[DE] A princess protected - Federal Court on privacy

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On 19 December 1995, Princess Caroline of Monaco (plaintiff) won an action against the publishing house Burda (defendants) in the sixth Civil Chamber of the Federal Court.

The case was concerned with a photo feature published in the picture magazine, Freizeit-Revue , No. 30, on 22 July 1993. Under the heading, "The sweetest pictures of her romance with Vincent", this featured photographs of Princess Caroline and the actor Vincent Lindon in a garden cafe. Both obviously assumed that no one was watching them, and the pictures were taken from a considerable distance, using a telephoto lens.

The Federal Court ruled that the defendants must not publish these photographs of the plaintiff again, since they concerned her private life and so violated her strictly personal rights.

It was true that pictures of people in the public eye - to which category the Princess, as oldest daughter of the ruling Prince of Monaco, belonged - could in principle be circulated and published without their consent, but not when this conflicted with their justified interests (Section 23, para. 1 (1) and para. 2 of the Art Copyright Act). The plaintiff could invoke her right to respect for her private life, which derived from the general personality rights protected by Article 2 of the Basic Law. This right included the right to be alone, and people in the public eye were also entitled to avail of it.

Privacy deserving protection was not restricted to a person's home, but could extend to outside places which, although open to the public, were secluded. The decisive factor here was a person's withdrawing to a secluded place, where he or she clearly wished to be alone and, relying on that seclusion, behaved in a manner in which he or she would not have behaved in public. The publication of photographs, taken secretly or by surprise, of people in this situation was an unacceptable violation of their privacy.

In weighing up the material and other interests involved, the plaintiff's personality rights (Article 2 of the Basic Law) must in this case count for more than the public's interest in information (Article 5 of the Basic law), protected by freedom of the press. The photographs in question were mainly intended to gratify the readers' taste for sensation and curiosity concerning purely private aspects of the

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plaintiff's life, and their information value was, at most, slight. At the same time, the Chamber rejected the plaintiff's application for a legal ban on the publication of photographs showing her shopping, riding or eating in crowded restaurants, alone or with her children. In situations like this, well-known people must accept the publication of such photographs, even when these did not show them performing official functions, but were concerned with their private lives in the broader sense.

Urteil des BGH vom 19. Dezember 1995 - VI ZR 15/95 - 24 S.

Judgment of the Federal Court of 19 December 1995, VI ZR 15/95 -24 S.

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