[DE] No Right to Photograph Photographer After All?

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In January 2012, the Landgericht Köln (Cologne District Court - LG) dealt again with the question of whether photographs of a press photographer who wanted to report on a criminal procedure against a weather presenter that had attracted huge media attention, and the publication of the pictures on the Internet by the defendant, were lawful. In the ruling, issued on 11 January 2012, the court granted the photographer an injunction against the distribution of four images in which he appeared, in so far as they were distributed in the manner described in the complaint.

In a separate case, the LG had decided, on 9 November 2011, that images showing a press photographer waiting in his car outside the weather presenter's house for an opportunity to take photographs could be published on the Internet (see IRIS 2012-1/19). On that occasion, the court had decided that publication was in the public interest, since it documented the media's treatment of famous people as a current event. Since the press photographer had been involved in reporting on the defendant which had "violated personality rights in many respects" and had only been photographed while carrying out his profession in his social environment, the court had considered his personality right as less important.

The outcome was different in the latest case: although the LG found that the reporting was in the public interest, it stressed that the content of the reporting was vital when weighing it against the press photographer's personality rights. The overall context in which the pictures were distributed was crucial. The photos had been published on the weather presenter's Twitter page, along with comments criticising the photographer's working methods. The LG ruled that the combination of the images and these comments, some of which it thought "bordered on slander" (the use of the terms "Pack" (rabble) and "lichtscheues Gesindel" (shady riffraff), for example), infringed the photographer's personality rights. It also took into account the fact that the photographer had previously been "completely unknown to the public" and had not been involved either in the media reporting of the aforementioned criminal case or in the related public debate. This distinguished the current case from the one that had been decided on 9 November 2011, as the court expressly pointed out it in the grounds for its decision.

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The LG referred to the fact that the pictures showed the plaintiff carrying out his profession and, therefore, only in his social environment. However, the freedom to gather information was also protected under the freedom of the press. This was, in principle, restricted if journalists thought they would be photographed while undertaking such research.

Urteil des LG Köln vom 11. Januar 2012 (Az. 28 O 627/11)

http://openjur.de/u/268037.html

Decision of the Cologne District Court of 11 January 2012 (case no. 28 O 627/11)

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