[DE] Koblenz Appeal Court accepts claim that intimate images should be deleted after relationship ends

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In a decision of 20 May 2014, which is not yet final and has not been published in full, the Oberlandesgericht Koblenz (Koblenz Appeal Court - OLG) ruled that a partner's consent to the storage of intimate photographs and film footage is limited to the duration of the relationship (case no. 3 U 1288/13).

During a relationship between the plaintiff and the defendant, who is a photographer, a large number of photographs of the plaintiff were taken with her consent. They included intimate pictures, some of which the plaintiff had taken herself and given to the defendant in digitised form.

After the relationship ended, the plaintiff demanded that the defendant should not be allowed to make the images accessible to third parties or the public. The defendant accepted this request. He was also ordered by the Landgericht Koblenz (Koblenz District Court - LG) to delete the electronic copies of intimate images of the plaintiff that were in his possession. The LG Koblenz refused the plaintiff's additional request that the defendant be obliged to delete all images in which she appeared.

Both parties appealed against the first-instance decision.

The OLG Koblenz confirmed all elements of the LG's decision. Firstly, it concluded that photographing and filming someone with their consent during a relationship did not constitute an illegal invasion of the person's general privacy rights. However, where intimate images were concerned, the plaintiff's privacy rights needed to be weighed against the defendant's right of ownership. In principle, the plaintiff had consented to the creation and use of the images. However, if the images were intimate, this consent was valid only during the relationship. All intimate digital images should therefore be completely deleted after the end of the relationship.

The OLG also held that photographs taken during parties, celebrations and holidays did not invade the plaintiff's privacy, so the defendant was permitted to keep these images permanently. In contrast to the intimate photographs, the plaintiff's general privacy rights did not outweigh the defendant's right of ownership in these cases. The defendant could not therefore be required to delete these images.

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Pressemitteilung des OLG Koblenz vom 21. Mai 2014

http://www.mjv.rlp.de/icc/justiz/nav/634/broker.jsp?uMen=634b82da-d698-11d4-a73d-0050045687ab&uCon=98c606e5-372d-1641-7c20-f6c3077fe9e3&uTem=aaaaaaaa-aaaa-aaaa-aaaa-000000000042

Koblenz Appeal Court press release of 21 May 2014

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