[DE] Federal Supreme Court rules on comments made in satirical programme

IRIS 2017-3:1/10

Ingo Beckendorf
Institute of European Media Law (EMR), Saarbrücken/Brussels

In two rulings issued on 10 January 2017 (case nos. VI ZR 561/15 and VI ZR 562/15), the Federal Supreme Court (BGH) held that the comedians on ZDF's satirical programme "Die Anstalt" could continue to claim that two journalists working for the weekly newspaper "Die Zeit" are linked to organisations that deal with issues relating to security policy. It therefore rejected the libel actions brought by the journalists concerned.

On 29 April 2014, public service broadcaster ZDF transmitted the satirical programme "Die Anstalt", in which two comedians discussed two "Die Zeit" journalists' independence with regard to security policy. The journalists claimed that the comedians had falsely accused them of being active members, board members or advisory council members of various organisations that deal with issues relating to security policy. One also claimed that he had been falsely accused of writing a speech that was given by the Federal President at a security conference in Munich in January 2014, a speech on which he had subsequently reported favourably in his capacity as a journalist. The plaintiffs applied for an injunction against the defendant, ZDF.

On 8 September 2015, the Hanseatische Oberlandesgericht (Hanseatic Regional Court of Appeal - OLG) banned the satirical programmes (case nos. 7 U 121/14 and 7 U 120/14) and ordered the defendant not to broadcast the disputed comments.

However, the BGH quashed the appeal court rulings and dismissed the actions on the grounds that the court had misinterpreted the disputed comments. It underlined that, had the comments been correctly interpreted, it would have shown that the comedians had not made such comments, which therefore could not be prohibited. The meaning of a comment should always be judged according to its overall context. The BGH stressed that comments should not be dissociated from the satire they characterise; the satirical element should be taken into account when examining the content of such comments.. The decisive factor was how they would be interpreted by an impartial and reasonable viewer in the context in which they were made. For this reason, the only element of the disputed programme that should be scrutinised is the claim that the defendants were connected to the organisations mentioned. Since such connections did in fact exist, the statement was accurate and could not be prohibited.

© European Audiovisual Observatory (Council of Europe) 2026

Pressemitteilung des BGH zu den Urteilen vom 10. Januar 2017- VI ZR 561/15 und VI ZR 562/15

http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&Datum=Aktuell&nr=77097&linked=pm

Federal Supreme Court press release on the rulings of 10 January 2017 - VI ZR 561/15 and VI ZR 562/15

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026