EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

DECISION

Application no. 46527/22
RTL TELEVISION GMBH
against Germany

The European Court of Human Rights (Fourth Section), sitting on 7 October 2025 as a Committee composed of:

Ana Maria Guerra Martins*, President*,
Anja Seibert-Fohr,
András Jakab*, judges*,
and Veronika Kotek, *Acting Deputy Section Registrar,*

Having regard to:

the application (no. 46527/22) against the Federal Republic of Germany lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 27 September 2022 by RTL Television GmbH, a limited liability company with its registered office in Cologne ("the applicant company"), which was represented by Mr E. Schuhmacher, a lawyer practising in Cologne;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The issue in the present case is whether a court order banning the applicant company from disseminating and publicly broadcasting film footage which had been secretly recorded by a journalist on another company's premises and which showed that company's logistics system to the public amounted to a violation of Article 10 of the Convention.

2. In 2014 a journalist, L., entered into a contract of employment with the Z. company with the hidden intention of carrying out a secret undercover investigation in one of Z.'s logistics warehouses. At that time, the Z. company was the leading online fashion retailer in Europe and had presented itself as a "responsible employer" in previous journalistic reports, which had also included film footage of its logistics warehouses. L. worked at one of the Z. company's logistics warehouses for a period of approximately three

months, during which she used a hidden camera to record video footage of the premises.

3. The applicant company operates one of the most-viewed private TV channels in Germany. On 14 April 2014 it broadcast a film entitled "The Big Z. Report" with a running time of about twenty-five minutes. The film featured, *inter alia*, a number of short scenes which L. had filmed with the hidden camera. Those scenes mainly showed the logistics system in the warehouse and lasted a few minutes only. For the most part, the film featured interviews with L., other former employees of the Z. company, and a legal expert. The film's audio commentary and the interviews alleged, *inter alia*, that the applicable labour and data-protection laws had been systematically violated in the logistics warehouses of the Z. company.

4. The Z. company brought criminal charges against L. for disclosing its trade secrets; however, the proceedings were terminated because the public prosecutor could not establish sufficient grounds to bring charges. In civil proceedings, the Z. company sought an injunction with the aim of prohibiting the applicant company from further broadcasting or distributing the video footage which L. had secretly filmed with the hidden camera and which showed the logistics system. The request for an injunction concerned only the secretly recorded footage but not the remaining parts of the documentary.

5. On 15 July 2016 the Hamburg Regional Court granted the civil injunction, finding that L. had deliberately deceived the Z. company into hiring her with the aim of secretly filming the company's premises for a television report. The publication and dissemination of the footage had interfered with the Z. company's personality rights, in that the footage had been produced without that company's consent and had been filmed on its private premises. According to the Regional Court, the interference was unlawful because the Z. company's interest in preventing publication of the secretly recorded footage outweighed the applicant company's interests.

6. On 29 January 2019 the Hamburg Court of Appeal upheld that decision. It emphasised that the right to freedom of expression entailed the right to publish information which had been illegally obtained. However, when balancing the competing interests, the Court of Appeal found that the Z. company's personality rights prevailed. It mainly considered that the published material had been procured in an unlawful way with the intention that it would be used against the very company which had been betrayed. The public importance of that information did not outweigh the disadvantage suffered by the injured party because the film footage revealed parts of the Z. company's logistics system to the public and to its competitors but did not support the allegations raised by the applicant company against the Z. company. The Court of Appeal held that it could not be established that the Z. company had systematically violated the relevant laws on labour and data protection. In any event, it had not been necessary to broadcast the secretly recorded footage since the applicant company could have relied on

other means to criticise the working conditions at the Z. company, such as interviews and authorised film footage.

7. On 2 June 2022 the Federal Constitutional Court declined to accept for adjudication a constitutional complaint by the applicant company, without providing reasons (no. 1 BvR 389/20). The decision was served on the applicant company's lawyer on 22 June 2022.

8. Relying on Article 10 of the Convention, the applicant company argued that the domestic courts had failed to balance the interests in question properly. In particular, it submitted that they had not attached sufficient importance to the fact that there was a significant public interest in the allegedly poor working conditions at the Z. company and that the Z. company had itself previously distributed film footage of its logistics warehouses.

THE COURT'S ASSESSMENT

9. The Court finds that the court order banning the publication of the secretly recorded film footage amounted to an interference with the applicant company's right to freedom of expression under Article 10 of the Convention. It is satisfied that the interference, based on Article 823 § 1 and Article 1004 § 1 of the Civil Code, was "prescribed by law" and pursued a legitimate aim – namely the protection of the reputation and rights of others – within the meaning of Article 10 § 2 of the Convention (see also *Bild GmbH & Co. KG v. Germany*, no. 9602/18, § 25, 31 October 2023).

10. As to whether the interference complained of was "necessary in a democratic society", the general principles applicable to cases in which the right to freedom of expression under Article 10 of the Convention has to be balanced against the right to respect for private life under Article 8 of the Convention were set out in *Axel Springer AG v. Germany* [GC], no. 39954/08, §§ 78-95, 7 February 2012, and *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, §§ 95-113, ECHR 2012. Notably, the Court identified a number of criteria, including: whether the publication contributed to a debate of public interest; how well known the person concerned was; the prior conduct of the person concerned; the method of obtaining the information and its veracity; and the content, form and consequences of the publication. Where it examines an application lodged under Article 10, the Court will also examine the gravity of the penalty imposed on the journalists or publishers. Where the balancing exercise has been undertaken by the national authorities in conformity with the criteria laid down in the Court's case-law, the Court would require strong reasons to substitute its view for that of the domestic courts (see *Couderc and Hachette Filipacchi Associés v. France* [GC], no. 40454/07, §§ 92-93, ECHR 2015 (extracts)).

11. In the present case, the Court observes that the domestic courts explicitly acknowledged that the dissemination of the film footage – despite having been illegally obtained – was protected under the right to freedom of

expression and that there was a public interest in the working conditions at the Z. company, which was the leading online fashion retailer in Europe (see paragraphs 5 and 6 above). In this context, it should be pointed out that the court order only concerned the footage which had been filmed using a hidden camera on the Z. company's private premises and which had mainly shown the logistics system in the warehouse. It neither restricted the contents of the report as such, nor concerned the remaining parts of the documentary, including the critical commentary and the interviews.

12. The Court further observes that the domestic courts took into consideration the fact that the Z. company was the European market leader and had laid itself open to close scrutiny of its working conditions by presenting itself as a "responsible employer" in previous journalistic reports (see paragraph 2 above). Regarding the Z. company's prior conduct, the Court notes the domestic courts' findings that, while the logistics warehouses of the Z. company had been shown in previous journalistic films, that did not mean that the Z. company had to tolerate the dissemination of secretly filmed footage in relation to which it could not control which parts of the warehouse and the logistics systems were revealed to the public. In this context, the domestic courts also took into consideration the fact that the film footage showed the Z. company's private premises, including details of its IT-driven logistics systems, not only to the public but also to its competitors.

13. As far as the method of obtaining the information and its veracity are concerned, the Court observes that the domestic courts attached importance to the fact that the impugned footage had been produced by a journalist who had deliberately deceived the Z. company in order to secretly film the Z. company's private premises with the aim of using the footage against that company (see paragraph 2 above). While acknowledging that this did not deprive the applicant company of any protection under the right to freedom of expression, the domestic courts held that whether or not a journalist had acted in accordance with the tenets of responsible journalism had to be taken into account. They found that illegally obtained information should be published only where the "informational value" outweighed the gravity of the violation of the law which had been committed in order to obtain the information. In this connection, the Court notes that the domestic courts carefully and without any indication of arbitrariness examined the applicant company's allegations against the Z. company but found that they could not establish that the Z. company had violated the applicable laws on labour protection and data protection. While the film footage might have revealed that the working conditions were "worthy of criticism", no evidence was produced to support the applicant company's allegations that the Z. company had systematically violated the law.

14. The Court further notes that, as held by the domestic courts, it had not been necessary to deliberately deceive the Z. company and to make secret recordings in order to inform the public about the working conditions at the

Z. company's logistics warehouses. While acknowledging that the approach to covering a given subject was generally a matter of journalistic freedom, the domestic courts concluded that that freedom was not devoid of responsibilities. In particular, they took into account that the applicant company could have initiated a critical public debate on the working conditions at the Z. company by relying on other materials, such as interviews and authorised film footage.

15. Lastly, the Court finds it important that, although every sanction is capable of having a chilling effect (see, for illustrative purposes, *B.Z. Ullstein GmbH v. Germany* [Committee] (dec.), no. 43231/16, § 28, 22 September 2020), the court order in the present case was not a particularly broad restriction on reporting. The secret recordings accounted for only a small part of the film, and they mainly showed processes in the logistics warehouse in which there was little public interest but did not reveal any systematic irregularities. The court order merely banned the publication and dissemination of these secret recordings (see paragraphs 3 and 4 above). It did not concern the remaining part of the film, including the critical commentary and the interviews. Nor did it restrict any other reporting on the working conditions at the Z. company.

16. In the light of the above, the Court considers that the domestic courts struck a fair balance between the applicant company's right to freedom of expression and the other party's right to protection of its reputation and did not overstep their margin of appreciation. Accordingly, there are no strong reasons to substitute its view for that of the domestic courts.

17. It follows that the complaint is manifestly ill-founded and must be rejected as inadmissible in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 6 November 2025.

Veronika Kotek Acting Deputy Registrar	Ana Maria Guerra Martins President