Prof. Dr. Tobias Keber

Secrecy vs. Publicity in Modern (digital) Democracies –

The Netzpolitik.org Case in Germany and according to

European Human Rights Law

In July 2015, two reporters of Netzpolitik.org, a German digital rights blog, came under suspicion for treason ("Landesverrat") after the publication of two leaked documents. The documents, internally classified as "confidential" revealed that Germany's domestic intelligence agency wanted additional funds and planned to expand internet surveillance.

In Germany and Europe, the case sparked off a lively public debate over freedom of press criminal liability of informants leaking secrets to media. The Netzpolitik.org case raises fundamental questions concerning the concepts and the interaction of secrecy, privacy, publicity, and transparency in democratic states.

In my presentation, I would address Immanuel Kant´s "transcendental principle of the publicity of public law" as well as international state practice and German judicature concerning the right balance between security interests and freedom of the press (e.g. the "Spiegel-Case" of the German Federal Constitutional court).

To become more general, I would also address the conditions under which bloggers may claim press freedom and analyse the European (case law of the European Court of Human Rights, ECtHR) and the national German law (Germany has some of the least effective protection for whistleblowers in the G20) concerning Whistleblowing.

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