[DE] Hessen Passes New Media Laws

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On 19 December 2000, after much strong criticism of the government coalition's proposals in the early drafting stages, the Hessian Landtag (state parliament) adopted amendments to the regional broadcasting laws, which had been improved in several respects.

In the end, the Gesetz über den Hessischen Rundfunk (Hessian Broadcasting Act - HR-Gesetz) did not mention the so-called "compulsory mandate" for members of the Broadcasting Council. The original draft stated that all members of the Council could be immediately withdrawn by the organisations they represented, whereas the previous version of the HR-Gesetz only made this provision for members of the Land government.

Public service broadcaster Hessische Rundfunk (HR) had argued that this measure would jeopardise the independence of the Council members and had threatened to make an official complaint about its unconstitutionality, as a result of which the Hessian government coalition withdrew it.

Contrary to the original plan, the Gesetz über den privaten Rundfunk in Hessen (Hessian Private Broadcasting Act - HPRG) makes no statutory provision for programmes with unacceptable content to be monitored before being broadcast. This possibility had been criticised as being in breach of Article 5.1.3 of the Grundgesetz (Basic LawGG). The government coalition said it was confident that no broadcaster would transmit material that infringed upon human dignity. In this connection, the programming guidelines contained in Section 13 of the HPRG refer to the constitutional law, while, as far as protection of minors and unacceptable programme material are concerned, Section 19 mentions the relevant provisions of the Rundfunkstaatsvertrag (Inter-State Agreement on Broadcasting) as amended on 21 February 2000.

A new provision is contained in Section 6.2, no.4 of the HPRG, which prohibits political parties from owning an interest in media companies, even their private subsidiaries. The same applies to trusteeships, which must be disclosed according to Section 6.2, no.4 sentence 2.

Section 12.5 of the HPRG contains regulations concerning so-called commercial "conurbation-TV". The original idea was that each broadcaster should broadcast at least 240 minutes of its own programme material every weekday. This

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requirement was ultimately amended, so that on Sundays and public holidays only 120 minutes must be devoted to regional events in the political, economic, cultural and social spheres. According to the government, this rule was altered in order to enable as many broadcasters as possible to be economically viable, since the costs of producing programme material were relatively high.

Further new provisions concern programme allocations in the broadband cable network. Under Section 12.6 of the HPRG, local and regional broadcasters and media services must be given the opportunity to broadcast their programmes alongside national channels. At the request of private network operators, channels that are only carried by cable also now require a licence under the terms of Section 12.6 sentence 3.

Gesetz zur Änderung des Hessischen Privatrundfunkgesetzes und des Gesetzes über den Hessischen Rundfunk vom 22. Dezember 2000 (GVBl. I S. 566)

Act to amend the Hessian Private Broadcasting Act and the Hessian Broadcasting Act, 22 December 2000 (Official Gazette vol. I p.566)

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