[DE] Staged Attack on a News Programme Is a Criminal Offence

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Thorsten Ader
Institute of European Media Law (EMR), Saarbrücken/Brussels

On 7 June 2005 the District Court in Karlsruhe fined a student for faking an attack on the news programme Tagesschau.

The student, who attends a design college, was attempting to prove that the media reinforces terror. His project involved filming a fictitious news programme, using a set that copied the Tagesschau studio. In the course of the programme the female newsreader was attacked by an armed individual who made various demands, including that she read out texts about "evil" in the world. The "attacker" proceeded to threaten the newsreader, demanding that she carry out a telephone poll and that certain images be screened. The film lasted around half an hour, ending with a notice to viewers explaining that it had been a fictionalised Tagesschau.

The accused had screened the deliberately authentic-seeming programme in several pubs at the normal Tagesschau transmission time and had filmed viewers' reactions to it. Some people had clearly been shocked by what they had regarded as actual events.

The District Court found that the accused had breached the peace and feigned an accident and was therefore guilty of an offence. The court had considered the defence argument that the actions of the accused were covered by the provision in Article 5(3) of the Basic Law (the German Constitution) protecting freedom of artistic expression, and that there was therefore no question of an offence having been committed. It ruled that the unconditional protection of artistic freedom as a fundamental right was subject to what it termed inherent limitations, and that it could therefore be restricted under criminal law. Artistic freedom was not an absolute value in itself, but rather one of a number of basic rights. People were entitled to live "free of art" and could not be compelled to take notice of public artworks. This meant that, other than in special venues such as museums, they had to be notified that they were being exposed to an artwork or artistic activity. By contrast, the accused had deliberately withheld from the viewers the fact that what appeared to be a violent attack on the news programme had in fact been art. The court found that, at a time when terrorism had become a consideration in everyday life, this was unacceptable.

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Entscheidung des Amtsgerichts Karlsruhe vom 7. Juni 2005

Decision by the Karlsruhe District Court, 7 June 2005

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