[DE] Cologne Regional Court on Inadmissibility of Legal Advice in Consumer Broadcasts

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In a judgment delivered on 23 December 1997, the Regional Court (Landgericht - LG) in Cologne ordered the television broadcaster RTL to refrain in future from acting in a legal advisory capacity in a broadcast on consumer affairs.

The broadcaster in question had been taken to court by the largest German association of lawyers on the grounds of unauthorised legal counselling. The complaint was basically that these broadcasts, in which the defendant acted on behalf of citizens, presenting their predicament or what they felt was ill treatment on the part of authorities or commercial undertakings, constituted the exercise of legal counselling activities. In the programme, in the course of which a lawyer appeared and gave information on the legal position, considerable emphasis was placed each time on the broadcaster's efforts to contact the party in question directly, using a recording of the conversation, in order to change or resolve the situation. The Court now finds, despite the involvement of a lawyer in the planning of the broadcast and a notice at the beginning of the disputed section, that the lawyer acting in the case had (also) been advising the defendant within the meaning of the Legal Counselling Act (Rechtsberatungsgesetze - RBerG). The professional handling of external legal matters required authorisation from the authorities in the Federal Republic of Germany, regardless of whether this was carried out as a principal or ancillary occupation, and whether or not any remuneration was involved (Section 1, para.1, sentence 1 of the RBerG). This requirement does not apply to the activities of lawyers. According to case-law, the act of dealing with external legal matters specifically includes any activity aimed directly at dealing with specific legal matters.

As the defendant uses a technique called the "pillory threat" (i.e. it attempts to influence the legal state of play by exerting pressure by reporting on a case on television with the resulting effect this has on the public), the LG finds that it is acting in a legal counselling capacity. The Act is also infringed by anyone who is understood by the clientele approached to be offering or advertising legal advice in individual cases. There is no doubt in the case at issue that this applies to the structure of the broadcast and the tenor of the presentation. The broadcast tended quite deliberately to give the overall impression that the successful outcome was achieved by the broadcaster and not the lawyer, whose dealings on behalf of the citizen in question are in no way specified. The professional nature of the legal counselling arose from the fact that there was an intention of repetition,

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as the defendant had already broadcast many broadcasts of this type and intended to continue doing so in future.

Urteil des Landgerichts Köln vom 23. Dezember 1997 -- Gesch.-Nr.: 31 O 601/97 -- nicht rechtskräftig

Decision of the Cologne Regional Court on 23 December 1997 - Case No 31 O 601/97 - not enforceable at law

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