

Rechtbank Amsterdam
Attn. mr. M. van der Veen
Parnassusweg 220
1076 AV Amsterdam

your ref.
643552 / KG ZA 18-170
our ref.
60049/EJU/nbe/ 2072012/0.4
date
13 maart 2018



re: GeenStijl Gelderlander TPO / EU Disinformation

Your Honor,

After the EU was made aware of its false fake news accusations, it has tried to hide (insofar as GeenStijl and TPO are concerned) behind a ‘translation error’ and unreservedly maintained its accusations against De Gelderlander. Furthermore the EU ignored the demands to publish a correction.

Almost a month after the EU was formally summoned in summary proceedings before the Court of Amsterdam, the EU (without consulting plaintiffs in any way) decided to publish a correction.

Plaintiffs are happy to see that the EU has admitted its mistakes, but it should be noted that the EU has proven to be a sore loser.

Yesterday, plaintiffs (much to their surprise) received a lengthy statement of reply in which the EU contests the jurisdiction of the Court of Amsterdam. Apparently the EU prefers to spend public money on having a formalistic defense drawn up to – after admitting its mistakes – properly resolving the case in consultation with plaintiffs.

The jurisdiction defense of the EU typifies its misplaced sense of inviolability and also shows a

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lack of knowledge of its own EU laws.

As the EU has acknowledged, its disinformation campaign falls under the responsibility of EEAS, the European ‘ministry’ for the common foreign and security policy of the EU.

Article 275 TFEU stipulates that the Court of Justice of the EU does not have jurisdiction in cases relating to this policy: “*The Court of Justice of the European Union shall not have jurisdiction with respect to the provisions relating to the common foreign and security*”.

Article 274 TFEU explicitly sets out that if the Treaties (TEU/TFEU) do not provide for a ground for jurisdiction for the Court of Justice of the EU, the national courts are competent to hear cases to which the EU is a party. That is the case here. So the Dutch courts are indeed competent to hear this case.¹

However, the essence of the case is clearly not this unfounded claim of the EU against the Court’s jurisdiction, nor the dispute over the fixed legal fees due under Dutch law.

The essence of the case is that the EU with its false fake news accusations has violated the fundamental right of freedom of speech of the media and that the EU as a result of these proceedings – at the eleventh hour – finally admitted to this mistake.

Even though plaintiffs would have liked to have obtained a judgment from the Court relating to the lack of communication and disrespectful process strategy of the EU, plaintiffs do not think it is worth the additional expense of public money and the valuable time of the Court.

For these reasons, plaintiffs hereby withdraw the summary proceedings.

If the EU would unwisely ask the Court for a judgment ordering plaintiffs to pay its fixed legal fees, plaintiffs ask the Court to deny this request given the unreasonable way the EU has behaved in these proceedings.

Yours sincerely,

Emiel Jurjens / Jens van den Brink
Attorneys-at-law

¹ There are countless other arguments to support this contention, plaintiffs refer in any case to article 335 TFEU and article 19(1) TEU, which explicitly provide for jurisdiction of the national courts in cases which are brought against the EU in Member States. Incidentally, the Treaties do not provide for a ground to bring a demand as asked in this case, which is another reason why the national courts are competent to hear this case based on article 274 TFEU.