[DE] Hamburg Appeal Court Refuses to Grant Injunction Against TV Investigation

IRIS 2000-1:1/17

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In a decision of 12 October 1999, the Hamburg Court of Appeal (Oberlandesgericht - OLG) ruled that, during the investigative stages of a television programme, there could be no justification for an injunction against the subsequent broadcast of the material gathered.

The applicant wanted to prevent the defendant from broadcasting pictures of his house and interviews with tenants. However, the Court decided that the film in question was raw material which needed to be processed by the programme editor. It was still unclear whether and to what extent the aforementioned pictures would be used in the television programme. Until the material had been edited, the investigation concluded and the programme put together, it was impossible to say how the planned report would actually turn out. In particular, it could not be assumed that the future broadcast would be illegal. As a result, no actual or potential breach of the law could be established as grounds for an injunction. According to the Hamburg Court, it would amount to a serious restriction on freedom of opinion and freedom of the press (Article 5.1 of the Basic Law) if simple media investigations were deemed to constitute a danger sufficient to justify appeals for an injunction. In this case, there could be no parallel with publication in the printed media, where the presentation of a finished article in the form of a raw manuscript could constitute an offence, since raw manuscripts were drawn up for the purposes of publication in the printed media. At this stage, however, the defendant's work had not even begun, since although the story had been discussed at an editorial conference, no decision had been taken to broadcast it.

Beschluss des OLG Hamburg vom 12. Oktober 1999, Az. 7 W 73/99.

Judgement of the Hamburg Court of Appeal, 12 October 1999, case no. 7 W 73/99.

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