[DE] Personality Rights Violated by Manipulated Photos

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The publication of technically manipulated pictures which appear to be authentic images of a person is not covered by the freedom of speech protected by Art. 5.1 of the German Grundgesetz (Basic Law). This was made clear in a decision of the Bundesverfassungsgericht (Federal Constitutional Court) amending a ruling of the Bundesgerichtshof (Federal Supreme Court), the highest German civil court, and referring back to it the case in question.

The case began with a complaint lodged by the former Chair of the board of directors of a telecommunications company against a business magazine. In 2000, the magazine had, alongside reports of the company's financial situation, printed a picture collage showing the plaintiff sitting on a crumbling company symbol. In the picture, his head was placed on somebody else's body and his facial features were somewhat elongated.

The plaintiff had claimed that the elongation in particular constituted a subliminal and negative manipulation of his facial features, but his complaint was rejected by the Bundesgerichtshof, which classified the picture as satirical. In the opinion of the Constitutional Court judge, insufficient consideration had been given to the fact that, according to the general personality rights enshrined in Art. 2.1 in connection with Art. 1.1 of the German Grundgesetz, photographic images that were made accessible to third parties should not be manipulated. The Court ruled that manipulations that were not denoted as such suggested that the person depicted actually looked how they appeared in the technically altered image. This therefore constituted a falsehood which harmed personality rights and was not protected by freedom of speech. This also applied to satirical images if there was no indication of the fact that they had been manipulated.

Beschluss des Bundesverfassungsgerichts vom 14. Februar 2005 (Az. 1 BvR 240/04)

http://www.bverfg.de/entscheidungen/rk20050214_1bvr024004.html

Decision of the Federal Constitutional Court, 14 February 2005, case no. 1 BvR 240/04

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