[DE] Media Reporting on Trial of Weather Presenter Continues to Occupy the Courts

IRIS 2012-1:1/44

Sebastian Schweda
Institute of European Media Law (EMR), Saarbrücken/Brussels

On 15 November 2011, the Oberlandesgericht Köln (Cologne Court of Appeal - OLG) delivered three further judgments in connection with media reporting on the trial of a well-known weather presenter. In these decisions, the court considered the relationship of press freedom to the personality rights of the individual concerned.

The Landgericht Köln (Cologne District Court - LG) had previously decided in several instances, the last on 9 November 2011 (Ref. 28 O 225/11, see IRIS 2012-1/19), that photographs showing the presenter in the prison exercise yard could not be disseminated by the defendant in the way complained about. The OLG endorsed this view in appeal proceedings (Ref. 15 U 62/11) against a judgment of the LG Köln of 16 March 2011 (Ref. 28 O 505/10). In their reasoning, the judges relied on an injunction issued by the OLG (Ref. 15 U 105/10) in which the photographer acting on behalf of the defendant in the instant case was prohibited from disseminating the pictures he took or from exhibiting them in public. The plaintiff, the court said, had been in a situation in which he could not expect to be disturbed by the press. That applied all the more as the plaintiff had been in an area that was inaccessible to the public and was to be regarded as part of the private sphere and the pictures had been produced surreptitiously. At the same time, there was no factual connection between the photographs and an as yet unknown event of public relevance. Taking into consideration the Federal Constitutional Court’s case law on the right to one’s own image in the case of reporting on well-known personalities (the Caroline of Hanover case, see IRIS 2008-6/6), the judges regarded the question of whether there was a sufficient connection with a current affairs event or whether the photo reportage merely served to satisfy an interest in eye-catching stories as a key criterion when weighing up press freedom against general personality rights.

In another case (Ref. 15 U 60/11), the OLG had to rule on the legality of the publication of an email from the plaintiff to a former girlfriend. Here, too, the court held that there had been a breach of general personality rights both as a result of the publication of the email extracts themselves and the actual contents quoted. Firstly, the publication could not be justified from the point of view of reporting on mere suspicions since the statements in the email about the plaintiff’s private conduct with women were likely to cast doubts on his “fundamental character

© European Audiovisual Observatory (Council of Europe) 2026

structure", which would result in the public remembering him as having a "deficient character". Moreover, the statements in the article complained about hardly made any connection to the actual criminal charge. Secondly, there was no public interest in the email being reported on simply because the plaintiff was a prominent news personality before the trial, since he had hitherto always kept his private life out of public view and, in particular, had never expressed his opinion in public on how relationships between men and women should be conducted. Freedom of reporting therefore had to give way to the plaintiff's general personality rights.

However, the weather presenter lost in a third legal action (Ref. 15 U 61/11) concerning reporting on the finding of a knife that, according to the article in issue, allegedly had his DNA on it. The OLG regarded the way in which the facts were presented as being within the limits of permissible reporting on suspicions and accordingly set aside the lower court's judgment to the contrary, stating that the article met the requirements applying in that context with regard to maintaining a duty of care. In particular, it did not improperly report in a prejudicial manner but merely suggested that the knife found was the decisive piece of evidence that now provided the prosecution with sufficient grounds for an indictment and said nothing about the future course and outcome of any criminal proceedings subsequently brought.

Urteil des OLG Köln vom 15. November 2011 (Az. 62/11)

http://www.justiz.nrw.de/nrwe/olgs/koeln/j2011/15_U_62_11_Urteil_20111115.html

Judgment of the OLG Köln of 15 November 2011 (Ref. 62/11)

Urteil des OLG Köln vom 15. November 2011 (Az. 60/11)

http://www.justiz.nrw.de/nrwe/olgs/koeln/j2011/15_U_60_11_Urteil_20111115.html

Judgment of the OLG Köln of 15 November 2011 (Ref. 60/11)

Urteil des OLG Köln vom 15. November 2011 (Az. 61/11)

http://www.justiz.nrw.de/nrwe/olgs/koeln/j2011/15_U_61_11_Urteil_20111115.html

Judgment of the OLG Köln of 15 November 2011 (Ref. 61/11)

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026