[DE] Berlin District Court grants injunction against distribution of deepfake video of Chancellor Olaf Scholz

IRIS 2024-4:1/22

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On 13 February 2024, the *Landgericht Berlin II* (Berlin District Court II) granted a federal government application for injunctive relief against the publication of an AI-generated video in which Federal Chancellor Olaf Scholz appeared to discuss measures to ban the *Alternative für Deutschland* (Alternative for Germany – AfD) political party.

The case concerned two essentially identical videos produced by the same organisation but distributed via different social networks. In the AI-generated videos, Olaf Scholz talks about the possible banning of the AfD and urges German citizens to report relevant information that might support such a move on a website, to which a link is provided in the video. While the images show a genuine address made by the Chancellor, the soundtrack features an AI-generated voice similar to that of Olaf Scholz. In the first video, Olaf Scholz appears with the federal eagle in the background, while the eagle does not appear in the second, which begins by displaying the name of the organisation that made the video as well as containing background music.

The federal government applied for injunctions against both videos, which were produced by the *Zentrum für Politische Schönheit* (Centre for Political Beauty – ZPS), an association of artists. At the government's request, the ZPS deleted the first video, but then uploaded a new version. The government demanded that this second video should also be deleted and, when this request was rejected, applied for urgent legal protection against its publication. The Berlin District Court II upheld this urgent application.

The legal question that arises in this case is whether the federal government's naming rights are limited by freedom of expression or artistic freedom. Every person and authority has a right to a name under Article 12 of the German Civil Code (BGB). By analogy with Article 1004 BGB, if this right is infringed, a claim can be made for the infringement or harmful act to be stopped. However, such a claim may be limited by freedom of expression or artistic freedom, which are protected under the German constitution.

In the urgent procedure, the court issued a decision based on the facts presented. Only a limited amount of evidence could be put forward because of the need to

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reach an interim decision as quickly as possible, in order to bring a provisional end to the situation and its consequences.

The court left open the question of whether the videos were works of art because the government's naming rights would take precedence in any case. Satire needed to be recognisable for the viewer, which was not the case here. The very close similarity to the "Federal Chancellor's voice and way of speaking", together with the use of the federal eagle in the first video, would give the impression that this was a genuine public address. Regarding the second video, the court held that the additional display of the words "*Politische Schönheit Originals*" (Political Beauty Originals), the background music and the asynchronous lip movements were not sufficient to dispel the impression that this was an official address by the Federal Chancellor. The videos did not appear satirical, but were designed to give the impression of an official address. The court stressed that criticism of political parties was not forbidden, and its decision did not change this. Rather, the decision was based on the fact that the distribution of fake news could undermine trust in the federal government's public relations work and in reporting in general.

Berichterstattung von Legal Tribunal Online (LTO) vom 25. Februar 2024

https://www.lto.de/recht/nachrichten/n/lg-berlin-ii-15o579-23-olaf-scholz-bundeskanzler-deep-fake-afd-verbot-zentrum-politische-schoenheit/

Legal Tribunal Online (LTO) report of 25 February 2024

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