[DE] Berlin District Court rules on verbal attacks on Green Party politician

IRIS 2019-10:1/11

Jan Henrich
Institute of European Media Law (EMR), Saarbrücken/Brussels

In a ruling of 9 September 2019, the Landgericht Berlin (Berlin District Court) rejected an application from a prominent German politician for information about the data of a number of users of the Facebook social media platform who had insulted her in the comments section below a post. However, the court decided that the verbal attacks did not constitute defamation and were therefore not libellous. In the controversial ruling, the judges discussed the circumstances under which the public expression of opinions about politicians constituted libel, an offence punishable under civil and criminal law.

The case concerned a controversial comment made by the politician in the Berlin regional parliament in 1986 on the subject of paedophilia. She had been accused of supporting the idea that sex with children should not be treated as a punishable offence. The politician had rejected this accusation. In 2015, a distorted version of what she had said had been reproduced in a Facebook post in order to recreate the impression that she thought people who had sex with children should not be prosecuted. Numerous users had then posted insulting comments beneath this post.

The politician wanted to be given access to the data of the Facebook users concerned so she could take civil court action against them. Under German law, a service provider such as Facebook can share user data if it is relevant to unlawful content and necessary for the enforcement of civil law claims.

However, the court decided that none of the comments had been libellous in any of the 22 cases. Although some of them had been highly controversial and exaggerated, they were justified expressions of opinion because they concerned factual issues. Moreover, it considered that politicians needed to accept a higher level of criticism, including defamatory comments, if it was relevant to political issues.

The court’s decision was heavily criticised in some quarters because the judges ruled that not only clearly sexist insults but also comments that would usually be considered libellous were justified. For example, they thought the comment “Drecks Fotze” (dirty cunt) was legitimate criticism that the politician had to accept.

© European Audiovisual Observatory (Council of Europe) 2026

It is not yet clear whether the decision will become legally binding. The politician is reported to have appealed.

Landgericht Berlin, Beschluss vom 09. September 2019 - 27 AR 17/19

https://openjur.de/u/2180445.html

Berlin District Court ruling of 9 September 2019 – 27 AR 17/19

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026