that law's author, the tribunal assesses the inner value or the fairness of the Wbbbg and even other legislation or treaties (§6.1 to §6.11). Furthermore, a judgment on the law making process falls outside the jurisdiction of each court. On top of this is not decided according the law, but on basis of own previous judgments (§6.3, and then notation 6). This is emphatically forbidden by article 12, General Provisions Act

(5) (Quote) "*The further statements of the parties will be addressed where necessary in the appeal.*" (§5.3). The tribunal hereby declares that Chapter 6 (§6.1 to §6.23) states about which only the tribunal wants to write. It further states that facts and arguments submitted by the parties have been deliberately deleted from the legal process. The tribunal emphatically confirms this again with §6.16 (quote) "*This means that the grievances are successful and that they do not need to be discussed further.*".

(6) The opposite party in first instance (Viruswaarheid) is unlawfully involved in the appeal. Nevertheless, it has been ordered to pay costs (§6.23), which is in fact a fine. However, in appeal this party only exercised its fundamental Human Right and did nothing wrong in doing this. In addition, the court of first instance, or the author of the judgment, his decision is annulled. So this court or the author must pay the costs or be fined.

Recognition of the minimal restriction of the legal force of human rights

The tribunal recognizes and confirms that a limitation of any fundamental right in the ECHR is limited exclusively to the same article in which it is enacted. Quote §6.17 "*The possibility of limiting the fundamental rights discussed above follows (in this case therefore not from Article 15 ECHR, but) from the limitation possibility that the relevant fundamental rights themselves have.*".

This is in accordance with Article 17 ECHR, which states that the limitations of the rights (each in its own article) that are provided for in the treaty (so in each provision) may not be further limited. This interpretation of the European Court has previously been elaborated in the Public Scrutiny's judgment "of the Dutch supreme court the Raad van State (Council of State)", 8 April 2020, § "Legal consequences", second paragraph. Moreover, this also includes that one right must be in harmony with every other.

Thus the right to a "fair trial" is unlimited and cannot be restricted by anyone, as has been done by the tribunal with the violations and crimes indicated above. **All judges commit perjury** because not one (1) got up and still does not get up to correct and convict his colleague-judge. Their common behaviour of lying, cheating and deleting disliked or unwanted facts and arguments has, since many years ago, created the legal necessity**:** that every private individual as a legal party should sign their consent to the written version of their reflections, topics and intentions in the documents and evidence submitted or orally in the public hearing.

Apologies are impossible

(Quote**:**) "*From 1970 to 1984, the workload of such courts had more than doubled, while the number of judges had not increased.*" (case of De Cubber vs. Belgium, 26 October 1984, §34). A nuisance at work is not an excuse for human rights violations to happen and to keep violations happening. The European Court agrees and reports (quote**:**) "*The Court recalls that the Contracting States are obliged to organize their legal systems "so as to ensure compliance with the requirements of Article 6 par. 1 (Art. 6- 1)"*" and a little further (quote**:**) "*The task of the Court is to determine whether the Contracting States have achieved the result required by the treaty, not to indicate the specific means to be used.*" (case of De Cubber against Belgium, October 26, 1984, §35). To not value the increase in the workload of courts as an intolerable increase in human rights violations and breaches by the government of the Contracting State and its public services, with including the courts and their tribunals or judges, is a fundamental crime in itself. The legal results are explained in, inter alia, the previous paragraph. Also is any excuse impossible because the only right solution is not given, discussed and applied that one (1) judgement is valid in all equal cases.

There is no effective remedy before a national authority other than violence.

The above disclosures and Public Scrutiny Judgments must result in the charges being completely true and correct, against the judges and judges in tribunals. The Dutch King, standing above all political parties, is the only authority to which all civil servants or officers, including courts, tribunals and judges, swear their loyalty. But the Dutch King is hiding behind the human shield of his "Cabinet of the King" and behind his institute "Council of State". This may be because of the absence of the "effective provision with a national authority" that is guaranteed for Public Scrutiny by Article 13 of the ECHR. So that the violations and perjury continue and this behaviour is applied since many years ago. The misuse of the term "independence" and the use of this misuse by the national judiciary, courts, tribunals or judges is actually inciting society to violence.

Consideration of the binding force of this judgment

Human Rights are an equalizing power, nothing more and nothing less. The national contracting parties provide authority bodies to enforce the court decision with force if necessary. Up to present date, such an equal authority for Public Scrutiny has still not been made available. This violation does not change the authority of the judgments of the Public Scrutiny. This is at least equal to the European Court, as stipulated in article 46.

It is not the intention of the author to change anything in or with the existing rules with his ECHR. It is not the task of Public Scrutiny to take the place of a court. However, a court of a contracting state cannot refuse to abide by the judgment or verdict of the Public Scrutiny as it cannot with a judgment by the European Court or the national supreme court.

Legal effects

The legal effects of this judgment is to carry out the effective remedy of the human right mentioned in article 13, ECHR.

Actions of each Contracting State have been condemned by which "*the operation of the fundamental clauses of Articles 6 and 7 (Art. 6, Art. 7) would be subordinated to their sovereign will.*" (case of Engel and Others vs. The Netherlands, 8 June 1976, §81; case of Öztürk vs. Germany, 21 February 1984, § 49; case of Campbell and Fell vs. United Kingdom, 28 June 1984, §68), either by one of its organs or by one of its authorities. This conviction applies to every article of the ECHR.
Emphatically must the begging now stop for the restitution of our stolen human rights. **Just as emphatically**, must the ignoring now stop of the Public Scrutiny. Acting after the press releases a case, will exacerbate theft and disregard for Human Rights.

The European Court is obliged to act equally inside the unity of Public Scrutiny, and must stop the process to create legal uncertainty and legal disorder. A large number of judgments means by default**:** discrimination.

Priority for the European Court and every national court is to standardize the respect and obedience to freedom of expression as declared by the United Nations and primarily the author of the ECHR. Closely followed by the retroactive correction of all judgments, in public.

The European Court and each national court must recognize the elaborations of Article 13 provided in the judgment of the Public Scrutiny on the "Guide to Article 13" and accept this as the reflection, subject matter and intention of the author in his expression**:** the ECHR. The domestic (Dutch) courts and judges had sufficient opportunities for objection and evidence, but they had no serious factual defence.

The Dutch King has previously been informed by the domestic (Dutch) Public Scrutiny of the demands to return, among other things, our stolen human rights and Dutch civil rights. This message is available in the web dossier "www.de-openbare-zaak.nl". A reasonable period of time has passed so far. The King is hiding behind his "Cabinet of the King". So the Contract State "The Netherlands" continues to discriminate a private individual towards groups of individuals or non-governmental organizations.

Note:

This judgment of the Public Scrutiny is cooperative and in harmony with any other judgment of the Public Scrutiny on this site in the section "The Public Scrutinies".

Identifier:

Category

A higher appeal
Appeal party is the State in the capacity of executive power;
The other party is a court or a court's three-judge tribunal or a judge;
The legal party involved is a group of private citizens in a Foundation;
(a Foundation is a distinctive legal entity)

Case and Circumstances

The lawsuit is after challenge, so an accusation of one (1) or more judges, the court or the judiciary; (this challenge has been completely deleted)
The attacked court decision is to,
halt the execution of a government decision affecting the entire population;
grounded with an incorrect legal ground of the government decree;
because there is no correct law for the decision;
and,
The area of Human Rights is freedom of movement, freedom of privacy, freedom of assembly, demonstration and practice of religion and belief (article 2 fourth protocol, articles 8, 9, 10 ECHR).

The verifiable elements:

Human Rights**:**
that the private individual must be independent of the legal assistance provider and retain ownership of the disputes submitted;
that fiat is required for the administration and composition of the file;
a "fair trial",
through any unrestricted claim;
by a fair public hearing including a true report of it;
by a tribunal of high moral character and impeccable craftsmanship;
by the agreed correctness of the transcript of the matter(s) and point(s) of contention;
the completeness of the inventory of all human and civil rights involved;
through the correct interpretation of unclear terms according to the reflections, subject matter and intentions of the author;

Inheritance:

In order to acquire knowledge about the violations of the judiciary, it is currently (still) necessary to consult the other judgments of the Public Scrutiny.
The web dossier www.de-openbare-zaak.nl serves for consultation, accusation and recovery(s) of all our Human Rights with violations by the Dutch judiciary.

General provisions act

(the Dutch version is authentic - valid since 01-01-2012 up to at least 11-03-2021)

Law of May 15, 1829, containing general provisions of the legislation of the Kingdom

We WILLEM, by the grace of God, King of the Netherlands, Prince of Orange-Nassau, Grand Duke of Luxembourg, etc., etc., etc.

All the ones, who will see or hear it read, salut! do to know:

Thus We have taken into consideration that the general provisions contained in the law of June 14, 1822 (Official Gazette No. 10), are not exclusively applicable to the civil code;

That in addition art. 1 deals with a matter, which will have its place in a separate law;

So it is, that We, having heard the Council of State, and by mutual agreement of the States General,

Have approved and understand as We agree and understand to determine the following:

Article 1
[repealed on 17-02-1988]

Article 2
[repealed on 17-02-1988]

Article 3
[repealed on 01-01-1992]

Article 4
The law only binds for the future and has no retroactive effect.

Article 5
A law can only lose its force, in whole or in part, by a later law.

Article 6
[repealed as of 01-01-2012]

Article 7
[repealed as of 01-05-2008]

Article 8
The criminal laws and the police ordinances are binding for all who are on the territory of the Kingdom.

Article 9
The civil rights of the Kingdom are the same for foreigners as for the Dutch, as long as the law does not determine the contrary.

Article 10
[repealed on January 1, 2012]

Article 11
The judge must, according to the law adjudicate: he may under no circumstances judge the inner value or fairness of the law.

Article 12
No judge may, by means of general ordinance, disposition or regulations, give judgment in matters that are subject to his decision.

Article 13
A judge who refuses to adjudicate, on the pretext of silence, obscurity or incompleteness of the law, may be prosecuted for refusal of justice.

Article 13a
The jurisdiction of the court and the enforceability of judicial sentences and authentic instruments are limited by the exceptions recognized in the law of nations.

Article 14
[repealed on 01-01-1992]

Charges and orders that this will be placed in the official gazette, and that all ministerial departments, authorities, colleges and civil servants, whom this may concern, will enforce accurate implementation.

Given at Brussels, the 15th of May, the year 1829, and of Our Government the sixteenth.

WILLEM.

On behalf of the King,

J.G. DE MEY VAN STREEFKERK.

Issued on the twenty-fifth of May 1829.

The Secretary of State,

J.G. DE MEY VAN STREEFKERK.