# [DE] Contergan Film May Be Broadcast

**IRIS 2007-9:1/11**

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In the dispute over the television film commissioned by *Westdeutsche Rundfunk* (WDR) about the Contergan scandal of the 1950s, the *Bundesverfassungsgericht* (Federal Constitutional Court - BVerfG) decided, on 5 September 2007, as the final instance court in the urgent procedure, that the film could be broadcast on television in the autumn.

In July 2006, the former manufacturer of Contergan, Grünenthal GmbH, and a lawyer who had represented the interests of victims of the drug Contergan since 1961, had obtained temporary injunctions from the *Landgericht Hamburg* (Hamburg District Court - LG) preventing the broadcast of the film (see IRIS 2006-8: 12). The LG had regarded several parts of the script as a distortion of the historical facts and, accordingly, a violation of the privacy rights of the applicants. However, following an appeal by the defendants, the *Oberlandesgericht Hamburg* (Hamburg Court of Appeal) set aside these temporary injunctions at the beginning of 2007 (see IRIS 2007-7: 9). It considered the film to be a work of art that did not claim to portray all the details of the events at that time in documentary form. Now the BVerfG has supported this view. The complainants had appealed against the decision to set aside the temporary injunctions and, at the same time, asked the Court to prohibit the planned broadcast of the film on the 50th anniversary of the release onto the market of the Contergan drug in November. In its assessment, the BVerfG took into account the fact that a sensible viewer would not interpret the events portrayed in the film as a factual account of the behaviour of various parties at the time. References in the opening and final credits emphasised that the film was not meant to be an accurate portrayal. Therefore, the Court considered that the broadcast of the film did not pose a serious threat to the privacy rights of the complainants. Instead, the BVerfG thought that a serious intrusion on the broadcaster's freedom to organise and transmit its programmes would arise if it was prevented from broadcasting the film for the first time on the date it had chosen, on account of its historical significance and in the context that had been chosen from a media point of view. Rather, the Court stressed that broadcasting the film on an important anniversary could contribute to the formation of public opinion.

***Beschluss des BVerfG vom 5. September 2007 (Az. 1 BvR 1223/07 und 1 BvR 1224/07)***

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http://www.bundesverfassungsgericht.de/entscheidungen/rk20070829_1bvr122307.html

*Ruling of the BVerfG, 5 September 2007 (case nos. 1 BvR 1223/07 and 1 BvR 1224/07)*

### *Beschluss des BVerfG vom 5. September 2007 (Az. 1 BvR 1225/07 und 1 BvR 1226/07)*

http://www.bundesverfassungsgericht.de/entscheidungen/rk20070829_1bvr122507.html

*Ruling of the BVerfG, 5 September 2007 (case nos. 1 BvR 1225/07 and 1 BvR 1226/07)*

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