

[DE] Provider of pornographic websites successful following an urgent appeal against enforcement of blocking orders due to potential violation of EU law

IRIS 2026-1:1/23

*Sandra Schmitz-Berndt
Institute of European Media Law*

The Düsseldorf Administrative Court upheld urgent applications by Aylo Freesites Ltd (the Applicant) in four decisions (Case Nos. 27 L 1347/24, 27 L 1348/24, 27 L 1349/24 and 27 L 1350/24) dated 19 November 2025. The court ordered that the blocking orders issued by the State Media Authority of North Rhine-Westphalia (LfM NRW) against Internet access providers (access providers) with regard to the German-language telemedia offers *Pornhub* and *Youporn* operated by the Applicant are not to be enforced for the time being. This means that access to the pornographic content in question by the access providers involved in the proceedings as defendants must be unblocked for the time being.

The decisions that have now been issued are part of a legal dispute that has been ongoing for more than five years. The LfM NRW had already determined that the Applicant was in breach of the provisions of the State Treaty on the Protection of Minors in the Media (JMStV) due to pornographic and developmentally harmful content within its offer. In orders dated 16 June 2020, the LfM NRW issued an objection to this content and prohibited its future distribution, insofar as the content is distributed outside of closed user groups. This basic ruling was followed by several years of legal proceedings. Initially, Aylo Freesites Ltd's action for annulment and urgent application against the immediately enforceable basic order were unsuccessful. The appeal against the rejection of the urgent application was also rejected by the Higher Administrative Court of North Rhine-Westphalia (OVG NRW) in the last instance; no decision has yet been made in the appeal proceedings. In December 2023, an application to the LfM NRW for cancellation of the basic ruling failed. The appeal against this and an additional urgent application are still pending. As the basic order was subsequently not complied with despite its immediate enforceability and as the imposition of a penalty of EUR 65 000 against Aylo Freesites Ltd also had no effect, the state media authorities decided to take joint action against access providers based in Germany in order to prevent the distribution of pornographic content.

In notices dated 2 April 2024, the LfM NRW ordered two access providers based within its competence, Telekom and Vodafone, to block the aforementioned pornographic telemedia content from being accessed from Germany. Access

providers and Aylo Freesites Ltd defended themselves against these blocking orders before the Düsseldorf Administrative Court. The reason for the summary proceedings was that neither the objection nor the action for annulment have any suspensive effect in the case of providers whose content is illegal under youth media protection law, so that the access providers concerned had to disable access to the content immediately and continue to do so even after the action had been filed. For this reason, the applications for urgent legal protection were aimed at ordering the suspension of the enforcement of the blocking orders of 2 April 2024.

Unlike examples heard before the Berlin Administrative Court, (Case Nos. 32 L 25/25 and 32 L 26/25) regarding blocking orders against Tele Columbus AG as an access provider, the urgent applications against the enforcement measures before the Düsseldorf Administrative Court were successful: the same chamber that had previously declared the basic order to be lawful now suspended the enforcement of the blocking order for the time being.

While other administrative courts have mainly based their decisions on the fact that the basic order is immediately enforceable and that Aylo Freesites Ltd is obliged to implement it and therefore does not need legal protection, the Düsseldorf Administrative Court now emphasised that the blocking order is a further onerous measure whose effect is not congruent with the effect of the basic order.

It was therefore incumbent on the court, in accordance with Section 80 (5) sentence 1 of the German Administrative Court Code, to examine whether the public interest in the immediate enforcement of the contested order outweighs the Applicant's interest in a suspension in order to be able to order the suspension of an action against an administrative act (here: the blocking orders). In preliminary legal protection, the Applicant's interest in suspension prevails if a summary examination shows that the administrative act is obviously unlawful and infringes his/her rights as a third party, as there is no general public interest in the enforcement of unlawful measures. In this summary examination, the Düsseldorf Administrative Court came to the conclusion that the blocking orders of the LfM NRW were contrary to EU law.

The court therefore refrained from examining whether the requirements of the legal basis of the blocking order were met. Rather, the court only dealt with the question of whether a violation of the provisions of the JMStV could exist at all and came to the conclusion that Section 4 (2) No. 1 JMStV on the classification of pornographic content as illegal under youth media protection law did not apply to the Applicant based in Cyprus due to overriding EU law. The application of the provision of the JMStV to a provider established in another EU country violates the country of origin principle under EU law pursuant to Article 3 of the E-Commerce

Directive (ECD), which is transposed into national law by Section 3 of the Digital Services Law (DDG). The provision of the JMStV constitutes an abstract and general prohibition that limits the free movement of digital services from other EU member states. In particular, it is not framework legislation without direct legal effect. The limitation is also not justified by the exceptional circumstances of Article 3 paragraph 4 ECD or Section 3 paragraph 5 DDG. A limitation would only be possible through a case-by-case measure under the Digital Services Act (DSA), not through a general legal prohibition. In its reasoning, the court relied on recent decisions of the ECJ, including in the *Airbnb Ireland and Others* case (C-662/22 et al.) on permissible exceptions to the country of origin principle, according to which the measures permitted under the exception must, according to the wording, concern "a specific information society service" (Article 3 paragraph 4 letter a ii) ECD). Taking this case law into account, the prohibition in Section 4(2) JMStV on offering pornographic content without effective access restriction does not fulfil the requirements for an exception to the country of origin principle, as it applies indiscriminately to all telemedia providers. The national regulation therefore does not fulfil the requirements of EU law. As the blocking order is based on a basis contrary to EU law, the Applicant's interest in suspension prevails. Even the planned new version of the JMStV, which came into force on 1 December 2025, will not change this in the court's opinion.

The enforcement of the blocking orders against the access providers is therefore provisionally suspended until a decision has been made on the main issue. Appeals against all decisions can be lodged with the OVG NRW. The LfM NRW has already announced that it will have the decisions reviewed.

If the opinion of the Düsseldorf Administrative Court is confirmed, this could have far-reaching consequences for the protection of minors in the media, as German law would have no power against providers from other member states due to the freedom to provide services and freedom of establishment under EU law. Both prohibition orders and blocking orders require an abstract and general legal basis; however, if the application of such an order against providers from other EU member states generally violates the country of origin principle, it can only be applied against domestic providers. Meaningful protection of minors could therefore only be regulated at EU level, which would be problematic as an interpretative result in view of the lack of harmonisation of EU law in this respect.

Entscheidung des VG Düsseldorf (Az. 27 L 1347/24)

https://nrwe.justiz.nrw.de/ovgs/vg_duesseldorf/j2025/27_L_1347_24_Beschluss_20251119.html

Link to the decision of the Düsseldorf Administrative Court (Ref. 27 L 1347/24)

Entscheidung des VG Düsseldorf (Az. 27 L 1348/24)

https://nrwe.justiz.nrw.de/ovgs/vg_duesseldorf/j2025/27_L_1348_24_Beschluss_20251119.html

Decision of the Düsseldorf Administrative Court (Ref. 27 L 1348/24)

Entscheidung des VG Düsseldorf (Az. 27 L 1349/24)

https://nrwe.justiz.nrw.de/ovgs/vg_duesseldorf/j2025/27_L_1349_24_Beschluss_20251119.html

Decision of the Düsseldorf Administrative Court (Ref. 27 L 1349/24)

Entscheidung des VG Düsseldorf (Az. 27 L 1350/24)

https://nrwe.justiz.nrw.de/ovgs/vg_duesseldorf/j2025/27_L_1350_24_Beschluss_20251119.html

Decision of the Düsseldorf Administrative Court (Ref. 27 L 1350/24)

Link zur Stellungnahme des Direktors der Landesanstalt für Medien NRW

<https://www.medienanstalt-nrw.de/presse/pressemitteilungen/pressemitteilungen-2025/november/entscheidung-des-vg-duesseldorf-zu-eilantraegen-pornografischer-internetangebote.html>

Link to the statement by the Director of the Media Authority NRW

