

[DE] Broadcasting Ban for Contergan Film

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On 28 July 2006, the *Landgericht Hamburg* (Hamburg District Court - *LG Hamburg*) prohibited the broadcast by *Westdeutsche Rundfunk* (WDR) of the current version of a TV film about the *Contergan* scandal. In doing so, the court confirmed temporary injunctions that had previously been granted. At the end of the 1950s, thousands of women had given birth to deformed babies after taking the drug *Contergan*. The manufacturer of *Contergan*, *Grünenthal GmbH*, and a lawyer, whose life story is depicted in the film, had instigated proceedings against WDR and the production company *Zeitsprung*. The press chamber of the court largely upheld their complaint.

The legal dispute mainly concerned whether the TV film constituted a documentary or pure fiction. WDR and *Zeitsprung* had hoped to use the film to depict the *Contergan* scandal, a highly controversial chapter of German history, in artistic form. *Grünenthal* claimed that the film contained numerous key scenes which seriously distorted the events surrounding the scandal and twisted historical facts. The *LG Hamburg* agreed with the complainant, whose personality rights, it ruled, took priority over artistic freedom. The documentary nature of the film would clearly be predominant in the minds of the viewers. There was no sufficient attempt to make the events, which were based on reality, appear fictional. The public was therefore unable to distinguish between what was true and what was fabricated. On these grounds, WDR and the production company were prohibited from broadcasting 13 false representations contained in the film, or otherwise face a fine of up to EUR 250,000.

WDR and the production company announced that they would appeal against the decision.

Entscheidung des Landgerichts Hamburg vom 28. Juli 2006

Decision of the Hamburg District Court of 28 July 2006

