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COURT OF APPEAL

Decision

File ref.:

3 Ws 406/11 - 1 Zs 1944/11
222 Js 1455/11

In the investigation proceedings against

Chancellor Dr. Angela Merkel et. al.

on the accusation of breach of faith

the 3rd Criminal Division of the Court of Appeal in
Berlin found on 10th August 2011:

The application of the organisation "Alliance for Democracy", represented by lawyer Simon G. Jakob, 69115 Heidelberg, Bergheimer Straße 49, for the court's decision against the verdict of the Berlin Public Prosecutor's Office of 5th July 2011, is rejected as impermissible.

Grounds:

The Berlin Public Prosecutor's Office, by its decision of 5th July 2011, rejected the complaint of the applicant, in which the applicant contested the discontinuation of the investigation proceedings instituted against the accused on the grounds of breach of faith. Its application for further legal consideration is impermissible.

The applicant is of the opinion that its "interests, which must be acknowledged under the penal code" as a taxpayer that tax funds should not be used for improper purposes, were infringed by a letter from the Chancellor, which she published in newspapers, periodicals and on the Internet.

The applicant is however not thereby entitled to make application for a legal decision. This would require that the applicant has suffered direct damages to his own legal assets as a result of the claimed offence (see Meyer-Goßner, StPO 54. Ed., § 172 Rdn. 9). This is not the case in the matter in question. Although the term 'injured party' may be interpreted broadly in an attempt to force criminal proceedings, this interpretation is limited by the legislative intention clearly apparent in the wording of the law and in the systematic context, to exclude popular proceedings by the use of the term, and to claim a personal effect on the applicant by the claimed offence over and above the normal bounds (see Graalman-Scheerer in Löwe-Rosenberg, StPO 26. Ed., § 172 Rdn. 50). It is therefore insufficient that the applicant is affected

by these actions simply to the same extent as any other citizen (see Meyer-Goßner, op. cit. Rdn. 10).

The applicant is also not entitled to make application because it is not apparent from the application submission that the organisation in question is a legally competent association which could legally authorise its representative. According to the website referred to by the organisation, it is a "loose association of friends", which works independently, inter-regionally and inter-denominationally to bring criminal prosecutions against offences committed by politics and the economy".

Libera

Schaaf

Grabbe