[AT] Compensation for Suspects Identified on Web

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To protect individuals against revelation of their identity in certain cases, Section 7a of the Austrian Media Act (Mediengesetzes) provides for compensation as follows: if names, pictures or other information are made public in the media in a way which enables people with no direct knowledge of the background to identify a person who has been the victim of a crime, or who is suspected or has been convicted of a crime, and if this violates that person's legitimate interests, and the public has no overriding interest in publication of the information, then that person is in principle entitled to claim compensation from the media operator (publisher) for the injury suffered.

In this particular case, a weekly newspaper had, both in its printed and online editions, identified four persons suspected of a criminal offence by giving various personal details (though not their full names); the suspects then claimed compensation under Section 7a.

The Court of first instance (Erstgericht) had already awarded damages in respect of both the printed and online editions. The appeal Court (Berufungsgericht) described the World Wide Web as a whole (not the weekly's online edition, available on it) as a medium within the legal definition («Any means which uses mass production or mass distribution to disseminate information or performances with intellectual content in verbal, written, sound or picture form to a sizable number of people») and upheld the plaintiffs' claim to compensation.

Entscheidung des Oberlandesgerichts Wien vom 26. 11. 1997, Aktenzeichen 24 Bs 291/97

Decision of the Vienna Court of Appeal of 26 November 1997, File No. 24 Bs 291/97

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