[CH] Appeal Court Fines Facebook User for Death Threat

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Martin Rupp
Institute of European Media Law (EMR), Saarbrücken/Brussels

According to media reports, on 25 November 2013, the Zürcher Obergericht (Zurich Appeal Court) imposed a fine, payable in 45 daily instalments, on a 23-year old man who had threatened to take revenge against his 290 Facebook friends because none of them had wished him a happy birthday.

The Appeal Court ordered the Facebook user to pay 45 daily instalments of CHF 10 for attempting to cause fear and alarm among the general public. Under the relevant Article 258 of the Schweizerisches Strafgesetzbuch (Swiss Criminal Code - StGB), any person who causes fear and alarm among the general public by threatening or feigning a danger to life, limb or property is liable to punishment.

The court considered the group of 290 Facebook friends as constituting the “general public” in the sense of Article 258 StGB. According to established case law, the term means that the threatening or feigning of danger must be directed not just at a defined group such as the person’s family or circle of friends. However, the defendant’s message was deliberately aimed at a large number of readers and not at a limited group of friends in the traditional sense. His Facebook friends inevitably included a large number of distant contacts.

The court added that, by sending the message, the defendant had relinquished control over its further distribution. He had at least tacitly accepted the possibility that his message would cause fear and alarm to third parties. His action was punishable even if he had never intended to carry out his threat, according to the court’s legal secretary.

As well as the fine, the defendant must pay around CHF 12,700 to cover the cost of the psychiatric report drawn up on his psychological state, in addition to the other court costs.

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