[DE] Constitutional Court Overturns Court Bans on Film Broadcast

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In a decision of 25 November 1999, the Federal Constitutional Court (Bundesverfassungsgericht - BVerfG) overturned two court rulings which a private television broadcaster had complained were unconstitutional. The courts concerned had banned the broadcaster from showing a particular film. A further appeal against a ruling which had permitted the broadcast, however, was rejected.

Each case concerned a film about the murder of several soldiers in Lebach in January 1969. The two main offenders responsible for the murders had taken court action to prevent the programme being broadcast. Whereas the Saarbrücken Appeal Court (Oberlandesgericht Saarbrücken) had refused to ban the film (see IRIS 1998-3:8), the Koblenz Appeal Court (Oberlandesgericht Koblenz) rejected an appeal against an earlier judgement of the Mainz Regional Court (Landgericht Mainz) (see IRIS 1998-5:11). In each case, the losing side had lodged an appeal with the Federal Constitutional Court.

In its decision, the Federal Constitutional Court pointed out that a criminal's general personality rights did not give him good reason to prevent the media from confronting him with his crime after serving his sentence. The ruling was based on the fact that the main characters in the film could only be identified by people who knew the offenders. In such circumstances, the Court did not believe that the criminals' right to social reintegration, as part of their general personality rights, would be violated, particularly in view of the time gap between the crime and the broadcast. The Constitutional Court also found that inadequate consideration had been given to broadcasting freedom, as guaranteed by Article 5.1.2 of the Basic Law (Grundgesetz). A broadcasting ban was a significant intrusion upon programme planning and would obstruct the portrayal on film not only of the crime itself, but also of the social situation in which it had been committed.

Beschluss des BVerfG vom 25. November 1999, Az. 1 BvR 348/98 und 1 BvR 755/98.

Judgement of the Federal Constitutional Court, 25 November 1999, case nos. 1 BvR 348/98 and 1 BvR 755/98.

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