[DE] Liability for Organising Internet Competition

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In a judgement delivered on 8 July 1999, the Landgericht Potsdam (the Regional Court - LG) rejected an application filed by a committee member of the Brandenburg branch of the Christian Democratic Union (CDU) for a temporary injunction against the publication of an article on the World Wide Web.

The defendant was the Brandenburg Bundesland which, as part of an action project against violence, right-wing extremism and xenophobia, had set up a competition whereby children and young people were invited to give their views on these three themes. These views were to be published on a web page set up by the Brandenburg Bundesland, which stated that it accepted no responsibility for the views published, but that the contents reflected the opinions of the participants themselves. The plaintiff asked the court to prohibit the Brandenburg Bundesland from publishing a particular article on the web page.

However, the court saw no reason to grant such an injunction. It decided that the case law of the Bundesgerichtshof (the Federal Supreme Court - BGH) concerning liability in other media should also apply to the new medium of the Internet. Accordingly, a publisher was not liable if he set up an "opinion forum" and took serious measures to distance himself from views expressed as a result. The court found that such measures had been taken in this case. It also held that this conclusion could be based on §5.3 of the Teledienstegesetz (the Tele-Services Act - TDG), which states that a service provider is not responsible for third-party content to which he merely provides access.

In another case (see IRIS 1998-6:3), the Landgericht Hamburg (the Regional Court - LG) had also applied the case law of the BGH concerning liability in other media to the Internet. However, unlike the Potsdam Court, it had found the defendant liable because he had not sufficiently distanced himself from the third-party views expressed.

Urteil des LG Potsdam vom 8. Juli 1999, Az. 3 O 317/99.

Judgement of the Regional Court of Potsdam, 8 July 1999, file no. 3 O 317/99.

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