[DE] Regional Court Prohibits RTL from Using Hidden Camera

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Anne Yliniva-Hoffmann
Institute of European Media Law (EMR), Saarbrücken/Brussels

In a judgment of 2 September 2009, the *Landgericht Düsseldorf* (Düsseldorf Regional Court) prohibited the television broadcaster RTL from shooting film footage using a hidden camera in the applicant's doctor's surgery, thus upholding the injunction issued by the lower court.

In the legal dispute concerned, RTL reporters had made sound and picture recordings at a doctor's surgery, filming a conversation between the doctor and a person whom he assumed to be a patient but who was actually a reporter. They also filmed the reception area and the staircase leading to the surgery. It was claimed that the intention of the report was to show how readily doctors prescribe strongly addictive (psychotropic) drugs. The applicant claimed that the secret filming had breached his personality rights, his right in his own image and the confidentiality of the spoken word (section 201 of the Criminal Code). Although RTL had implemented technical measures (blurring and voice distortion) to disguise his identity, these had been inadequate and he had been recognisable. One of his patients did indeed recognise him and he obtained an injunction against RTL prohibiting it from producing secret film footage in his surgery. RTL appealed against the decision.

The Regional Court has now confirmed the injunction, stating that the film footage in issue had breached the applicant's general personality rights, especially his right in his own image and the right to confidentiality with respect to his own words enshrined in Articles 2(1), 1(1) of the Basic Law and sections 823(1) and 823(2) of the Civil Code in conjunction with section 201 of the Criminal Code. It went on to say that this interference was not justified by weighing it against the freedom of the press enshrined in Article 5(1) of the Basic Law. Although this freedom enjoys comprehensive protection, including with regard to the procurement of information, and the instant case concerned a topical matter of general public interest, the television station's action had been disproportionate. The court saw no recognisable journalistic requirement for the secrecy of the recordings and for setting up a conversation between the doctor and his patient for the purpose of broadcasting it, stating that it would easily have been possible subsequently to re-enact the conversation by questioning the "patient".

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Urteil des LG Düsseldorf vom 2. September 2009 (Az: 12 O 273/09)

http://www.justiz.nrw.de/nrwe/lgs/duesseldorf/lg_duesseldorf/j2009/12_O_273_09urteil20090902.html

Judgment of the Düsseldorf Regional Court of 2 September 2009 (Case 12 O 273/09)

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