[DE] Frankfurt Appeal Court rules that darts or skat club screening is not public

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Gianna Iacino
Legal expert

In a decision of 20 January 2015, the OLG Frankfurt (Frankfurt Court of Appeal - case no. 11 U 95/14) ruled that showing a football broadcast in a pub during normal opening times does not constitute a public screening if the programme is only made accessible to the members of a darts or skat club, to the exclusion of all third parties.

Pay TV broadcaster Sky charges different subscription fees for private individuals and pubs. Only customers who pay the more expensive pub fee are allowed to show the programme in public. A pub manager had subscribed to the channel as a private customer, but had shown football programmes in his pub during normal opening hours. During the football broadcasts, the only people in the pub had been members of darts and skat clubs, who were also friends and acquaintances of the pub manager. There had been no more than 20 of them. Non-members had been asked to leave the pub while the football match was being shown. Sky instituted legal proceedings against the pub manager, claiming damages under the licence analogy method.

The OLG Frankfurt rejected the application and found that the programme had not been shown in public for the purposes of Article 15(3) of the Urheberrechtsgesetz (Copyright Act - UrhG), since the members of the darts and skat clubs were not the general public under the meaning of this provision. It was not necessary for the people present to be particularly well acquainted with each other. Furthermore, the concept of the 'public' included a certain minimum threshold and did not cover small groups of people. A gathering of up to 20 people could therefore not be considered part of the general public.

Urteil vom OLG Frankfurt (11. Zivilsenat) vom 20. Januar 2015 (Az. 11 U 95/14)

http://www.lareda.hessenrecht.hessen.de/jportal/portal/t/s15/page/bslaredaprod.psml?&doc.id=KORE204702015%3Ajuris-r01&showdoccase=1&doc.part=L

Ruling of the 11th civil chamber of the Frankfurt Court of Appeal of 20 January 2015 (case no. 11 U 95/14)

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