# [DE] Photos of Children Posing Shown on the Internet

**IRIS 2006-10:1/34**

*Carmen Palzer*
*Institute of European Media Law (EMR), Saarbrücken/Brussels*

On 15 September the District Court of Hannover imposed a fine of EUR 10,000 on an Internet page provider. A photographer from Hannover had shown photos of minors striking unnatural and sexually suggestive poses on pages that he managed, some to which access was free and others which required payment. The Media Institute for Lower Saxony (NLM) had, on account of the violation of the Youth Media Protection State Agreement, imposed fines in November 2005 and June 2006 in this case, which the party concerned subsequently challenged in court. The District Court has now confirmed the legal view of the NLM, but reduced the amount of the fine due to the financial situation of the photographer involved.

Owing to an anomaly arising from the reworking of sexual criminal law in 2004, the display of photos on the Internet of children striking such poses is at the present time not punishable. The Federal High Court of Justice (BGH), in its ruling of 2 February 2006, addressed the problem and established that merely taking photos of sexually suggestive poses did not come within the statutory definition of an offence under §§ 184b and 184c of the criminal code (StGB). According to these provisions, which penalise the dissemination, acquisition and ownership of child pornography publications (§ 184b StGB) as well as the dissemination of entertainment involving child pornography via broadcasting, Media and Television services (§ 184c StGB), criminality is only established (with reference to §§ 176 ff. StGB, which has as its subject the sexual exploitation of children), when the perpetrator compels the photographed child to engage in sexual acts with him.

This anomaly is one that the federal government now wants to rectify by the draft law on the implementation of the Council of the European Union’s framework decision on combating the sexual exploitation of children and child pornography. The reference contained in § 184b paragraph 1 StGB §§ 176 to 176b StGB is to be replaced with the words “which have as their subject the sexual acts of, towards or before people under eighteen years of age” and therefore include photos of children or adolescents striking poses. This reformulation has indirectly led to the extension of the statutory definition of an offence under § 184c StGB, which continues to make full reference to § 184b StGB.

© European Audiovisual Observatory (Council of Europe) 2026

### *Urteil des Amtsgerichts Hannover vom 15. September 2006, AZ: 262 OWi 3744JS13701/06 und 262 OWi 3744JS66797/06*

*Ruling of the District Court of Hannover of 15 September 2006, AZ: 262 OWi 3744JS13701/06 and 262 OWi 3744JS66797/06*

### *Pressemitteilung der NLM vom 18. September 2006*

http://www.nlm.de/deutsch/aktuell/pressemit/presse2006/presse1809.htm

*Press release of the NLM of 18 September 2006*

### *Gesetzentwurf der Bundesregierung vom 29. August 2006*

http://www.bmj.de/media/archive/1308.pdf

*Draft law of the Federal government of 29 August 2006*

### *Entscheidung des BGH vom 2. Februar 2006, Az.: 4 StR 570/05*

http://www.bundesgerichtshof.de/

*Decision of the BGH of 2 February, Az.: 4 StR 570/05*

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026