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Personality rights of a politician – new ruling by Austrian Supreme Court

Rainer Schultes (Geistwert) · Wednesday, September 20th, 2017

Can the use of “KHG” infringe the name rights of “Karl-Heinz Grasser”?

Former Austrian Minister of Finance Karl-Heinz Grasser is widely known as KHG. After his term, which ended in 2007, he was accused of bribery in various cases. The accusations and investigations gained great public attention.

In 2015, the defendants, a journalist who publishes books and articles about bribery, and a game producer, published a party game – similar to the iconic “Monopoly”-game – under the name “KHG” as an abbreviation of “KORRUPTHE HABEN GELD” (i.e. “corrupt people have the money”). In quite a satirical way, the game dealt with 35 corruption cases and claimed to have the goal of creating awareness for the problems associated with bribery. In one of the cases, Karl Heinz Grasser was explicitly named.

KHG sued both the journalist and the producer of the game for the cessation of further use of ‘KHG’ in connection with the game, basing this on his personal and name rights.

The Austrian Supreme Court (OGH) confirmed the lower instances’ findings that KHG’s law suit was to be dismissed (docket no [4Ob209/16p](#)). The courts found that the personal rights of the plaintiff had to be balanced against the freedom of arts and the freedom of opinion. In favour of the defendants played the fact that the plaintiff, who was well known, was subject to bribery/corruption-related investigations for many years. Satire, which is regularly characterised by exaggeration and distortion of reality, was accepted as a form of socio-political debate aiming to provoke. Prominent people have to accept a higher degree of satiric criticism than people who are unknown to the public. The balance of interests between the personal rights such as the reputation of the name holder and the fundamental right of freedom of opinion/arts allowed the use of the plaintiff’s name by the defendants in its entirety. The Supreme Court therefore did not have to decide the difficult question, whether “KHG” is to be qualified as an abbreviated use of the name “Karl-Heinz Grasser”. Even assuming that this was the case, the personal rights of Karl Heinz Grasser were not infringed.

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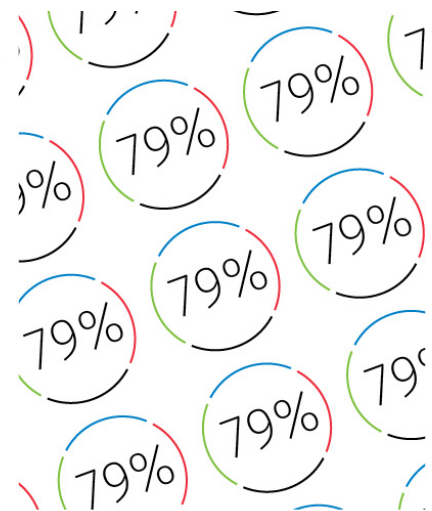
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