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Entscheidungsdatum: 16.01.2019
Aktenzeichen: 60 Ca 7170/18
Dokumenttyp: Urteil
Quelle: 
Normen: § 626 Abs 1 BGB, § 626 Abs 2 S 1 BGB, § 626 Abs 2 S 2 BGB
Zitiervorschlag: ArbG Berlin, Urteil vom 16. Januar 2019 – 60 Ca 7170/18 –, juris

Außerordentliche Kündigung - wichtiger Grund - Verächtlichmachung der Bundesrepublik Deutschland - Volkslehrer - YouTube-Kanal

Orientierungssatz

1. Die Negativprognose eines Arbeitgebers, dass sich ein abgestellter Lehrer, im Sinne des Grundgesetzes aufgrund seiner gesellschaftspolitischen Grundhaltung heraus, die ihm die Steuerung seines Verhaltens und es damit insgesamt unmöglich macht, sich zur freiheitlich-demokratischen Grundordnung zu bekennen und auf dieser Basis mit Schülerinnen und Schülern zu arbeiten, kann eine personenbedingte außerordentliche Kündigung rechtfertigen. (Rn.66)
2. Legt es der angestellte Lehrer mit hohem Engagement darauf an die Bundesrepublik Deutschland, das Grundgesetz und die Organe der Gewaltenteilung zu beschimpfen oder verächtlich zu machen, indem er beispielsweise in von ihm vorproduziertem Filmmaterial, welches er über einen YouTube-Kanal der Öffentlichkeit zugänglich macht, eine immerwährende "jüdische Weltverschwörung" propagiert oder durch positive Kommentierung von Interviews mit verurteilten Holocaustleugnern den Eindruck erweckt, sich deren Ansichten zu eigen zu machen, fehlt diesem Lehrer die persönliche Eignung Beschäftigter des öffentlichen Dienstes zu sein. (Rn.69)
3. Die Kündigungserklärungsfrist des § 626 Abs 2 S 1 und 2 BGB verliert ihre rechtliche Relevanz, wenn es sich bei dem wichtigen Kündigungsgrund in der Person des Arbeitnehmers um einen Tatbestand von Dauer handelt, bei dem sich die Unzumutbarkeit des Fortbestandes des Arbeitsverhältnisses fortwährend aufs Neue manifestiert. (Rn.113)
4. Berufung eingelegt beim Landesarbeitsgericht Berlin-Brandenburg unter dem Aktenzeichen 16 Sa 1170/19.

Fundstellen

NZA-RR 2019, 414-421 (red. Leitsatz und Gründe)

Diese Entscheidung wird zitiert

Kommentare

Staudinger, BGB

- Fischinger, § 611a Arbeitsvertrag; K. Verpflichtung zur Leistung der versprochenen D...; V. Nebenpflichten des Arbeitnehmers...; 9. Grenzen der Meinungsfreiheit und der politischen Betätigungsfreiheit 2025
- Fischinger, § 611a Arbeitsvertrag; K. Verpflichtung zur Leistung der versprochenen D...; V. Nebenpflichten des Arbeitnehmers...; 9. Grenzen der Meinungsfreiheit und der politischen Betätigungsfreiheit 2022

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4 , # * * # !)< +, +, / ; +3 +,
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* L , , (+, / * * 9 * * # +, +, +,
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