

Statement of Defence re admissibility and breakthrough grounds (State et al.)

Amsterdam Court of Appeal

Case number 200.360.223

Statement of defence regarding admissibility and breakthrough grounds

in the matter of

1. the State of the Netherlands, seated in The Hague
2. Everhardus Ite Hofstra
3. Jaap Tamino van Dissel
4. Maria Petronella Gerarda Koopmans
5. Mark Rutte
6. Sigrid Agnes Maria Kaag
7. Hugo Mattheüs de Jonge
8. Ernst Johan Kuipers
9. Diederik Antonius Maria Paulus Johannes Gommers
10. Wopke Bastiaan Hoekstra
11. Cornelia van Nieuwenhuizen
12. Feike Sijbesma
all choosing domicile for service in The Hague,
respondents,
counsel: Mr. R.W. Veldhuis and Mr. M.E.A. Möhring

against

1. [REDACTED], residing in Leeuwarden
2. [REDACTED], residing in Brunssum
3. [REDACTED], residing in Leeuwarden
applicants,
counsel: Mr. P.W.H. Stassen

1. INTRODUCTION

1.1 With their request for preliminary taking of evidence, Applicants seek to bring about that various questions are put to the persons named in the petition (as experts and/or witnesses)—such as whether the vaccines against Covid-19 are a biological weapon by which genocide is being committed.

1.2 The District Court rightly rejected the request for preliminary taking of evidence by order of 20 August 2025, and based that rejection on several independent grounds, each sufficient in itself.

1.3 Applicants now try, despite the statutory bar on remedies, to appeal against that order. Your Court asked respondents at this stage to address in the statement of defence only the admissibility of the appeal petition and the breakthrough grounds invoked by Applicants on appeal.¹ This means that this statement of defence addresses only what Applicants have put forward under paragraphs 4–21 of their appeal petition (and not the various grounds of appeal and the request for an interim measure).

2. NO APPEAL LIES

2.1 No higher remedy lies against a decision on a request for preliminary taking of evidence—such as the present request—unless the court determines otherwise (Article 200(2) Rv).

2.2 In this case, the court did not determine otherwise. Applicants also did not request leave to lodge an appeal. This means that Applicants must be declared inadmissible in their appeal.

Applicants also appear to want to appeal against “procedural decisions” relating, briefly put, to the oral hearing (such as the decision not to allow non-accredited journalists to make audio and video recordings of the hearing).² The appeal cannot—quite apart from the bar on remedies in Article 200(2) Rv—be directed against such procedural decisions (leaving aside that it is not clear what the interest would be). No higher remedy lies against such decisions, nor can a breakthrough be invoked.³ To that extent as well, the appeal is inadmissible.

3. NO BREAKTHROUGH GROUND

3.1 Applicants’ reliance on the so-called breakthrough case law, specifically the ground of “failure to observe essential formalities”,⁴ cannot assist them. This breakthrough ground arises only in very exceptional circumstances, namely where there is a violation of such fundamental principles of law that the case can no longer be said to have been dealt with fairly and impartially.⁵

3.2 What Applicants assert is insufficient to justify a breakthrough. This is explained below.

The alleged underlying context

3.3 Applicants argue that the District Court did not (or insufficiently) take account of the “societal context”. By this, Applicants refer to their theory that there is a “Covid-19 project” and that “Covid-19 injections are in reality a biological weapon”.⁶

3.4 In paragraph 2.2 of the order, the District Court included a summary of what Applicants relied on in support of their request. This also reflects that Applicants believe there is a project “Covid-19: the Great Reset”, in which “the Covid-19 (mRNA) injections” would “qualify as biological weapons by which genocide is being committed”. The District Court was not required to do more than that.

3.5 In that context it is also relevant that this is not main proceedings on the merits, but a request to conduct a preliminary taking of evidence. The District Court had to assess whether the request to be allowed to conduct a preliminary taking of evidence could be granted. It did so by applying the (statutory) legal framework applicable to that request. Applicants disagree with that assessment (and with the rejection of their request⁷), but that as such does not constitute a breakthrough ground.

The same applies to the circumstance that, as Applicants also mentioned in this context, the District Court did not explain why no leave for appeal was granted.⁸ The District Court was not obliged to do so, given the statutory starting point that no appeal lies, especially since Applicants did not ask for leave.

Public nature of the hearing

3.7 Applicants further contend that Article 6 ECHR was “seriously violated” in first instance because the proceedings allegedly were not public. In that regard they state that, at the oral hearing, “the doors of the courthouse and the courtroom were closed”, while the majority of the public allegedly did not receive access.⁹

3.8 That is not entirely accurate.¹⁰ At the oral hearing, the District Court not only opened the courtroom to the public (which was also present in substantial numbers) and the press, but also opened an additional overflow courtroom (where the hearing could be followed by the public via a video link).

3.9 Even if the courtrooms were at some point full and there was no space for further members of the public, as Applicants assert (without substantiation), that does not constitute a violation of such fundamental principles of law that the case can no longer be said to have been dealt with fairly and impartially.¹¹ The oral hearing was public and moreover took place in the presence of members of the public. In addition, the District Court provided an audio recording of the oral hearing and supplied that recording to the parties. That recording was also posted on the website of the foundation behind this proceedings.¹²

3.10 With respect to the hearing in first instance, Applicants also assert that there was “no actual access for the press” during the oral hearing, because persons who are not accredited as journalists could not make photos, audio recordings or video recordings.¹³ That argument also fails. The oral hearing was, as stated, public, and therefore also accessible to non-accredited journalists. The District Court further allowed non-accredited print journalists to report on the hearing in writing. The fact that persons without accreditation—consistent with the judiciary’s Press Guideline¹⁴—were not allowed to make photos, audio recordings or video recordings does not mean that there was a violation of such fundamental principles of law that the case can no longer be said to have been dealt with fairly and impartially. This is all the more so because the District Court, as noted, provided and supplied an audio recording.

The time frame

3.11 Another point Applicants raise concerns the time frame within which the request was handled in first instance.

3.12 The petition dates from 7 March 2025. The oral hearing took place on 9 July 2025, and the decision was given on 20 August 2025.

3.13 It is not apparent that the proceedings therefore took too long. Applicants themselves acknowledge that the period of a few months from the petition to the oral hearing, and the six-week period for the decision, are “normal or even short time frames”,¹⁵ but argue that the handling before the District Court should (still) have been faster.¹⁶ That does not constitute a breakthrough ground. There is no violation of such fundamental principles of law that the case can no longer be said to have been dealt with fairly and impartially.

Terminology: party experts

3.14 Applicants further contend that the District Court was biased because the persons proposed by Applicants were referred to in the decision as “party experts”.¹⁷

3.15 It was correct for the District Court to designate the persons Applicants wanted to have heard as party experts (paras. 3.2 and 3.4).¹⁸ The District Court refers to Article 192 Rv, which concerns experts not appointed by the court but whose hearing takes place at the request of a party (and the District Court therefore did, contrary to Applicants’ assertion, provide reasons¹⁹).

3.16 Moreover, as the District Court also noted (para. 3.4), Applicants’ own petition, in the prayer for relief, (repeatedly) refers to “the party experts”. Applicants apparently no longer agree with their own classification, but that obviously does not mean that a breakthrough ground exists.

Preliminary questions

3.17 Applicants further argue that the District Court should have referred preliminary questions to the CJEU, since the questions at issue in the request would allegedly “relate to the validity and the interpretation of the acts of the institutions, bodies or agencies of the Union”.²⁰

3.18 Applicants do not explain how the failure to refer preliminary questions (which Applicants did not request) would lead to a violation of such fundamental principles of law that the case can no longer be said to have been dealt with fairly and impartially. The legal framework for a request for preliminary taking of evidence such as the present, which the District Court correctly applied, also has no connection with EU law and therefore does not necessitate the referral of preliminary questions.

Effective remedy

3.19 Finally, Applicants argue that because of the rejecting decision they were deprived of the possibility “to determine their legal position” and that therefore there is no “effective remedy and a fair trial”.²¹ That argument fails, if only because it essentially comes down to Applicants disagreeing with the District Court’s decision. That may be so, but it obviously does not constitute a breakthrough ground.

3.20 In addition, Applicants submitted on appeal video messages and written statements from the persons they wish to have heard as experts. Applicants state, inter alia, that this is “legal and convincing evidence that the Covid-19 injections are in reality a biological weapon” and that “the chance that another expert is not in the pocket of the executors of the Covid: 19 The Great Reset project is virtually nil”.²² This shows that Applicants themselves (by now) apparently consider that they can determine their legal position (which also removes any interest in the preliminary taking of evidence), as the District Court also held (in para. 3.12).

Conclusion of this section

3.21 The conclusion is that Applicants’ reliance on a breakthrough cannot succeed. There is no violation of such fundamental principles of law that the case can no longer be said to have been dealt with fairly and impartially.

3.22 Applicants must therefore, in view of the bar on remedies in Article 200(2) Rv, be declared inadmissible in the appeal, or at least the appeal must be rejected.

4. CONCLUSION

The State et al. conclude that the appeal should be declared inadmissible, or at least rejected, with joint and several ordering of Applicants to pay the costs of the appeal proceedings and the post-judgment costs, with the determination that statutory interest will be due on that costs order as from the fifteenth day after the date of the order to be given in this matter, and with the declaration that this costs order is provisionally enforceable.

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- ¹ E-mail from the Court of Appeal dated 3 December 2025.
- ² As Applicants appear to intend, see the appeal petition under 1.
- ³ Supreme Court of the Netherlands 6 October 2017, ECLI:NL:HR:2017:2568, para. 3.3; Supreme Court of the Netherlands 10 February 2006, ECLI:NL:HR:2006:AU6519, paras. 4.2–4.3. See also GS Civil Procedure, Art. 332 Rv, notes 19 and 20.
- ⁴ Appeal petition under 21.
- ⁵ See, inter alia, Supreme Court of the Netherlands 4 March 1988, ECLI:NL:HR:1988:AB8701, NJ 1989/4, para. 3.3; Supreme Court of the Netherlands 7 October 2022, ECLI:NL:HR:2022:1387, para. 3.2; F.C. Bentvelzen, *Doorbreking van rechtsmiddelenverboden*, Deventer: Wolters Kluwer 2025, p. 109.
- ⁶ Appeal petition under 11.
- ⁷ Appeal petition under 13.
- ⁸ Appeal petition under 12.
- ⁹ Appeal petition under 9.
- ¹⁰ Without prejudice to the point that Article 6 ECHR appears not to apply in proceedings such as the present; see Supreme Court of the Netherlands 24 March 1995, ECLI:NL:HR:1995:ZC1683, para. 3.4.5.
- ¹¹ The articles from the Charter of Fundamental Rights of the European Union invoked by Applicants also do not apply; see Article 51(1) of that Charter.
- ¹² The site referenced in the original: rechttoprecht.online.
- ¹³ Appeal petition under 10.
- ¹⁴ Press Guideline 2025, as referenced in the original.
- ¹⁵ This applies all the more because Applicants chose to involve a large number of persons (represented by different lawyers) in these proceedings, so that different unavailability dates had to be taken into account.
- ¹⁶ Appeal petition under 14.
- ¹⁷ Appeal petition under 16 and 17.
- ¹⁸ G. de Groot, in: GS Civil Procedure, Art. 192 Rv, note 1.
- ¹⁹ Appeal petition under 16.
- ²⁰ Appeal petition under 18.
- ²¹ Appeal petition under 13.
- ²² See Applicants' letter of 7 December 2025. See also the appeal petition under 19 and 13 (also 31–32).