[DE] Federal Court of Justice Rules on the International Jurisdiction of German Courts in the Case of Internet Publications

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In a judgment of 29 March 2011, the Bundesgerichtshof (Federal Court of Justice - BGH) ruled that the German courts had no international jurisdiction in proceedings concerning a violation of personality rights resulting from an internet publication.

The plaintiff is a Russian national with residences in Germany and Russia. The defendant, a former fellow pupil of the plaintiff, lives in the United States. After a class reunion in Moscow, at which the two parties were present, the defendant wrote an article in which, among other things, she described the plaintiff's appearance and lifestyle. The text was in Russian in Cyrillic script and was published via the internet portal of a provider based in Germany. The plaintiff considered that his personality rights had been violated and applied for an injunction, calling for information and financial compensation. The lower courts had ruled that the German courts had no jurisdiction.

The BGH endorsed this view in its decision and accordingly dismissed the plaintiff's appeal on points of law, stating that the publication concerned needed to have a clear connection to domestic affairs if international jurisdiction were to be assumed. That meant it would be necessary for "a clash of interests - on the one hand, the plaintiff's interest in respect for his personality right and on the other hand the defendant's interest in being able to organise her website and publish reports - to have actually occurred or to potentially occur in Germany given the particular circumstances of the case and, especially, the content of the report". That was not the case here since both the choice of language and script and the private character of the content, which was - at the very most - relevant for the participants in the class reunion, who, with the exception of the two parties, were all living in Russia, militated against the assumption of a domestic connection. Nor did the location of the server in Germany create such a connection.

Pressemitteilung des BGH zum Urteil vom 29. März 2011 (Az. VI ZR 111/10)

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BGH press release on the judgment of 29 March 2011 (Case no. VI ZR 111/10)

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