

Supreme Court overturns appeal verdict of Eduard Braam

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THE HAGUE - The Supreme Court has adopted the advice of the Advocate General at the Supreme Court in the Braam case and annulled the appeal verdict of the Joint Court of Justice in Curaçao in the public interest. The case revolves around the interpretation of the Screening Act in Curaçao.

The case began when Eduard Braam, as a candidate-minister in 2021, was confronted with a 2002 ruling by the Court of Appeal in Amsterdam, which found him guilty in a sexual offense case but did not impose any punishment or measure. According to Braam, this meant that he could not be considered "convicted". Initially, this position was rejected by the court of first instance, but the Joint Court of Justice ruled on appeal that there was no conviction within the meaning of the Screening Act.

Karel Frielink, who requested the Advocate General last October to file cassation in the public interest, explained that upon reading the verdict, he immediately had doubts about its correctness. He could not find support in case law and literature for the judgment of the Joint Court of Justice. Therefore, he requested the Advocate General to submit this legal question to the Supreme Court.

The Advocate General accepted this request and argued that the premise of the Joint Court of Justice – that a suspect can only be considered convicted if a sentence is imposed – was incorrect. The Supreme Court has now affirmed this stance by annulling the appeal verdict.

While this ruling no longer affects the specific case of Eduard Braam and the Country of Curaçao, the legal consequences of the verdict of the Joint Court of Justice on July 7, 2023, between these parties remain valid. Braam can therefore become a minister. However, the Supreme Court's decision provides clarity for future cases where candidate-ministers are convicted without a sentence.

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