[DE] Can the Press Name Public Officials Suspected of Committing a Crime?

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In a judgement of 7 December 1999, the Bundesgerichtshof (the Federal Supreme Court - BGH) dismissed a claim for damages lodged in relation to a report that named a public official who was suspected of committing a crime.

The newspaper concerned had, inter alia, reported in the lead article of its local section, under the headline "Ex-employee under strong suspicion", the introduction of criminal proceedings against the applicant, whose name had been mentioned in the article. The applicant argued that the article infringed her personality rights and constituted a prejudgement which, in accordance with the basic presumption of innocence, was not permissible. Owing to a lack of evidence, the preliminary proceedings were subsequently dropped.

The Federal Supreme Court rejected the claim for damages, ruling that the defendant had not overstepped the limits laid down in case-law on the permissibility of reporting current criminal proceedings. The law required, firstly, a minimum level of proof to support the substance of the information. In addition, reports should not constitute a prejudgement, nor amount to a deliberately biased or distorted account. Regular statements should be sought from the person concerned prior to publication.

In summing up, the Court explained that press reports on current proceedings demanded particularly high standards of care in terms of journalistic accuracy. However, the media's duty to be careful and truthful should not be stretched so far that it jeopardised freedom of opinion. Criminal offences were part of current affairs, which the media were responsible for reporting. In any case, the need for up-to-date reporting meant that the press had only limited access to the truth. In principle, it was therefore appropriate to mention a suspect's name only in particularly serious cases or in relation to crimes which particularly affected the general public. The Court held that, in cases where the information function of the press was particularly important on account of a link between the State's actions and criminal behaviour by public officials, it could be permissible to name a suspect even though he or she had not committed a "serious" crime. Since the defendant had met the above-mentioned requirements of care, the Court concluded that the public's right to the latest information outweighed the suspect's personality rights. Even if the accusations were later shown to be false, they were fully legitimate and there was no need either to retract them or to

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award damages.

Urteil des Bundesgerichtshof vom 7. Dezember 1999, AZ VI ZR 51/99.

Judgement of the Federal Supreme Court, 7 December 1999, file no. VI ZR 51/99.

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