[DE] Constitutional Court Rejects Urgent Appeal against Screening of Film about "Cannibal of Rotenburg"

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On 17 June 2009, the *Bundesverfassungsgericht* (Federal Constitutional Court - BVerfG) rejected an urgent application in which the applicant, who became known as the "Cannibal of Rotenburg" after he committed murder and ate parts of his victim's body, tried to prevent the planned screening of a film about his life and actions.

The applicant had already lost an appeal to the *Bundesgerichtshof* (Federal Supreme Court - BGH) which, although it accepted that the screening of the film could cause considerable psychological strain to the plaintiff and that his innermost privacy would be affected, concluded that, after weighing these factors against the defendant's artistic freedom and freedom to film, the plaintiff's personality rights were of lesser importance (see IRIS 2009-7:7). In these latest proceedings, the applicant argued that this decision violated the Constitution and asked for a temporary injunction under Art. 32 of the Federal Constitutional Court Act (BVerfG), pending the outcome of the main procedure.

The BVerfG dismissed the application on the grounds that the screening of the film would not be sufficiently detrimental to the applicant and explained that the information contained in the film - not least on account of the behaviour of the applicant himself towards the media - had already been made widely known to the public and was still in the public domain. In addition, the BVerfG did not think that the portrayal of the applicant by an actor who resembled him constituted a breach of his image rights - particularly since the applicant had agreed to the publication of photographs of himself in the press and on the cover of a book that he had authorised.

The Court also ruled that the minor deviations from reality contained in the screenplay did not cause additional damage to the applicant's reputation; neither did the use of stylistic devices typical of the genre - such as the accentuation of the events as a horror story - caused significantly more harm to the applicant's personality rights.

Beschluss des BVerfG vom 17. Juni 2009

http://www.bundesverfassungsgericht.de/entscheidungen/qk20090617_1bvq002609.html

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Ruling of the BVerfG of 17 June 2009

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