[DE] Spiegel TV granted injunction against ARD magazine show 'Panorama'

IRIS 2017-9:1/10

Tobias Raab
Stopp Pick & Kallenborn, Saarbrücken

According to media reports, the LG Hamburg (Hamburg District Court) granted an injunction on 7 August 2017, preventing ARD's Panorama magazine programme from rebroadcasting footage that had been exclusively shown in a G20 documentary by Spiegel TV (case no. 308 O 287/17).

The case concerned a report entitled 'Ein verhängnisvoller Abend' (A fateful evening), broadcast during an episode of NDR's Panorama magazine programme devoted to police violence during the G20 summit. The report had contained footage previously broadcast and exclusively owned by Spiegel TV. NDR had shown the footage even though a prior request for permission to do so had been expressly rejected by Spiegel TV. Spiegel TV had therefore applied for an injunction, which was granted by the LG Hamburg, preventing Panorama from showing the disputed footage again.

The court therefore rejected NDR's claim to the right of citation, which is enshrined in copyright law and makes provision for works to be quoted without permission as long as they have previously been published and are included solely for the purpose of explaining independent content. Firstly, the LG Hamburg explained that existing case law on the right of citation was often used as a front by journalists, since it provided considerable scope for works to be cited. It added that Panorama's reporting would not have been impeded if the disputed footage had not been shown.

The court also held that the defendant had failed to adequately explain why it had needed to include the disputed footage in its report. It referred to mobile phone footage of the same event. The applicant, Spiegel TV, had explained during the proceedings that it had planned to use the disputed material again, which was why it had rejected the defendant's request. In the court's view, the applicant's right to exclusive use of the footage therefore outweighed NDR's right to show it. The court also took into account the fact that Spiegel TV had released other material and had therefore not been seeking to monopolise its content as a matter of principle.

The court explained that further written grounds for its decision would be provided in a few days' time. NDR said that it would examine these grounds before deciding whether to appeal.

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