

[DE] BGH confirms admissibility of naming a previously convicted former football manager in current reporting

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In its judgment of 16 December 2020, the Federal Court of Justice (*Bundesgerichtshof* - BGH) ruled (Case No. VI ZR 142/24) that identifying reporting in the press about a criminal conviction dating back several years may be permissible even after the probation period has expired and the conviction has been erased from the criminal record. The admissibility of such reporting requires a current reason for the reporting and a corresponding public interest in the information; this must outweigh the interest in resocialisation of the person concerned.

The decision was based on the following facts: in 2017, the former managing director of the football club Alemannia Aachen was given a suspended sentence and a fine for 39 counts of bankruptcy in connection with the club's insolvency. In order to secure the construction of a new stadium, he had transferred a total of EUR 750 000 from Alemannia Aachen to a stadium company that was already insolvent. A few years later, he worked in a responsible position for a bank specialising in debt financing in the sports sector. This personal matter was reported in the press; the name of the person concerned was mentioned, as was his conviction, and the question was also raised as to why a person convicted of bankruptcy was allowed to work for a bank. The person concerned subsequently took legal action against the press company and demanded that it cease and desist from the identifying text-based reporting.

The Federal Court of Justice confirmed that the reporting naming the plaintiff and his criminal conviction impaired the right to protection of his personality and his good reputation under Article 2(1) and Article 1(1) of the German Basic Law (*Grundgesetz* - GG) and under Article 8(1) of the European Convention on Human Rights (*Europäische Menschenrechtskonvention* - ECHR) because it publicised his misconduct and characterised him negatively in the eyes of the readers. However, the interference with the plaintiff's rights is not unlawful, as when weighing up his aforementioned rights against the defendant's right to freedom of expression and media freedom enshrined in Article 5(1) of the GG and Article 10 of the ECHR, the latter prevails.

The Regional Court and the Higher Regional Court of Frankfurt ruled in favour of the plaintiff and considered his moral rights, in particular his interest in

resocialisation, to be paramount. After the probation period and the redemption periods had expired, there was a kind of blocking effect against further identifying reporting.

The BGH has now overturned these decisions. Whether reporting on previous criminal offences is still covered by freedom of expression and media freedom depends on the individual case, according to established case law of the Federal Court of Justice. There is no general obligation to anonymise. True reporting can also be inadmissible if it stigmatises the person concerned in an unacceptable manner or has a pillorying effect. In the case of criminal offences, however, it must be taken into account that the perpetrator himself has triggered a public interest in information that could also justify naming him. It is true that the interest of a convicted person in not being confronted with their offence again increases with time. However, this does not result in an absolute "right to be forgotten". Decisive factors include the seriousness of the offence, the previous prominent position of the person concerned and the reason for the reporting.

In the present case, the fact that the person formerly responsible for the insolvency of a traditional club is now working for a financing credit institution and using his contacts in the football industry continues to be of general public interest. The expiry of the probationary period does not constitute a break that precludes reporting; it is merely one of several factors to be weighed up.

Whether the naming of a name was necessary for journalistic purposes or whether a more restrained presentation would have sufficed was ultimately not a legal but an editorial decision.

The balancing criteria mentioned by the BGH apply across all media. However, in this specific case it must be taken into account that identifying reporting in audiovisual media can give rise to an increased intensity of interference. For all forms of media, taking a fresh look at previous criminal offences requires a new factual cause in order to be permissible.

BGH, Urteil vom 16. Dezember 2025 - VI ZR 142/24 - OLG Frankfurt am Main

https://www.bundesgerichtshof.de/SharedDocs/Entscheidungen/DE/Zivilsenate/VI_Z/2024/VI_ZR_142-24.pdf?__blob=publicationFile&v=1

Federal Court of Justice, judgment of 16 December 2025 - VI ZR 142/24 - Higher Regional Court of Frankfurt am Main

