order

COURT OF APPEAL OF AMSTERDAM

Civil and Tax Law Division

Case No.: 200.360.223/01	Court case and petition number: C/17/199273 / HA RK 25-17

Decision of the Civil Chamber of April 9, 2026

concerning

1.
residing in Leeuwarden,
2.
residing in Brunssum,
3.
residing in Leeuwarden,
appellants,
attorney: P.W.H. Stassen, Esq., of

against

1. Jaap Tamino VAN DISSEL,
residing in
2. Maria Petronella Gerarda KOOPMANS,
residing at
3. Mark RUTTE,
residing in (Belgium),
4. Sigrid Agnes Maria KAAG,
residing in
5. Hugo Mattheüs DE JONGE,
residing in
6. Ernst Johan KUIPERS,
residing in (Malaysia),
7. Diederik Antonius Maria Paulus Johannes GOMMERS,
residing in
8. Wopke Bastiaan HOEKSTRA,
residing in the municipality of Ede,
9. Cornelia VAN NIEUWENHUIZEN,
residing at a secret address,
10. Feike SIJBESMA,
residing in
11. THE STATE OF THE NETHERLANDS,
with its seat in The Hague,
12. Albert BOURLA,
residing in (United States of America),
13. Giselle Jacqueline Marie-Thérèse VAN CANN,
residing in
14. William Henry Bill GATES III,
residing in (United States of America),

15. Agnes Catharina VAN DER VOORT-KANT,
electing domicile in Amsterdam,
16. Everhardus Ite HOFSTRA,
residing in the municipality of Leeuwarden,
17. Paul Edwin JANSEN,
residing in
Respondents,
Attorney for Respondents 1 through 11 and 16: Mr. R.W. Veldhuis of The Hague,
Attorney for Respondent 12: Mr. D.C. Roessingh of Amsterdam,
counsel for respondents 13 and 17: Mr. P.A. Lichtendahl of Amsterdam,
counsel for respondent 14: Mr. W. Heemskerk of The Hague,
counsel for respondent 15: Mr. A.H. Ekker of Amsterdam.

The appellants are hereinafter referred to as (and collectively: et al.).
Respondents are hereinafter referred to as Van Dissel, Koopmans, Rutte, Kaag, De Jonge, Kuipers,
Gommers, Hoekstra, Van Nieuwenhuizen, Sijbesma, Van Nieuwenhuizen, the State, Bourla, Van Cann, Gates, Van der Voort-Kant, Hofstra, and Jansen (and collectively: Van Dissel et al.).
Respondents 1 through 11 and 16 are hereinafter also referred to as: the State et al.

1. Summary of the case

et al. have filed an appeal against a ruling by the District Court denying their request to hear experts they had proposed as part of preliminary evidence-taking. This was done despite the prohibition on legal remedies under Article 200 of the Code of Civil Procedure. Since c.s. did not request leave from the court to allow an appeal, c.s. can only be heard on appeal if there is a ground for setting aside the prohibition. No such ground exists, so c.s. are declared inadmissible in their appeal.

2. The appeal proceedings

The defendants filed a notice of appeal, with five exhibits, received by the clerk's office of the Arnhem-Leeuwarden Court of Appeal on September 15, 2025, appealing the decision rendered by the District Court of Northern Netherlands on August 20, 2025, under the aforementioned case and petition numbers (hereinafter: the contested decision).

By order of October 9, 2025, the Arnhem-Leeuwarden Court of Appeal referred the case to this court for further consideration.

Upon request, the respondents informed the Court of Appeal by notice dated December 1, 2025, that no leave had been sought from the District Court to file an appeal.

By notice dated December 3, 2025, the Court of Appeal informed the parties that a decision must first be made on the admissibility of the plaintiffs and the grounds for setting aside the judgment invoked by them.

On January 14, 2026, the Court of Appeal's registry received the statements of defense (regarding admissibility and grounds for setting aside) from Bourla, Van Cann, and Jansen, and Van der Voort-Kant. On January 16, 2026, the Court of Appeal's registry received the statement of defense (regarding admissibility and grounds for setting aside) from the State et al.

The parties presented their positions on admissibility and grounds for setting aside the judgment during the oral hearing on March 9, 2026, with the State et al. represented by Mr. Stassen, as mentioned above, and the State et al. represented by Mr. M.E.A. Möhring, attorney at law in The Hague, both on the basis of submitted written submissions. The attorneys for the other respondents stated that they concur with the written submissions of Mr. Möhring.

The judgment is scheduled for today.

3. First Instance

3.1. In the first instance, the defendants requested—in summary—that the court issue an order directing that a hearing be held at which the experts named by the defendants may be questioned regarding the questions set forth in the petition.

3.2. The court rejected the plaintiffs' request and ordered them to pay the litigation costs incurred by Van Dissel et al.

4. Assessment

4.1. The plaintiffs have argued that the court of appeals should set aside the contested order and—with immediate effect—grant their request at first instance, ordering Van Dissel et al. to pay the costs of the proceedings in both instances, including subsequent costs and interest. The plaintiffs have raised six grounds of appeal to this effect. In addition, the plaintiffs have requested, by way of a preliminary injunction, that the experts they have appointed be permitted to present their opinions in this case before the court of appeals.

4.2. All respondents have moved to dismiss the appeal filed by et al. as inadmissible, or alternatively to deny the request. With the exception of Gates, the respondents have requested that et al. be ordered—with immediate enforceability—to pay the costs of the appeal proceedings (jointly and severally).

4.3. The request by the plaintiffs to hear expert witnesses concerns a request for preliminary evidence-taking as referred to in Articles 196 et seq. of the Code of Civil Procedure. Pursuant to Article 200(2) of the Code of Civil Procedure, no appeal is available against the decision on this request, unless the court determines otherwise. In their motion, c.s. did not ask the court to allow an appeal. Nor did they do so during the hearing of the motion before the court, nor after the decision. The court did not rule on the question of whether or not an appeal should be permitted. Nor was the court obligated to address that question on its own initiative, nor was it required to provide reasons for not making an exception to the prohibition on legal remedies.

4.4. Since the court did not rule that an appeal may be filed against its decision, the plaintiffs' appeal is inadmissible due to the prohibition on legal remedies under Article 200 of the Code of Civil Procedure. Only if there were grounds for an exception could the defendants' appeal be admissible notwithstanding Article 200 of the Code of Civil Procedure. Grounds for an exception exist if the court, outside the scope of the

relevant provision, has wrongfully excluded it from application, or has disregarded a fundamental legal principle in the handling of the case to such an extent that the case cannot be said to have been handled fairly and impartially. The arguments put forward by the plaintiffs relate to this last ground for setting aside the judgment. It has not been alleged or shown that the court exceeded the scope of the regulation or wrongfully failed to apply it.

4.5. The position of the defendants that the court hearing was not public and that the court violated Article 6 of the ECHR by closing the doors lacks a factual basis. After all, the court did not close the doors. The hearing took place in public; this is also evident from the audio recording of the hearing provided by the court to the parties. The court's decision—in line with the revised press guidelines of the Judiciary effective June 1, 2025—to allow only accredited press to take photographs and make audio and video recordings does not constitute a violation of Article 6 of the ECHR either. The hearing was also accessible to non-accredited journalists, and furthermore, the court provided the parties with an anonymized audio recording of the hearing for the benefit of the non-accredited press. The right to a fair and public hearing was therefore not compromised at any time. The fact that part of the large crowd that gathered did not have access to the courtroom, apparently because it was full, does not alter this. The proceedings at the hearing therefore do not constitute grounds for setting aside the judgment.

4.6. The plaintiffs further argued that the court violated the principle of adversarial proceedings by ruling on the request by non-accredited press to film the hearing before their attorney had an opportunity to respond. The plaintiffs lose sight of the fact that the principle of the right to be heard (within the meaning of Article 19 of the Code of Civil Procedure and Article 6 of the ECHR) relates to the (substantive) debate in which they are involved. The request by non-accredited journalists to take images falls outside this scope and concerns a decision regarding the orderly conduct of the hearing. The (presiding judge of the) court has the authority to make such procedural decisions, regardless of the parties' views. Therefore, in line with the revised press guidelines of the Judiciary, the court (or its presiding judge) was entitled to prohibit non-accredited press from taking photographs or making audio or video recordings. This has nothing to do with censorship, as the hearing was public and the journalists in question were able to be present and, if they so desired, report on the hearing. Nor is there any violation of the right to be heard, so that no grounds for waiving the prohibition on legal remedies under Article 200 of the Code of Civil Procedure can be found here either.

4.7. The plaintiffs have not invoked any other ground for derogation. They have, however, extensively argued that the prohibition on legal remedies should be set aside in this case due to the special importance of their claim and the context of the case. The importance or context of a case, however, cannot in itself constitute grounds for derogation, nor can it lower the threshold for derogation. The Supreme Court's case law on exceptions limits the grounds for exception to fundamental violations of the law, which is not the case here. An alleged significant interest—whether social, financial, or otherwise—does not, however, necessitate an exception to the prohibition on legal remedies. Nor does the alleged violation of Article 21 of the Code of Civil Procedure, whatever the merits of that claim may be, suffice to override the prohibition on legal remedies. That prohibition is based on a legislative balancing of interests; the legislature has also provided for an exception to that prohibition by offering the possibility of filing a request for an appeal. The interests and/or alleged violation of Article 21 of the Code of Civil Procedure cited by the plaintiffs could have formed the basis for such a request, but not for waiving the prohibition.

4.8. Although it cannot lead to a waiver of the prohibition on legal remedies either, the Court of Appeal further notes that the position of the appellants set forth in the general ground of appeal—namely, that the District Court wrongly classified the experts they proposed as party-appointed experts—is incorrect. Leaving aside the fact that the defendants themselves—correctly—designated the experts as party-appointed experts in the initial petition of March 7, 2025, these are also experts proposed by the defendants. The designation “party-appointed experts” merely clarifies the distinction from court-appointed experts appointed by the court or the court of appeal. The term “party-appointed experts” says nothing about partiality or independence. After all, every expert may be expected to perform his or her duties impartially and independently. The objection raised by the respondents against this designation by the court is therefore unfounded and does not lead to a different assessment of the admissibility of the respondents’ appeal.

4.9. Since there are no grounds for waiving the prohibition on further legal remedies under Article 200 of the Code of Civil Procedure, the appellants’ appeal is inadmissible. The remaining grounds of appeal and the request
for provisional relief therefore need not be discussed further. At the hearing,
the appellants raised the issue that, despite the summons to the hearing, none of the respondents appeared in person. The Court of Appeal sees no reason to attach any consequences to this.
The parties are free to choose their own litigation strategy. Following the summons for the hearing, the court asked the attorneys which of the parties (whether or not via video link)
would wish to be present at the hearing. If prior communications to the parties had already given a different
impression, the parties were thereby offered the opportunity, as is customary in petition proceedings such as these,
to appear only through their attorneys.

4.10. c.s. have been unsuccessful in the appeal and will therefore be ordered to pay the costs of the appeal proceedings to the extent claimed by Van Dessel c.s. The court sets the attorneys’ fees at €2,580 (2 points at €1,290 each (Rate II)).

5. Decision

The Court of Appeal:

5.1. declares the appeal of c.s. inadmissible;

5.2. orders c.s. to pay the costs of the appeal proceedings, to date on the part of:

the State et al. are ordered to pay €373 in court fees, €2,580 in attorney’s fees, and €178.00 in post-judgment fees, plus €92.00 in post-judgment fees and the costs of service of process in the event that this order is served, as well as statutory interest, if the costs order is not paid within fourteen days of this decision or of the due date of the subsequent costs;

Van Cann and Jansen: set at €373 in court fees, €2,580 in attorney’s fees, and €178.00 for post-judgment fees, plus €92.00 for post-judgment fees and the costs of the writ of service in the event this decision is served, as well as to be increased by statutory interest if the costs order is not paid within fourteen days of this decision or of the subsequent costs becoming due;

- Van der Voort-Kant: €373 in court fees and €2,580 in attorney's fees, plus statutory interest if not paid within fourteen days of this decision;

- Bourla: set at €373 in court fees and €2,580 in attorney's fees, plus statutory interest if not paid within fourteen days of this order

5.3. declare the orders under 5.2 enforceable immediately.

This order was issued by Justices M.C. Bosch, D. Kingma, and P.F.G.T. Hofmeijer-Rutten and pronounced in open court by the presiding judge on April 9, 2026.

M.C. Bosch, D. Kingma en P.F.G.T. Hofmeijer-Rutte gesproken op 9 april 2026.