[DE] Chairman Must Put Up With Satirical Photomontage

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In a ruling of 30 September 2003, the Bundesgerichtshof (Federal Supreme Court - BGH) dismissed a complaint by the former Chairman of Deutsche Telekom AG (DTAG), in which the latter had applied for an injunction against the defendant, a financial magazine, concerning publication of a photomontage. The photomontage showed the plaintiff - who was still Chairman at the time - sitting on a crumbling letter "T" forming part of the DTAG company logo. The figure that was meant to represent the plaintiff was made up of two parts: someone else's body with the plaintiff's head, taken from a photograph. The plaintiff also claimed that, in the production of the photomontage, his facial features had been altered in a way that he considered unacceptable. He argued that, since the image showed his face in an unfavourable light, its publication breached his general personality rights (Article 2.1 in connection with Article 1.1 of the Grundgesetz (Basic Law GG)) and it should therefore not be published.

The first instance and appeals courts both found in the plaintiff's favour.

However, in its decision, the Bundesgerichtshof quashed the disputed ruling and dismissed the complaint. The court held that the plaintiff should tolerate the disputed portrayal of his person as it constituted an expression of opinion, albeit a satirical one, protected by Article 5.1 of the Basic Law. It was doubtful whether the slight alteration to the plaintiff's face had breached his personality rights in any way. In any case, since a satirical picture, just like written satire, should be assessed as a whole, the individual parts of the photomontage should not be considered in isolation when judging whether it breached a fundamental right. Even if the potentially unfavourable portrayal had harmed the plaintiff's general personality rights, it should be considered reasonable, especially since the photomontage dealt with a matter of significant public interest and was meant to illustrate DTAG's situation at the time and the plaintiff's responsibility for it.

Urteil des BGH vom 30. September 2003 Az.: VI ZR 89/02

http://www.bundesgerichtshof.de/

Ruling of the BGH, 30 September 2003 case no.: VI ZR 89/02

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