[DE] Constitutional Court rules on courtroom reporting restrictions

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In a decision of 31 July 2014 (case no. 1 BvR 1858/14), the Bundesverfassungsgericht (Federal Constitutional Court – BVerfG) partially upheld an application for a temporary injunction against a procedural order restricting press reporting on a criminal procedure before the Landgericht Hamburg (Hamburg District Court – LG).

In the criminal procedure, which concerned a three-year old girl who had died from internal injuries, the LG Hamburg had issued several orders. Firstly, audio, photographic, and video recordings in the courtroom could only be made by a pool of two camera teams (one private and one public) and a small number of photographers, who would then make their images available to other journalists free of charge. Other than by this pool, no recordings were allowed in and around the courtroom. Secondly, the use of close-ups was restricted, and thirdly, the use of audio recording devices was prohibited.

The plaintiff, a publisher of several newspapers, appealed to the BVerfG against these orders, arguing that they represented a serious intrusion on the freedom of the press, as enshrined in Article 5(1)(2) of the Grundgesetz (Basic Law – GG).

The BVerfG ruled, firstly, that the freedom of the press had been infringed and that the orders were unjustified. It considered that, when exercising its discretion, the court had failed to take sufficient account of freedom of the press on the one hand and of the right to privacy of those involved, i.e. the defendants and witnesses, as well as the parties' right to a fair trial (Article 2(1) in conjunction with Article 20(3) GG), on the other.

The LG Hamburg will now, therefore, have to reconsider whether to issue a new order and how to balance the relevant interests in practical concordance.

Nevertheless, the BVerfG thought the ban on the use of audio recording devices, mobile phones, and laptops during the trial was legitimate. In this respect, the main element of the complaint about an infringement of the Constitution was therefore clearly unfounded and a temporary injunction was, as a result, out of the question.

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Beschluss des BVerfG vom 31. Juli 2014 (Aktenzeichen: 1 BvR 1858/14)

http://www.bundesverfassungsgericht.de/entscheidungen/rk20140731_1bvr185814.html

Decision of the Federal Constitutional Court of 31 July 2014 (case no. 1 BvR 1858/14)

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