

Please find below the motive of the preliminary application which has been brought before the Registry of the European Court of Human Rights in Strasbourg on 30th June 2009 by counselor Paul Baakman on behalf of and by order of the inhabitants of "Houtwijk", The Hague. The proceedings will be (in due time, when necessary) in English and will fall within the European Convention secrecy rules.

*At the request of the editors (department of publ. law) of Stopumts.nl, counselor Baakman gave a short explanation:
The external safety management in The Netherlands has concentrated on reducing and controlling the risks of activities for the environs (individuals and environment). It concerns safety risks related to the installation and performance/working of equipment causing electromagnetic radiation/fields on Dutch territory in this case within the planning area of the Municipality The Hague.*

The inhabitants/clients from The Hague do not want to be exposed, involuntarily, to abovementioned electromagnetic fields. Clients feel that the external Dutch safety management is insufficiently in balance with the exclusion of health risks, with regard to the consequences of long term exposure of people to pulsed and non-pulsed non-ionizing radiation (electromagnetic radiation/fields). Also, the appropriate Dutch legal procedures (Administrative law) offer insufficient solace to ask for examination as to constitution (Art. 120 of the constitution is a barrier) and health aspects cannot be submitted in building permit proceedings.

Judicial Practice BAWA
Haaksbergen, 7 augustus 2009

Preliminary application filed at the European Court of Human Rights at Strasbourg

Council of Europe

67075 Strasbourg – France

Haaksbergen (NL) 30th June 2009

Our Reference: 07.2009.0024/22

Re: Plaintiffs mentioned hereunder, all inhabitants of The Hague, The Netherlands

Counselor J.P.E. Baakman, office situated in Haaksbergen (NL)

Inhabitants of Houtwijk, The Hague
Representative J.P.E. Baakman (legal adviser)

Versus

The Dutch government
Representative Ministry of Foreign Affairs (NL)

RESPECTFULLY DECLARES:

Aforementioned clients, all living in The Hague (The Netherlands), hereby authorise me to represent them in the proceedings before the European Commission of Human Rights, and in any subsequent proceedings under the European Commission of Human Rights, concerning my application introduced under Art. 25 of the Convention against the Netherlands.

Aforementioned clients all feel aggrieved at the decree of the justice department of the Council of State dated 14th January 2009, allocated case number 200800497/1. It concerns the decree of the supreme national Authorities, in the case of the appeal by plaintiffs to the application of respecting working of, amongst others, art. 8 of the ECRM to stay safeguarded from compulsory exposure to non-ionizing radiation (electromagnetic radiation/fields), both outside and inside, and where the appeal to application Art. 174 par. 2 EG was not honored. Through these proceedings, plaintiffs want to lodge a complaint against The Netherlands because of violation of the Convention.

The Dutch government as well as the justice department of the Council of State (the aforementioned department does not belong to the judicature of the Netherlands) are guided by, amongst others, the Health Council (commission electromagnetic fields). Aforementioned Health Council does not make her own investigations but advises/informs the Dutch government after reading the investigation reports as selected by the Health Council. The criteria for the selection is not known to the plaintiffs. In the proceedings which have been laid before your Court and Commission, a summary will be given regarding the combination of the members of the Commission Electromagnetic Fields of the Health Council, regarding the literature as studied by this Commission and regarding the non studied literature as far as known to the plaintiffs.

Plaintiffs will request the Dutch and Belgian organizations Stopumts (The Netherlands) and Restrict radiation (Belgium) to release their files after which these will be brought before the registry as procedural documents through the list of documents.

Dutch and foreign scientists will submit further production in accordance with my clients' request.

To the opinion of plaintiffs, the justice department of the Council of State is not competent with regard to the health risks and substantive law.

Though the aforementioned department has appointed a so-called expert (STAB Dutch abbreviation = Consultancy Administrative Law Foundation), it has not turned out to be, to the opinion of plaintiffs, that this expert is competent enough to give supportive counsel to aforementioned department or to investigate whether no incorrect premises underlie the advising.

The STAB report states that it has turned out to be, from worldwide investigations into effects of radio frequent electromagnetic fields which are applicable to this situation because of the frequency of digital broadcasting, that radiofrequent electromagnetic fields/radiation can be harmful to one's health. At these investigations, distinction will be made between thermal effects, namely heating (up), and biological effects of induced current, namely stimulating muscles and nerves by electric current.

STAB continues by stating that, as far as the long term is concerned, the conclusion of investigations is that there is no evidence that radio frequent electromagnetic fields will cause cancer or any other long-term effects.

Aforementioned report will be filed as procedural document.

Grounds for appeal

The justice department of the Council of State of EU-member state The Netherlands does not mention which examinations have been consulted by STAB. Officially, this should have been done, yet appeal in cassation against the judgment of the justice department of the Council of State is not possible. The financial interests of the Dutch government are great.

Plaintiffs therefore conclude a violation of art. 6 of the European Convention of Human Rights validated/ratified by the Dutch government (The violations of the convention will be filed in (in Dutch and in only if necessary in) English on forms to be handed by your Court within the time stipulated by your Court).

When making a decision on the decree contested by the plaintiffs (the Dutch applicable law is The Environmental Management Act), The Dutch government has been guided by aforementioned Health Council (publication no. 1997/01) and the Recommendation of the Council of the European Union dated 12th July 1999, no. 1999/519/EG re constriction/limitation of the exposure of the people to electromagnetic fields from 0 Hz – 300 GHz.

Both aforementioned advisory report of the Health Council and aforementioned recommendation have no force of law. A possible appeal of the Dutch government to the authoritative functioning of the findings of the ICNIRP (International Commission on Non-Ionizing Radiation Protection) should be refused because, next to the fact that it is unknown which doctors have participated in the realization the findings of the ICNIRP, plaintiffs also state that the ICNIRP is a private organization/company which is not responsible to any government of a EU-member state.

The Dutch government in this case the justice department of the Council of State does not at all investigate the medical-professional level and the legal status of the ICNIRP since the 1990,s.

Adding the fact that the WRO (Town Planning Law) and the appropriate Administrative Law give no opportunity for Dutch citizens seeking justice to have health risks to be considered as grounds for appeal, through which violation of art. 13 ECRM occurs (no efficient plea).

The appeal procedure(s) with regard to the judging state councils of the justice department of the Council of State (a completed education Dutch Law is not obligatory for an appointment) is not sufficiently warranted: an adequate court procedure is not present. In the proceedings before your Court plaintiffs will further make known the effects of tests of reasonability within the Dutch Administrative Law System. The Netherlands have not sufficiently amended acts after the Decree Benthem vs The Netherlands and the case concerning the Council of State of Luxembourg.

The conclusion of the above should be that the implementation process to ECHR law was improperly done, no fair trial has taken place, that the decision-making with regard to the decree of the supreme national authorities is not based on an independent and impartial legal authority, while a sufficiently warranted court procedure is not open (has never been open).

In many ways – as already indicated briefly – plaintiffs have not had a fair trial.

For this reason plaintiffs apply to your Court with the respectful request to deal with their complaint and to judge their complaints well-grounded, to order the Dutch government to undo the violation(s) of the convention with the provision that, in case complaints are judged well-grounded, a fair settlement will be given to the plaintiffs by the Dutch government under art. 50 ECRM.

In confirmation of the aforementioned and awaiting allocation of case number, signing with due respect,

Yours sincerely,

Your obliging,

J.P.E. Baakman
(Counselor)

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