

Summary judgment The Hague District Court 3 April 2020

Keywords: COVID 19, request full lock down, national measures

In this application for a temporary injunction at the The Hague District Court, the plaintiffs requested a 'full lockdown'. The case is therefore similar to the French ruling in which a 'full' lockdown was also demanded. The District Court dismissed their claims on 3 April 2020 and ruled that the government does not act unlawfully by pursuing the chosen policy, in which there is no full lockdown.

Circumstances

The government of the Netherlands has taken stringent measures to combat the Covid-19 virus. On 16 March 2020, Prime Minister Mark Rutte announced in a television speech that the package of measures chosen is aimed at controlling the spread of the coronavirus maximally. The prime minister has designated this scenario as "scenario 1". The two alternative scenarios are to let the virus run uncontrollably ("scenario 2"), and to lock the land (the so-called "lockdown") and shut the Netherlands down for a year or even longer ("Scenario 3").

Arguments

The plaintiffs argue that the government is acting unlawfully by not properly deciding in time which measures should be taken in the fight against the Covid-19 virus. The government has based their measures only on the advice from the National Institute for Public Health and the Environment (RIVM), which advice the claimants consider to be incorrect. The government's first priority has been to prevent the healthcare system in the Netherlands from getting stuck. However, according to the plaintiffs, the measures are not effective in order to prevent the healthcare system from collapsing. The plaintiffs furthermore argue that other interests, including economic interests, have been prioritized unduly in the decision-making. They state that as many measures as possible should be taken, as quickly as possible, including a full lockdown.

Judgment

The District Court rules that the plaintiffs wrongly assumed that the government bases its policy solely on advice from the national institute for public health and the environment (RIVM). The government has explained in detail that the choice of the maximum control strategy is based, not only on the advice of the RIVM, but also on that of the World Health Organization (WHO), the European Centre for Disease Prevention and Control (ECDC) and the so-called Outbreak Management Team (OMT). The OMT provides medical epidemiological advice and consists of experts and representatives from various professional organizations, who give advice from their own area of expertise and thus lay the foundation for a risk analysis and the fight against infectious diseases. The government bases its policy on combating the coronavirus on all of these scientific advices.

The District Court rules that the government may rely on the current advice from experts. These experts advise against a complete lockdown, with the aim of completely eliminating virus circulation, as the claimants apparently envisage.

The District Court concludes that the government does not act unlawfully by pursuing the chosen policy. The plaintiffs lost their case.

You can find the complete judgment (in Dutch) here:

<http://deeplink.rechtspraak.nl/uitspraak...:2020:3013>