

Krombach: an Update on the Efficacy of Private Enforcement in Criminal Law

As I promised readers to keep them updated on the recent developments in the Bamberski - Krombach case, and as it seems that there is not as much media coverage of the case outside of France as there is in France, here are the latest news.

First and most importantly, the French media has reported that Krombach will be tried again in France in a bit less than a year. My recollection of French criminal law is that it is standard procedure when a person sentenced in absentia is eventually caught. What this means, of course, is that the strategy elaborated by Bamberski has worked. In a report broadcasted yesterday night on France main TV channel, he said that he organized the abduction because he did not want to see Krombach die without serving his time in prison.

It seems, therefore, that private enforcement can work pretty well in criminal law. I do not know whether Germany intends to do anything about it.

In the same TV show, Bambersky also explained how he had Krombach followed in Germany for 10 years so that he would always know where he was. It was reported that the people he hired for that job could inform him that Krombach had changed addresses in Germany seven times over a decade. It was reported that Bambersky would have taken the decision to initiate the process which led to the abduction when he learnt that Krombach was on the verge of changing addresses again.

Finally, Bambersky was charged with kidnapping, but he was not kept in preventive custody. When asked whether he feared to go to prison, he said that given that he had been deported in Poland during the war as a kid, it would be ok.