[DE] "Stalking" Made a Criminal Offence

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On 30 November 2006, the *Bundestag* adopted an amendment to the *Strafgesetzbuch* (Criminal Code - *StGB*). It states that, in future, the unauthorised, persistent pestering of another person shall be punishable if it causes serious and unreasonable harm to that person's way of life (Art. 241b *StGB*).

The new provisions threw up various questions in relation to the media, which are protected under Art. 5 of the *Grundgesetz* (Basic Law - *GG*) not only in terms of reporting itself, but also in relation to the obtaining of information. According to the explanatory memorandum, the wording of the amendment takes into account reservations that had been expressed. For example, the use of the word "unauthorised" is meant to exempt the actions of journalists protected under Art. 5 *GG* . The same applies to certain activities, such as repeated contacting of persons who are or will be the subject of reporting, which may be admissible under press law; such conduct would not be considered "persistent". The use of the word "reasonable" gives rise to a weighing up of interests, particularly in order to determine the boundary between the freedoms of victims and "perpetrators". According to the explanatory memorandum, "journalistic activities, such as attempts to obtain information about private individuals by repeatedly making direct or indirect contact" are thus protected. On the other hand, the media must respect people's privacy and right to control the use of their personal data. In most cases, investigative journalism would not seriously harm the way of life of the person concerned in this sense. However, if such behaviour did meet these criteria, deciding whether or not it was reasonable would involve weighing up the seriousness of the harm caused with the interests of the journalist concerned.

The Act will enter into force the day after it is promulgated.

Gesetzentwurf der Bundesregierung, Entwurf eines Gesetzes zur Strafbarkeit beharrlicher Nachstellungen (… StrÄndG), 8. Februar 2006

http://dip.bundestag.de/btd/16/005/1600575.pdf

Federal Government Bill, draft Act on the punishability of persistent pestering (... StrÄndG), 8 February 2006

http://dip.bundestag.de/btd/16/005/1600575.pdf

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http://dip.bundestag.de/btp/16/16070.pdf

Plenary minutes 16/70 of the 70th Bundestag session of 30 November 2006

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