

11 November 2020

Berlin-Brandenburg Higher Administrative Court declares quarantine order legally binding

Potsdam - The Higher Administrative Court of Berlin-Brandenburg has confirmed the validity of the order made by the City of Potsdam for a coronavirus quarantine. This decision overturned a previous decision made by the Administrative Court of Potsdam, which had declared a quarantine order against a schoolgirl to be unlawful.

With help from Luther Rechtsanwaltsgesellschaft mbH, the City of Potsdam was able to overturn the Administrative Court's decision at the Higher Administrative Court.

The background to this matter was that the parents of a schoolgirl had applied for interim relief to be taken against a 14-day domestic seclusion order. The City of Potsdam had ordered that the pupil must go into quarantine because one of the teachers on duty at the pupil's school's after-school care centre later tested positive for the coronavirus.

The Administrative Court had initially suspended the order because it considered the degree of contact, according to the specifications of the Robert Koch Institute, to be insufficient to justify the quarantine.

However, the Higher Administrative Court confirmed the action taken by the Health Authority. "In the end, two aspects were decisive: firstly, the health authorities are allowed to interpret and apply the classification of the Robert Koch Institute appropriately to determine the degree of contact in individual cases; the Administrative Court had misjudged this." said Dr Hendrik Sehy, Luther's medical law expert and counsel advising the City. "Secondly, the Higher Administrative Court discovered deficiencies in the weighing up of the legal consequences: where there is uncertainty about the extent of contact that has been made, a quarantine can also be considered if there is

otherwise a risk of spreading the infection in a school - in this case, the aim was to protect over a hundred pupils.”

The Higher Administrative Court's decision represents a significant milestone in the current pandemic situation with regard to the question of the importance of the Robert Koch Institute's medical guidelines in infection control measures. Within this framework, the Higher Administrative Court also assessed what investigation efforts are required to be taken by the health authorities in each individual case, but also which efforts are sufficient.

On behalf of the City of Potsdam:

Luther: Dr Hendrik Bernd Sehy (Counsel), Frances Wolf (Associate).