

AKTUELLE ENTWICKLUNGEN IM RDG – IN DUBIO PRO LIBERTATE?

RECHTSANWALT DR. FRANK R. REMMERTZ*

Der Beitrag gibt einen Überblick über die wichtigsten Entwicklungen im Bereich des Rechtsdienstleistungsrechts in den Jahren 2017 und 2018. Gegenstand der Darstellung sind Gesetzesreformen ebenso wie Rechtsprechung und bedeutende Entwicklungen wie Legal Tech und Law Clinics.

I. EINLEITUNG

Der Beitrag behandelt aktuelle Entwicklungen im Rechtsdienstleistungsgesetz (RDG) im Zeitraum 2017/2018.¹ Einer der Schwerpunkte ist nach wie vor die zunehmende Digitalisierung im Rechtsdienstleistungsmarkt. Aktuell ist besonders streitig, ob Anbieter von Plattformen zur Durchsetzung der „Mietpreisbremse“ sämtliche damit zusammenhängenden Ansprüche auf eine Inkassobefugnis stützen können. Hierzu gibt es bereits kontroverse Rechtsprechung und es zeichnet sich ab, dass sich erstmals der BGH damit befassen könnte. Zudem werden Stimmen nach einer Regulierung im RDG lauter. Ein weiterer Schwerpunkt im Jahr 2018 ist der Datenschutz. Die seit dem 25.5.2018 geltende Datenschutzgrundverordnung (DSGVO) hat zu einer erheblichen Nachfrage nach Datenschutzbeauftragten

und Generatoren für Datenschutzerklärungen geführt, die auch Fragen im RDG aufwerfen. Daneben gibt die aktuelle Rechtsprechung zu Syndikusrechtsanwälten Anlass, erneut deren Rechtsdienstleistungsbefugnisse zu beleuchten. Neue Rechtsprechung ist auch zu § 5 RDG im Kfz-Gewerbe ergangen und im Bereich der Legal Clinics werden die Grenzen der unentgeltlichen Steuerrechtsberatung ausgelotet.

II. LEGAL TECH

Im Rechtsdienstleistungsmarkt ist Legal Tech weiterhin das beherrschende Thema, das auch das RDG auf eine Belastungsprobe stellt.² Längst haben sich alternative Rechtsdienstleister, denen ein Verstoß gegen das RDG vorgeworfen wird, im Markt etabliert. Das im RDG verankerte Verbotsprinzip mit Erlaubnisvorbehalt wird damit insbesondere für standardisierbare Verbraucherfälle wie Flug- oder Bahngastentschädigungen, Ansprüche zur Durchsetzung der Mietpreisbremse oder gegen Bußgeldbescheide zunehmend in Frage gestellt.³

* Der Autor ist Rechtsanwalt in München und u.a. Vorsitzender des BRAK-Ausschusses RDG. Der Beitrag gibt ausschließlich die Ansicht des Autors wieder.

¹ Im Anschluss an BRAK-Mitb. 2017, 219.

² S. dazu jüngst Arns, ZIP 2018, 162.

³ S. Hoff zur Nationalen Konferenz der BRAK „Alte Thesen zur Zukunft der Anwaltschaft“ am 17.4.2018 in Berlin, <https://www.fds.de/recht/juristen/5/brak-konferenz-zur-anwaltschaft-legal-tech-mehrere-forderungen/>; Kallies, BRAK-Magazin 3/2018, 4. Abstrg. NJW-aktuell 49/2017, 7.

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