[DE] Youth Protection Rulings

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In a ruling published at the end of June 2002, the Verwaltungsgericht Berlin (Berlin Administrative Court - VG Berlin) gave its opinion on, inter alia, the expertise and pluralist structure of the Gemeinsame Stelle Jugendschutz und Programm der Landesmedienanstalten (Joint Body for Youth Protection and Programmes of the Regional Media Authorities - GSJP), the Medienrat (Media Council) of the Medienanstalt Berlin-Brandenburg (Berlin-Brandenburg Media Authority - MABB) and the Freiwillige Selbstkontrolle Fernsehen (Voluntary Self-Regulatory Authority for Television - FSF). The case concerned an application for the annulment of two decisions by the MABB, in which it had refused to grant special permission for an edited version of the film "Saving Private Ryan" to be broadcast at 8pm and 9pm respectively. Whereas in its report the FSF concluded that the edited film could be shown at 8pm, the GSJP decided that it should not be broadcast either at 8pm or at 9pm. The MABB Media Council, which itself saw no reason why the film should not be shown at 8pm, decided, "for the sake of solidarity with the other regional media authorities", to go along with the GSJP's verdict. The Director of the MABB signed the relevant decisions.

The VG Berlin, quashing both decisions, ordered the MABB to review the plaintiff's application, bearing in mind the Court's opinion. The decisions were technically unlawful since they had been taken by the MABB Media Council rather than the MABB Director. The Court advised the MABB Director to base his decision on expert, independent advice from a pluralistic source. A report by the FSF would be ideal for this purpose, since the FSF was well informed, independent and had a pluralistic structure. The views of the Media Council and GSJP might also be sought, although the Court had reservations over whether their opinion-forming process and structure were truly pluralistic and whether they had the necessary expertise. They would only be in a position to point out flaws in the FSF's report, in which case the person making the final decision would have to seek further advice. In any case, the MABB Director would not be in a position to deviate from the FSF's assessment purely on the basis of either the Media Council's opinion or a recommendation by the GSJP.

Verwaltungsgericht Berlin, Urteil vom 27. Juni 2002, Az.: VG 27 A 398.01

Berlin Administrative Court, judgment of 27 June 2002, case no.: VG 27 A 398.01

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