EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

DECISION

Application no. 34921/22
BILD GMBH
against Germany

The European Court of Human Rights (Fourth Section), sitting on 1 July 2025 as a Committee composed of:

Lorraine Schembri Orland*, President*,
Anja Seibert-Fohr,
András Jakab*, judges*,

and Veronika Kotek, *Acting Deputy Section Registrar,*

Having regard to:

the application (no. 34921/22) against the Federal Republic of Germany lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 15 July 2022 by BILD GmbH, a limited liability company with its registered office in Berlin ("the applicant company") which was represented by Mr J. Hegemann, a lawyer practising in Berlin;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The issue in the present case is whether a court order banning the publication of a public Facebook profile picture on the applicant company's website was in violation of Article 10 of the Convention.

2. The applicant company publishes BILD, the tabloid newspaper with the largest circulation in Germany, and operates the corresponding website *bild.de*. On 20 October 2015 an article was published on the website with the headline "Incitement against refugees – BILD is exposing the haters." The article stated that an increasing number of Internet users were openly spreading hate speech against refugees on social media under their full names and public profile pictures without feeling the need to remain anonymous. The article concluded: "BILD has had enough: We are exposing the haters! Mr. Prosecutor, take over!"

3. Alongside the article, the applicant published around 40 screenshots of public Facebook posts including the name and profile picture of the users who had published the posts. One of the screenshots showed a comment which had been posted by Mrs. O. on 16 October 2015 and read: “Like animals and worse, all of them are running to the full food bowl, let’s see where they will run to once our bowl is empty ????”

4. At the time, O. was using a public Facebook profile without any privacy settings. After the applicant’s article was published, O. continued to share similar posts on Facebook.

5. O. lodged a claim with the Munich Regional Court for an interim injunction ordering the applicant company to cease publication of her profile picture on its website. On 10 December 2015 the Regional Court dismissed O.’s application, stating that O. had used a public profile and participated in a public debate. The applicant company had only used information which had previously been available online and the profile picture did not occupy a prominent place in the article. On 17 March 2016 the Munich Court of Appeal quashed that decision and granted the interim injunction. It found that the profile picture had only limited informational value and the way in which the applicant company had presented O. would have a “pillory effect” so the ban was justified by the need to protect O.’s privacy rights.

6. O. then lodged a claim with the Munich Regional Court seeking a permanent injunction against the publication of the picture and compensation for damage to her reputation. On 9 March 2017 the Regional Court granted the injunction but rejected the claim for compensation. On 1 March 2018 the Munich Court of Appeal upheld this decision. It found that there was a considerable public interest in the increase of online hate speech. In general, the applicant company was therefore free to report on the matter and to include public social media posts in its reports. However, O.’s privacy rights not to have her picture in a “digital pillory” prevailed, in particular because of the form and content of the publication.

7. On 26 January 2022 the Federal Constitutional Court declined to consider the applicant company’s constitutional complaint without providing reasons (no. 1 BvR 863/19). The decision was served on the applicant company’s lawyer on 4 February 2022.

8. Relying on Article 10 of the Convention, the applicant company complained that the domestic courts had failed to balance the interests in question properly. They had not attached sufficient importance to the fact that the publication served a significant public interest by illustrating how hate speech was not only spread by “skinheads” but also by “normal, friendly-looking women”; that O. herself had set the harsh tone of the debate; and that she had continued to engage in online hate speech even after the applicant company had published the article and did not suffer any severe consequences as a result of the publication.

THE COURT'S ASSESSMENT

9. The Court finds that the court order banning the publication of the profile picture (see paragraphs 5 and 6 above) amounted to an interference with the applicant company's right to freedom of expression under Article 10 of the Convention. It is satisfied that the interference, based on Articles 823 § 1 and 1004 § 1 of the Civil Code and Section 22 of the Copyright Arts Domain Act, was "prescribed by law" and pursued a legitimate aim – namely the protection of the reputation and rights of others - within the meaning of Article 10 § 2 of the Convention (see also *Bild GmbH & Co. KG v. Germany*, no. 9602/18, § 25, 31 October 2023).

10. As to whether the interference complained of was "necessary in a democratic society", the general principles applying to cases in which the right to freedom of expression under Article 10 of the Convention has to be balanced against the right to respect for private life under Article 8 of the Convention were set out in *Axel Springer AG v. Germany* [GC], no. 39954/08, §§ 78-95, 7 February 2012, and *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, §§ 95-113, ECHR 2012. Notably, the Court identified a number of criteria, including: whether the publication contributed to a debate of public interest; how well known the person affected was; the prior conduct of the person concerned; and the content, form and consequences of the publication. Where it examines an application made under Article 10, the Court will also examine the seriousness of the penalty imposed on the journalists or publishers. Where the balancing exercise has been undertaken by the national authorities in conformity with the criteria laid down in the Court's case-law, the Court would require strong reasons to substitute its view for that of the domestic courts (see *Couderc and Hachette Filipacchi Associés v. France* [GC], no. 40454/07, §§ 92-93, ECHR 2015 (extracts)).

11. In the present case, the Court observes that the domestic courts explicitly acknowledged that online hate speech against refugees was inherently a matter of public interest on which the applicant company had been entitled to report, including by criticising individual posts which had been publicly shared on social media (see paragraph 6 above). In this respect, it should be pointed out that the court order only concerned the publication of the profile picture by which O. could be identified and did not restrict the content of the report as such (see also *Axel Springer SE and RTL Television GmbH v. Germany*, no. 51405/12, § 45, 21 September 2017).

12. The Court further notes that the domestic courts took into consideration that while O. was an ordinary person and not a public figure, she had entered the public arena through her public comments on current political events and thereby laid herself open to criticism for the political views she had shared on social media. The domestic courts also acknowledged that O. herself had damaged her reputation and that the

applicant company had not published private information but only used content which O. herself had put online without any access restrictions (see paragraphs 3 and 4 above).

13. Regarding O.'s prior conduct, the Court agrees with the domestic courts that O. had "given a face" to her political comments by sharing them on her public Facebook profile. She therefore had to tolerate that her public posts - which showed her public profile picture – were reproduced and criticised, including by the media. While the domestic courts found that the applicant company was not generally prohibited from including O.'s profile picture in its reports, they held that this would not mean that O. had to condone being put in a "digital pillory".

14. As far as the content and form of the publication are concerned, it is noteworthy that the domestic courts attached particular significance to the editorial presentation of the Facebook screenshots and the way in which O. had been represented. While acknowledging that the approach to covering a given subject was generally a matter of journalistic freedom, the domestic courts stated that this freedom was not devoid of responsibilities.

15. The Court observes that the domestic courts found that the applicant company had not intended to merely inform the public about online hate speech and to critically assess exemplary social media posts. More than that, the applicant company had expressly intended to humiliate individual users by creating a digital pillory which increased the reach of the public shaming effect, because the applicant company was addressing a much wider audience. By calling on the public prosecutor to "take over" (see paragraph 2 above), the applicant company had also made an implied accusation of a criminal offence. In this respect, the Court reiterates that Internet sites are an information and communication tool particularly distinct from the printed media, especially as regards the capacity to store and transmit information, and that the risk of harm posed by content and communications on the Internet to the exercise and enjoyment of human rights and freedoms, particularly the right to respect for private life, is certainly higher than that posed by the press (see, for instance, *M.L. and W.W. v. Germany*, nos. 60798/10 and 65599/10, § 91, 28 June 2018, and *Bild GmbH & Co. KG,* cited above*, § 43*).

16. The Court further accepts that, as held by the domestic courts, it had not been necessary to expose O. explicitly in order to inform the public about the fact that online hate speech was not only spread by "skinheads" but also by "friendly-looking women", as the applicant company could have illustrated the article in a way less disparaging of O. For instance, this point could have been illustrated, even if the applicant company had partly pixelated the pictures. The domestic courts concluded that in singling out O., a previously unknown private person, from a large number of like-minded people, and calling upon the public prosecutor to investigate her and the public to condemn her, the applicant company had overstepped the limits of responsible journalism.

17. Lastly, the Court finds it important that the court order was not a particularly severe restriction on reporting. The order merely banned the publication of O.'s profile picture in the specific context of a "digital pillory". Any other reporting on the matter of online hate speech in general and on O.'s post in particular was not restricted, and the applicant company was not ordered to pay O. compensation (see also *Axel Springer SE and RTL Television GmbH*, cited above, §§ 56-57, and, for illustrative purposes, *B.Z. Ullstein GmbH v. Germany* [Committee] (dec.), no. 43231/16, § 28, 22 September 2020).

18. In the light of the above, the Court considers that the domestic courts struck a fair balance between the applicant company's right to freedom of expression and the other party's right to protection of her reputation and did not overstep their wide margin of appreciation. Accordingly, there are no strong reasons to substitute its view for that of the domestic courts.

19. It follows that the complaint is manifestly ill-founded and must be rejected as inadmissible in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 28 August 2025.

Veronika Kotek Acting Deputy Registrar	Lorraine Schembri Orland President